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SENATE BILL NO. 40  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Commerce and Labor  
on \_\_\_\_\_)  
(Patron Prior to Substitute—Senator Stanley)

*A BILL to amend and reenact §§ 56-585.1, 56-585.5, 56-594.3, and 56-594.4 of the Code of Virginia, relating to electric utilities; renewable energy portfolio standard program.*

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

**1. That §§ 56-585.1, 56-585.5, 56-594.3, and 56-594.4 of the Code of Virginia are amended and reenacted as follows:**

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

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to 100 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points below the combined rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such combined rate of return. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either

33 (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order  
34 such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully  
35 recover its costs of providing its services and to earn not less than the fair rates of return on common equity  
36 applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the  
37 utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year  
38 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12  
39 months, as determined at the discretion of the Commission, following the effective date of the Commission's  
40 order and be allocated among customer classes such that the relationship between the specific customer class  
41 rates of return to the overall target rate of return will have the same relationship as the last approved  
42 allocation of revenues used to design base rates. Commencing in 2011, the Commission, after notice and  
43 opportunity for hearing, shall conduct reviews of the rates, terms and conditions for the provision of  
44 generation, distribution and transmission services by each investor-owned incumbent electric utility, subject  
45 to the following provisions:

46 1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and  
47 such reviews shall be conducted in a single, combined proceeding. Pursuant to subsection A of § 56-585.1:1,  
48 the Commission shall conduct a review for a Phase I Utility in 2020, utilizing the three successive 12-month  
49 test periods beginning January 1, 2017, and ending December 31, 2019. Thereafter, reviews for a Phase I  
50 Utility will be on a triennial basis with subsequent proceedings utilizing the three successive 12-month test  
51 periods ending December 31 immediately preceding the year in which such review proceeding is conducted.  
52 Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase II Utility in  
53 2021, utilizing the four successive 12-month test periods beginning January 1, 2017, and ending December  
54 31, 2020, with subsequent reviews on a biennial basis commencing in 2023, with such proceedings utilizing  
55 the two successive 12-month test periods ending December 31 immediately preceding the year in which such  
56 review proceeding is conducted. For purposes of this section, a Phase I Utility is an investor-owned  
57 incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the  
58 Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an  
59 investor-owned incumbent electric utility that was bound by such a settlement.

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

64 a. The Commission may use any methodology to determine such return it finds consistent with the public  
65 interest. However, for a Phase I Utility, for applications received by the Commission on or after January 1,  
66 2020, such return shall not be set lower than the average of either (i) the returns on common equity reported  
67 to the Securities and Exchange Commission for the three most recent annual periods for which such data are  
68 available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other  
69 investor-owned electric utilities in the peer group of the utility subject to such triennial review or (ii) the  
70 authorized returns on common equity that are set by the applicable regulatory commissions for the same  
71 selected peer group, nor shall the Commission set such return more than 150 basis points higher than such  
72 average.

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

89 c. The Commission may increase or decrease the utility's combined rate of return for generation and  
90 distribution services by up to 50 basis points based on factors that may include reliability, generating plant  
91 performance, customer service, and operating efficiency of a utility. Any such adjustment to the combined  
92 rate of return for generation and distribution services shall include consideration of nationally recognized

93 standards determined by the Commission to be appropriate for such purposes.

94 d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased,  
95 on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the  
96 United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the  
97 Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission  
98 determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the  
99 public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether  
100 the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of  
101 return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall  
102 include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and  
103 cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of  
104 inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate  
105 service and to attract capital if less than the Current Return were utilized for the Current Proceeding then  
106 pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the  
107 Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the  
108 public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the  
109 Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial  
110 Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average  
111 Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor  
112 Statistics of the United States Department of Labor, since the date on which the Commission determined the  
113 Initial Return. For purposes of this subdivision:

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

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

120 "Initial Return" means the fair combined rate of return on common equity determined for such utility by  
121 the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to

122 the provisions of subdivision 2 a.

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

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

129 g. If the combined rate of return on common equity earned by the generation and distribution services is  
130 no more than 50 basis points above or below the return as so determined or, for any test period commencing  
131 after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return  
132 is no more than 70 basis points above or below the return as so determined, such combined return shall not be  
133 considered either excessive or insufficient, respectively. However, for any test period commencing after  
134 December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility  
135 has, during the test period or periods under review, earned below the return as so determined, whether or not  
136 such combined return is within 70 basis points of the return as so determined, the utility may petition the  
137 Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 a as if it  
138 had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall  
139 otherwise be conducted in accordance with the provisions of this section. The provisions of this subdivision  
140 are subject to the provisions of subdivision 8.

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

144 3. Each such utility shall make a triennial filing by March 31 of every third year, with such filings  
145 commencing for a Phase I Utility in 2020, and such filings commencing for a Phase II Utility in 2021 and  
146 terminating thereafter. Such filing shall encompass the three successive 12-month test periods ending  
147 December 31 immediately preceding the year in which such proceeding is conducted, except that the filing  
148 for a Phase II Utility in 2021 shall encompass the four successive 12-month test periods ending December 31,  
149 2020. After 2021, each Phase II Utility shall make a biennial filing by March 31 of every second year, except  
150 that the 2023 filing for a Phase II Utility shall be made on or after July 1, 2023. All biennial filings shall

151 encompass the two successive 12-month test periods ending December 31 immediately preceding the year in  
152 which such review proceeding is conducted. All such filings shall consist of the schedules contained in the  
153 Commission's rules governing utility rate increase applications, and in every such case the filing for each year  
154 shall be identified separately and shall be segregated from any other year encompassed by the filing. In a  
155 filing under this subdivision that does not result in an overall rate change, a utility may propose an adjustment  
156 to one or more tariffs that are revenue neutral to the utility.

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

166 As of July 1, 2023, a Phase II Utility shall select a subset of rate adjustment clauses previously  
167 implemented pursuant to subdivision 5 or 6 having a combined annual revenue requirement, as of July 1,  
168 2023, of at least \$350 million and combine such rate adjustment clauses with the utility's costs, revenues, and  
169 investments for generation and distribution services. After such rate adjustment clauses are combined as  
170 specified in this paragraph, such rate adjustment clauses shall be considered part of the utility's costs,  
171 revenues, and investments for the purposes of future biennial review proceedings, and the combination of  
172 such rate adjustment clauses shall be specifically subject to audit by the Commission in the utility's 2023  
173 biennial review filing. Notwithstanding the provisions of subsection C of § 56-581, such combination shall  
174 not serve as the basis for an increase in a Phase II Utility's rates for generation and distribution services in its  
175 2023 biennial proceeding.

176 4. The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for  
177 transmission services provided to the utility by the regional transmission entity of which the utility is a  
178 member, as determined under applicable rates, terms and conditions approved by the Federal Energy  
179 Regulatory Commission; (ii) costs charged to the utility that are associated with demand response programs  
180 approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity

181 of which the utility is a member; and (iii) costs incurred by the utility to construct, operate, and maintain  
182 transmission lines and substations installed in order to provide service to a business park. Upon petition of a  
183 utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month  
184 period, the Commission shall approve a rate adjustment clause under which such costs, including, without  
185 limitation, costs for transmission service; charges for new and existing transmission facilities, including costs  
186 incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order  
187 to provide service to a business park; administrative charges; and ancillary service charges designed to  
188 recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to  
189 recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

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

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

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

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

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

213 Prior to January 1, 2022, the Commission shall award a margin for recovery on operating expenses for  
214 energy efficiency programs and pilot programs, which margin shall be equal to the general rate of return on  
215 common equity determined as described in subdivision 2. Beginning January 1, 2022, and thereafter, if the  
216 Commission determines that the utility meets in any year the annual energy efficiency standards set forth in  
217 § 56-596.2, in the following year, the Commission shall award a margin on energy efficiency program  
218 operating expenses in that year, to be recovered through a rate adjustment clause, which margin shall be equal  
219 to the general rate of return on common equity determined as described in subdivision 2. If the Commission  
220 does not approve energy efficiency programs that, in the aggregate, can achieve the annual energy efficiency  
221 standards, the Commission shall award a margin on energy efficiency operating expenses in that year for any  
222 programs the Commission has approved, to be recovered through a rate adjustment clause under this  
223 subdivision, which margin shall equal the general rate of return on common equity determined as described in  
224 subdivision 2. Any margin awarded pursuant to this subdivision shall be applied as part of the utility's next  
225 rate adjustment clause true-up proceeding. The Commission shall also award an additional 20 basis points for  
226 each additional incremental 0.1 percent in annual savings in any year achieved by the utility's energy  
227 efficiency programs approved by the Commission pursuant to this subdivision, beyond the annual  
228 requirements set forth in § 56-596.2, provided that the total performance incentive awarded in any year shall  
229 not exceed 10 percent of that utility's total energy efficiency program spending in that same year.

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

236 Notwithstanding any other provision of law, unless the Commission finds in its discretion and after  
237 consideration of all in-state and regional transmission entity resources that there is a threat to the reliability or  
238 security of electric service to the utility's customers, the Commission shall not approve construction of any  
239 new utility-owned generating facilities that emit carbon dioxide as a by-product of combusting fuel to  
240 generate electricity unless the utility has already met the energy savings goals identified in § 56-596.2 and the

241 Commission finds that supply-side resources are more cost-effective than demand-side or energy storage  
242 resources.

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

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

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

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

269 ~~d. Projected and actual costs of compliance with renewable energy portfolio standard requirements~~  
270 ~~pursuant to § 56-585.5 that are not recoverable under subdivision 6. The Commission shall approve such a~~

271 petition allowing the recovery of such costs incurred as required by ~~§ 56-585.5~~, provided that the  
272 Commission does not otherwise find such costs were unreasonably or imprudently incurred;

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

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

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

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

295 6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the  
296 utility's projected native load obligations and to promote economic development, a utility may at any time,  
297 after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment  
298 clause for recovery on a timely and current basis from customers of the costs of (i) a coal-fueled generation  
299 facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth as described in  
300 § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii)  
301 one or more other generation facilities, (iii) one or more major unit modifications of generation facilities,

302 including the costs of any system or equipment upgrade, system or equipment replacement, or other cost  
303 reasonably appropriate to extend the combined operating license for or the operating life of one or more  
304 generation facilities utilizing nuclear power, (iv) one or more new underground facilities to replace one or  
305 more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth, (v)  
306 one or more pumped hydroelectricity generation and storage facilities that utilize on-site or off-site renewable  
307 energy resources as all or a portion of their power source and such facilities and associated resources are  
308 located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such  
309 facility is located within or without the utility's service territory, or (vi) one or more electric distribution grid  
310 transformation projects; however, subject to the provisions of the following sentence, the utility shall not file  
311 a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual  
312 incremental increase in the level of investments associated with such a petition that exceeds five percent of  
313 such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month  
314 test period in the utility's latest review proceeding conducted pursuant to subdivision 3 and concluded by final  
315 order of the Commission prior to the date of filing of such petition under clause (iv). In all proceedings  
316 regarding petitions filed under clause (iv) or (vi), the level of investments approved for recovery in such  
317 proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery  
318 in prior proceedings under clause (iv) or (vi), as applicable. As of December 1, 2028, any costs recovered by  
319 a utility pursuant to clause (iv) shall be limited to any remaining costs associated with conversions of  
320 overhead distribution facilities to underground facilities that have been previously approved or are pending  
321 approval by the Commission through a petition by the utility under this subdivision. Such a petition  
322 concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that  
323 are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed  
324 before the expiration or termination of capped rates. A utility that constructs or makes modifications to any  
325 such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy  
326 derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole  
327 or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as  
328 accrued against income, through its rates, including projected construction work in progress, and any  
329 associated allowance for funds used during construction, planning, development and construction or  
330 acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new  
331 underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such  
332 projects, an enhanced rate of return on common equity calculated as specified below; however, in

333 determining the amounts recoverable under a rate adjustment clause for new underground facilities, the  
334 Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation  
335 and maintenance costs attributable to either the overhead distribution facilities being replaced or the new  
336 underground facilities or (b) any other costs attributable to the overhead distribution facilities being replaced.  
337 Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain  
338 eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a  
339 petition for approval to construct or purchase a facility consisting of at least one megawatt of generating  
340 capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or  
341 services sourced, in whole or in part, from one or more Virginia businesses may propose a rate adjustment  
342 clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval  
343 to construct or purchase a generating facility that emits carbon dioxide shall demonstrate that it has already  
344 met the energy savings goals identified in § 56-596.2 and that the identified need cannot be met more  
345 affordably through the deployment or utilization of demand-side resources or energy storage resources and  
346 that it has considered and weighed alternative options, including third-party market alternatives, in its  
347 selection process.

348       The costs of the facility, other than return on projected construction work in progress and allowance for  
349 funds used during construction, shall not be recovered prior to the date a facility constructed by the utility and  
350 described in clause (i), (ii), (iii), or (v) begins commercial operation, the date the utility becomes the owner of  
351 a purchased generation facility consisting of at least one megawatt of generating capacity using energy  
352 derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole  
353 or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the  
354 utility as plant in service. In any application to construct a new generating facility, the utility shall include,  
355 and the Commission shall consider, the social cost of carbon, as determined by the Commission, as a benefit  
356 or cost, whichever is appropriate. The Commission shall ensure that the development of new, or expansion of  
357 existing, energy resources or facilities does not have a disproportionate adverse impact on historically  
358 economically disadvantaged communities. The Commission may adopt any rules it deems necessary to  
359 determine the social cost of carbon and shall use the best available science and technology, including the  
360 Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis  
361 Under Executive Order 12866, published by the Interagency Working Group on Social Cost of Greenhouse  
362 Gases from the United States Government in August 2016, as guidance. The Commission shall include a

363 system to adjust the costs established in this section with inflation.

364 Such enhanced rate of return on common equity shall be applied to allowance for funds used during  
365 construction and to construction work in progress during the construction phase of the facility and shall  
366 thereafter be applied to the entire facility during the first portion of the service life of the facility. The first  
367 portion of the service life shall be as specified in the table below; however, the Commission shall determine  
368 the duration of the first portion of the service life of any facility, within the range specified in the table below,  
369 which determination shall be consistent with the public interest and shall reflect the Commission's  
370 determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the  
371 Commonwealth and the risks involved in the development of the facility. After the first portion of the service  
372 life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the  
373 remainder of its service life. As used herein, the service life of the facility shall be deemed to begin on the  
374 date a facility constructed by the utility and described in clause (i), (ii), (iii), or (v) begins commercial  
375 operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one  
376 megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and  
377 that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date  
378 new underground facilities or new electric distribution grid transformation projects are classified by the  
379 utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as  
380 used to calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be  
381 calculated by adding the basis points specified in the table below to the utility's general rate of return, and  
382 such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause.  
383 Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's  
384 actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as  
385 determined pursuant to this subdivision, until such construction work in progress is included in rates. The  
386 construction of any facility described in clause (i) or (v) is in the public interest, and in determining whether  
387 to approve such facility, the Commission shall liberally construe the provisions of this title. ~~The construction~~  
388 ~~or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity,~~  
389 ~~and with an aggregate rated capacity that does not exceed 16,100 megawatts, including rooftop solar~~  
390 ~~installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts,~~  
391 ~~that use energy derived from sunlight or from onshore wind and are located in the Commonwealth or off the~~  
392 ~~Commonwealth's Atlantic shoreline, regardless of whether any of such facilities are located within or without~~  
393 ~~the utility's service territory, is in the public interest, and in determining whether to approve such facility, the~~

394 ~~Commission shall liberally construe the provisions of this title.~~ A utility may enter into short-term or  
395 long-term power purchase contracts for the power derived from sunlight generated by such generation facility  
396 prior to purchasing the generation facility. The replacement of any subset of a utility's existing overhead  
397 distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage  
398 events-per-mile over a preceding 10-year period with new underground facilities in order to improve electric  
399 service reliability is in the public interest. In determining whether to approve petitions for rate adjustment  
400 clauses for such new underground facilities that meet this criteria, and in determining the level of costs to be  
401 recovered thereunder, the Commission shall liberally construe the provisions of this title.

402 The conversion of any such facilities on or after September 1, 2016, is deemed to provide local and  
403 system-wide benefits and to be cost beneficial, and the costs associated with such new underground facilities  
404 are deemed to be reasonably and prudently incurred and, notwithstanding the provisions of subsection C or  
405 D, shall be approved for recovery by the Commission pursuant to this subdivision, provided that the total  
406 costs associated with the replacement of any subset of existing overhead distribution tap lines proposed by  
407 the utility with new underground facilities, exclusive of financing costs, shall not exceed an average cost per  
408 customer of \$20,000, with such customers, including those served directly by or downline of the tap lines  
409 proposed for conversion, and, further, such total costs shall not exceed an average cost per mile of tap lines  
410 converted, exclusive of financing costs, of \$750,000. A utility shall, without regard for whether it has  
411 petitioned for any rate adjustment clause pursuant to clause (vi), petition the Commission, not more than once  
412 annually, for approval of a plan for electric distribution grid transformation projects. Any plan for electric  
413 distribution grid transformation projects shall include both measures to facilitate integration of distributed  
414 energy resources and measures to enhance physical electric distribution grid reliability and security. In ruling  
415 upon such a petition, the Commission shall consider whether the utility's plan for such projects, and the  
416 projected costs associated therewith, are reasonable and prudent. Such petition shall be considered on a  
417 stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility; without  
418 regard to whether the costs associated with such projects will be recovered through a rate adjustment clause  
419 under this subdivision or through the utility's rates for generation and distribution services; and without  
420 regard to whether such costs will be the subject of a customer credit offset, as applicable, pursuant to  
421 subdivision 8 d. The Commission's final order regarding any such petition for approval of an electric  
422 distribution grid transformation plan shall be entered by the Commission not more than six months after the  
423 date of filing such petition. The Commission shall likewise enter its final order with respect to any petition by  
424 a utility for a certificate to construct and operate a generating facility or facilities utilizing energy derived

425 from sunlight, pursuant to subsection D of § 56-580, within six months after the date of filing such petition.  
 426 The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on  
 427 common equity, and the first portion of that facility's service life to which such enhanced rate of return shall  
 428 be applied, shall vary by type of facility, as specified in the following table:

429	a	Type of Generation Facility	Basis Points	First Portion of Service Life
430	b	Nuclear-powered	200	Between 12 and 25 years
431	c	Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
432	d	Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
433	e	Coalbed methane gas powered	150	Between 5 and 15 years
434	f	Landfill gas powered	200	Between 5 and 15 years
435	g	Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years
436				

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

442 Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July  
 443 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by  
 444 the utility and recovered through a rate adjustment clause under this subdivision at such time as the  
 445 Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all  
 446 costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be  
 447 deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70  
 448 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in  
 449 the test periods under review in the utility's next review filed after July 1, 2014. Thirty percent of all costs of  
 450 a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and  
 451 December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility  
 452 and recovered through a rate adjustment clause under this subdivision at such time as the Commission  
 453 provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a  
 454 facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for  
 455 recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all  
 456 costs shall be recovered ratably through existing base rates as determined by the Commission in the test  
 457 periods under review in the utility's next review filed after July 1, 2014.

458 In connection with planning to meet forecasted demand for electric generation supply and assure the

459 adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities  
460 for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from  
461 sunlight or from onshore or offshore wind are in the public interest.

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

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

484 Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new  
485 underground facilities shall receive an enhanced rate of return on common equity as described herein, but  
486 instead shall receive the utility's general rate of return during the construction phase of the facility and,  
487 thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities  
488 shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large  
489 power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility.

490 New underground facilities are hereby declared to be ordinary extensions or improvements in the usual  
491 course of business under the provisions of § 56-265.2.

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

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

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

513 Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from the  
514 Commission of a rate adjustment clause pursuant to subdivision 6 associated with a test or demonstration  
515 project involving a generation facility utilizing energy from offshore wind, and such utility has not, as of July  
516 1, 2023, commenced construction as defined for federal income tax purposes of an offshore wind generation  
517 facility or facilities with a minimum aggregate capacity of 250 megawatts, then the Commission, if it finds it  
518 in the public interest, may direct that the costs associated with any such rate adjustment clause involving said  
519 test or demonstration project shall thereafter no longer be recovered through a rate adjustment clause pursuant

520 to subdivision 6 and shall instead be recovered through the utility's rates for generation and distribution  
521 services, with no change in such rates for generation and distribution services as a result of the combination  
522 of such costs with the other costs, revenues, and investments included in the utility's rates for generation and  
523 distribution services. Any such costs shall remain combined with the utility's other costs, revenues, and  
524 investments included in its rates for generation and distribution services until such costs are fully recovered.

525 7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a  
526 stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs  
527 incurred by a utility prior to the filing of such petition, or during the consideration thereof by the  
528 Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are  
529 related to facilities and projects described in clause (i) of subdivision 6, or that are related to new  
530 underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of  
531 the utility until the Commission's final order in the matter, or until the implementation of any applicable  
532 approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs  
533 prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the  
534 consideration thereof by the Commission, that are proposed for recovery in such petition and that are related  
535 to facilities and projects described in clause (ii) or clause (iii) of subdivision 6 that utilize nuclear power, or  
536 coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be  
537 built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final  
538 order in the matter, or until the implementation of any applicable approved rate adjustment clauses,  
539 whichever is later. Any costs prudently incurred after the expiration or termination of capped rates related to  
540 other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or  
541 termination of capped rates, provided, however, that no provision of this act shall affect the rights of any  
542 parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC  
543 and Virginia Electric and Power Company, 109 F.E.R.C. P 61,012 (2004). A utility shall establish a  
544 regulatory asset for regulatory accounting and ratemaking purposes under which it shall defer its operation  
545 and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant  
546 and (ii) other work at such plant normally performed during a refueling outage. The utility shall amortize  
547 such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in  
548 which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of  
549 time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a  
550 component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such

551 outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to  
552 any nuclear-powered generating plant refueling outage commencing after December 31, 2013, and the  
553 Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs  
554 for the purpose of proceedings conducted (a) with respect to filings under subdivision 3 made on and after  
555 July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase  
556 applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

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

572 At any time, the Commission may, in its discretion, for a Phase II Utility, upon petition by such a utility  
573 or upon its own initiated proceeding, direct the consolidation of any one or more subsets of rate adjustment  
574 clauses previously implemented pursuant to subdivision 5 or 6 in the interest of judicial economy, customer  
575 transparency, or other factors the Commission determines to be appropriate. Any subset of rate adjustment  
576 clauses so consolidated shall continue to be considered by the Commission without regard to the other costs,  
577 revenues, investments, or earnings of the utility and remain as a cost recovery mechanism independent from  
578 the utility's rates for generation and distribution services pursuant to this subdivision and subdivisions 5 and  
579 6, but will be combined as a single rate adjustment clause for cost recovery and review purposes. Any rate  
580 adjustment clause or subset of rate adjustment clauses so consolidated shall be named in a manner, as

581 determined by the Commission, that reasonably informs customers as to the nature of the costs recovered by  
582 the consolidated rate adjustment clause.

583 8. For a Phase I Utility in any triennial review proceeding filed on or before June 30, 2023 or for a Phase  
584 II Utility in any biennial review proceeding, for the purposes of reviewing earnings on the utility's rates for  
585 generation and distribution services, the following utility generation and distribution costs not proposed for  
586 recovery under any other subdivision of this subsection, as recorded per books by the utility for financial  
587 reporting purposes and accrued against income, shall be attributed to the test periods under review and  
588 deemed fully recovered in the period recorded: costs associated with asset impairments related to early  
589 retirement determinations made by the utility for utility generation facilities fueled by coal, natural gas, or oil  
590 or for automated meter reading electric distribution service meters; costs associated with projects necessary to  
591 comply with state or federal environmental laws, regulations, or judicial or administrative orders relating to  
592 coal combustion by-product management that the utility does not petition to recover through a rate  
593 adjustment clause pursuant to subdivision 5 e d; costs associated with severe weather events; and costs  
594 associated with natural disasters. Such costs shall be deemed to have been recovered from customers through  
595 rates for generation and distribution services in effect during the test periods under review unless such costs,  
596 individually or in the aggregate, together with the utility's other costs, revenues, and investments to be  
597 recovered through rates for generation and distribution services, result in the utility's earned return on its  
598 generation and distribution services for the combined test periods under review to fall more than 50 basis  
599 points below the fair combined rate of return authorized under subdivision 2 for such periods or, for any test  
600 period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase  
601 I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision  
602 2 for such periods. In such cases, the Commission shall, in such review proceeding, authorize deferred  
603 recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as  
604 determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that  
605 would, together with the utility's other costs, revenues, and investments to be recovered through rates for  
606 generation and distribution services, cause the utility's earned return on its generation and distribution  
607 services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined  
608 test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility  
609 and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under  
610 subdivision 2 less 70 basis points. Notwithstanding the prior sentence, the aggregate amount of actual and  
611 reasonable costs associated with severe weather events eligible for such deferral shall not exceed an amount

612 that would, together with the utility's other costs, revenues, and investments to be recovered through rates for  
613 generation and distribution services, cause the utility's earned return on its generation and distribution  
614 services to exceed the fair rate of return authorized for the combined test periods under review. For the  
615 purposes of determining any amount of costs that are associated with severe weather events, the Commission  
616 shall consider nationally recognized standards such as those published by the Institute of Electrical and  
617 Electronics Engineers (IEEE). Nothing in this section shall limit the Commission's authority, pursuant to the  
618 provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of  
619 combined test period earnings of the utility in a review, for normalization of nonrecurring test period costs  
620 and annualized adjustments for future costs, in determining any appropriate increase or decrease in the  
621 utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

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

623 a. Revenue reductions related to energy efficiency measures or programs approved and deployed since the  
624 utility's previous triennial review have caused the utility, as verified by the Commission, during the test  
625 period or periods under review, considered as a whole, to earn more than 50 basis points below a fair  
626 combined rate of return on its generation and distribution services or, for any test period commencing after  
627 December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70  
628 basis points below a fair combined rate of return on its generation and distribution services, as determined in  
629 subdivision 2, without regard to any return on common equity or other matters determined with respect to  
630 facilities described in subdivision 6, the Commission shall order increases to the utility's rates for generation  
631 and distribution services necessary to recover such revenue reductions. If the Commission finds, for reasons  
632 other than revenue reductions related to energy efficiency measures, that the utility has, during the test period  
633 or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate  
634 of return on its generation and distribution services or, for any test period commencing after December 31,  
635 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points  
636 below a fair combined rate of return on its generation and distribution services, as determined in subdivision  
637 2, without regard to any return on common equity or other matters determined with respect to facilities  
638 described in subdivision 6, the Commission shall order increases to the utility's rates necessary to provide the  
639 opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair  
640 combined rate of return, using the most recently ended 12-month test period as the basis for determining the  
641 amount of the rate increase necessary. However, in the first triennial review proceeding conducted after

642 January 1, 2021, for a Phase II Utility, the Commission may not order a rate increase, and in all triennial  
643 reviews of a Phase I or Phase II utility, the Commission may not order such rate increase unless it finds that  
644 the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of  
645 providing its services and to earn not less than a fair combined rate of return on both its generation and  
646 distribution services, as determined in subdivision 2, without regard to any return on common equity or other  
647 matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-  
648 month test period as the basis for determining the permissibility of any rate increase under the standards of  
649 this sentence, and the amount thereof; and provided that, solely in connection with making its determination  
650 concerning the necessity for such a rate increase or the amount thereof, the Commission shall, in any triennial  
651 review proceeding conducted prior to July 1, 2028, exclude from this most recently ended 12-month test  
652 period any remaining investment levels associated with a prior customer credit reinvestment offset pursuant  
653 to subdivision d.

654 b. The utility has, during the test period or test periods under review, considered as a whole, earned more  
655 than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any  
656 test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a  
657 Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and  
658 distribution services, as determined in subdivision 2, without regard to any return on common equity or other  
659 matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the  
660 provisions of subdivisions 8 d and 9, direct that 60 percent of the amount of such earnings that were more  
661 than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and  
662 after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more  
663 than 70 basis points, above such fair combined rate of return for the test period or periods under review,  
664 considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period  
665 of six to 12 months, as determined at the discretion of the Commission, following the effective date of the  
666 Commission's order, and shall be allocated among customer classes such that the relationship between the  
667 specific customer class rates of return to the overall target rate of return will have the same relationship as the  
668 last approved allocation of revenues used to design base rates; or

669 c. The utility has, during the test period or test periods under review, considered as a whole, earned more  
670 than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any

671 test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a  
672 Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and  
673 distribution services, as determined in subdivision 2, without regard to any return on common equity or other  
674 matter determined with respect to facilities described in subdivision 6, and the combined aggregate level of  
675 capital investment that the Commission has approved other than those capital investments that the  
676 Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made  
677 by the utility during the test periods under review in that triennial review proceeding in new utility-owned  
678 generation facilities utilizing energy derived from sunlight, or from wind, and in electric distribution grid  
679 transformation projects, as determined pursuant to subdivision 8 d, does not equal or exceed 100 percent of  
680 the earnings that are more than 70 basis points above the utility's fair combined rate of return on its  
681 generation and distribution services for the combined test periods under review in that triennial review  
682 proceeding, the Commission shall, subject to the provisions of subdivision 10 and in addition to the actions  
683 authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, in the  
684 first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, any reduction to the  
685 utility's rates ordered by the Commission pursuant to this subdivision shall not exceed \$50 million in annual  
686 revenues, with any reduction allocated to the utility's rates for generation services, and in each triennial  
687 review of a Phase I or Phase II Utility, the Commission may not order such rate reduction unless it finds that  
688 the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its  
689 services and to earn not less than a fair combined rate of return on its generation and distribution services, as  
690 determined in subdivision 2, without regard to any return on common equity or other matters determined with  
691 respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the  
692 basis for determining the permissibility of any rate reduction under the standards of this sentence, and the  
693 amount thereof; and

694 d. (Expires July 1, 2028) In any review proceeding conducted after December 31, 2017, upon the request  
695 of the utility, the Commission shall determine, prior to directing that 70 percent of earnings that are more  
696 than 70 basis points above the utility's fair combined rate of return on its generation and distribution services  
697 for the test period or periods under review be credited to customer bills pursuant to subdivision 8 b, the  
698 aggregate level of prior capital investment that the Commission has approved other than those capital  
699 investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to

700 subdivision 6 made by the utility during the test period or periods under review in both (i) new utility-owned  
701 generation facilities utilizing energy derived from sunlight, or from onshore or offshore wind, and (ii) electric  
702 distribution grid transformation projects, as determined by the utility's plant in service and construction work  
703 in progress balances related to such investments as recorded per books by the utility for financial reporting  
704 purposes as of the end of the most recent test period under review. Any such combined capital investment  
705 amounts shall offset any customer bill credit amounts, on a dollar for dollar basis, up to the aggregate level of  
706 invested or committed capital under clauses (i) and (ii). The aggregate level of qualifying invested or  
707 committed capital under clauses (i) and (ii) is referred to in this subdivision as the customer credit  
708 reinvestment offset, which offsets the customer bill credit amount that the utility has invested or will invest in  
709 new solar or wind generation facilities or electric distribution grid transformation projects for the benefit of  
710 customers, in amounts up to 100 percent of earnings that are more than 70 basis points above the utility's fair  
711 rate of return on its generation and distribution services, and thereby reduce or eliminate otherwise  
712 incremental rate adjustment clause charges and increases to customer bills, which is deemed to be in the  
713 public interest. If 100 percent of the amount of earnings that are more than 70 basis points above the utility's  
714 fair combined rate of return on its generation and distribution services, as determined in subdivision 2,  
715 exceeds the aggregate level of invested capital in new utility-owned generation facilities utilizing energy  
716 derived from sunlight, or from wind, and electric distribution grid transformation projects, as provided in  
717 clauses (i) and (ii), during the test period or periods under review, then 70 percent of the amount of such  
718 excess shall be credited to customer bills as provided in subdivision 8 b in connection with the review  
719 proceeding. The portion of any costs associated with new utility-owned generation facilities utilizing energy  
720 derived from sunlight, or from wind, or electric distribution grid transformation projects that is the subject of  
721 any customer credit reinvestment offset pursuant to this subdivision shall not thereafter be recovered through  
722 the utility's rates for generation and distribution services over the service life of such facilities and shall not  
723 thereafter be included in the utility's costs, revenues, and investments in future review proceedings conducted  
724 pursuant to subdivision 2 and shall not be the subject of a rate adjustment clause petition pursuant to  
725 subdivision 6. The portion of any costs associated with new utility-owned generation facilities utilizing  
726 energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is not the  
727 subject of any customer credit reinvestment offset pursuant to this subdivision may be recovered through the  
728 utility's rates for generation and distribution services over the service life of such facilities and shall be

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

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

747 9. a. In any biennial review for a Phase II Utility filed on or prior to December 31, 2023, if the  
748 Commission determines that the utility has during the test period or test periods under review, considered as a  
749 whole, earned more than 70 basis points above a fair combined rate of return on its generation and  
750 distribution services previously authorized by the Commission, as determined in subdivision 2, without  
751 regard to any return on common equity or other matters determined with respect to facilities described in  
752 subdivision 6, which have not been combined with the utility's costs, revenues, and investments for  
753 generation and distribution services, the Commission shall direct that 85 percent of the amount of such  
754 earnings that were more than 70 basis points above such fair combined rate of return for the test period or  
755 periods under review, considered as a whole, be credited to customers' bills. Any such credits shall be  
756 amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the  
757 effective date of the Commission's order, and shall be allocated among customer classes such that the

758 relationship between the specific customer class rates of return to the overall target rate of return will have the  
759 same relationship as the last approved allocation of revenues used to design base rates.

760 b. In any biennial review for a Phase II Utility filed on or after January 1, 2024, if the Commission  
761 determines that the utility has during the test period or test periods under review, considered as a whole,  
762 earned above its fair combined rate of return on its generation and distribution services previously authorized  
763 by the Commission, as determined in subdivision 2, without regard to any return on common equity or other  
764 matters determined with respect to facilities described in subdivision 6, which have not been combined with  
765 the utility's costs, revenues, and investments for generation and distribution services, the Commission shall  
766 direct that 85 percent of the amount of such earnings above such fair combined rate of return for the test  
767 period or periods under review, considered as a whole, be credited to customers' bills. Further, if the  
768 Commission determines that during the test period or test periods under review, considered as a whole, a  
769 Phase II Utility earned more than 150 basis points above a fair combined rate of return on its generation and  
770 distribution services previously authorized by the Commission, without regard to any return on common  
771 equity or other matters determined with respect to facilities described in subdivision 6, which have not been  
772 combined with the utility's costs, revenues, and investments for generation and distribution services, the  
773 Commission shall direct that all such earnings that were more than 150 basis points above such fair combined  
774 rate of return for the test period or periods under review, considered as a whole, be credited to customers'  
775 bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of  
776 the Commission, following the effective date of the Commission's order, and shall be allocated among  
777 customer classes such that the relationship between the specific customer class rates of return to the overall  
778 target rate of return will have the same relationship as the last approved allocation of revenues used to design  
779 base rates.

780 10. If, as a result of a triennial review required under this subsection and conducted with respect to any  
781 test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected  
782 to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than  
783 December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission  
784 finds, with respect to such test period or periods considered as a whole, that (i) any utility has, during the test  
785 period or periods under review, considered as a whole, earned more than 50 basis points above a fair  
786 combined rate of return on its generation and distribution services or, for any test period commencing after

787 December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70  
788 basis points above a fair combined rate of return on its generation and distribution services, as determined in  
789 subdivision 2, without regard to any return on common equity or other matters determined with respect to  
790 facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the  
791 most recently ended 12-month test period exceeded the annual increases in the United States Average  
792 Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor  
793 Statistics of the United States Department of Labor, compounded annually, when compared to the total  
794 aggregate regulated rates of such utility as determined pursuant to the review conducted for the base period,  
795 the Commission shall, unless it finds that such action is not in the public interest or that the provisions of  
796 subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test  
797 period or periods under review, considered as a whole that were more than 50 basis points, or, for any test  
798 period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase  
799 I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers'  
800 bills, in lieu of the provisions of subdivisions 8 b and c, provided that no credits shall be provided pursuant to  
801 this subdivision in connection with any triennial review unless such bill credits would be payable pursuant to  
802 the provisions of subdivision 8 d, and any credits under this subdivision shall be calculated net of any  
803 customer credit reinvestment offset amounts under subdivision 8 d. Any such credits shall be amortized and  
804 allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this  
805 subdivision:

806 "Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to  
807 stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31,  
808 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period  
809 with respect to which credits have been applied to customers' bills under the provisions of this subdivision,  
810 whichever is later.

811 "Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for  
812 any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010,  
813 pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses  
814 implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a;  
815 (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase

816 applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July  
817 1, 2009.

818 11. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any  
819 utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and  
820 cost of capital of such utility, excluding any debt associated with securitized bonds that are the obligation of  
821 non-Virginia jurisdictional customers, unless the Commission finds that the debt to equity ratio of such  
822 capital structure is unreasonable for such utility, in which case the Commission may utilize a debt to equity  
823 ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions  
824 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any  
825 other entity with which such utility may be affiliated. In particular, and without limitation, the Commission  
826 shall determine the federal and state income tax costs for any such utility that is part of a publicly traded,  
827 consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated  
828 according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates,  
829 and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income  
830 tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable  
831 income or loss of its affiliates.

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

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

841 D. The Commission may determine, during any proceeding authorized or required by this section, the  
842 reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with  
843 the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence  
844 of any such cost shall be consistent with the Commission's authority to determine the reasonableness or  
845 prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining

846 the reasonableness or prudence of a utility providing energy and capacity to its customers from renewable  
847 energy resources, the Commission shall consider the extent to which such renewable energy resources,  
848 whether utility-owned or by contract, further the objectives of the Commonwealth Clean Energy Policy set  
849 forth in § 45.2-1706.1, and shall also consider whether the costs of such resources is likely to result in  
850 unreasonable increases in rates paid by customers.

851 E. Notwithstanding any other provision of law, the Commission shall determine the amortization period  
852 for recovery of any appropriate costs due to the early retirement of any electric generation facilities owned or  
853 operated by any Phase I Utility or Phase II Utility. In making such determination, the Commission shall (i)  
854 perform an independent analysis of the remaining undepreciated capital costs; (ii) establish a recovery period  
855 that best serves ratepayers; and (iii) allow for the recovery of any carrying costs that the Commission deems  
856 appropriate.

857 F. The Commission shall include in its report required by subsection B of § 56-596 any information  
858 concerning the reliability impacts of generation unit additions and retirement determinations by a Phase I or  
859 Phase II Utility, along with the potential impact on the purchase of power from generation assets outside the  
860 Virginia jurisdiction used to serve the utility's native load, utilizing information from the respective utility's  
861 integrated resource plan ~~or information from the respective utility's plan filed pursuant to subsection D of~~  
862 ~~§ 56-585.5.~~

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

865 **§ 56-585.5. Generation of electricity from renewable and zero-carbon sources.**

866 A. As used in this section:

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

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

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

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

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

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

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

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

883 "Previously developed project site" means any property, including related buffer areas, if any, that has  
884 been previously disturbed or developed for non-single-family residential, nonagricultural, or nonsilvicultural  
885 use, regardless of whether such property currently is being used for any purpose. "Previously developed  
886 project site" includes a brownfield as defined in § 10-1-1230 or any parcel that has been previously used (i)  
887 for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of a parking lot canopy or  
888 structure; (iv) for mining, which is any lands affected by coal mining that took place before August 3, 1977,  
889 or any lands upon which extraction activities have been permitted by the Department of Energy under Title  
890 45.2; (v) for quarrying; or (vi) as a landfill.

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

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

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

905 2. By December 31, 2045, except for biomass-fired electric generating units that do not co-fire with coal,

906 each Phase I and II Utility shall retire all other electric generating units located in the Commonwealth that  
907 emit carbon as a by-product of combusting fuel to generate electricity.

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

912 C. Each Phase I and Phase II Utility shall participate in a renewable energy portfolio standard program  
913 (RPS Program) that establishes annual goals for the sale of renewable energy to all retail customers in the  
914 utility's service territory, other than accelerated renewable energy buyers pursuant to subsection G, regardless  
915 of whether such customers purchase electric supply service from the utility or from suppliers other than the  
916 utility. To comply with the RPS Program, each Phase I and Phase II Utility shall procure and retire  
917 Renewable Energy Certificates (RECs) originating from renewable energy standard eligible sources (RPS  
918 eligible sources). For purposes of complying with the RPS Program from 2021 to 2024, a Phase I and Phase  
919 II Utility may use RECs from any renewable energy facility, as defined in § 56-576, provided that such  
920 facilities are located in the Commonwealth or are physically located within the PJM Intereconnection, LLC  
921 (PJM) region. However, at no time during this period or thereafter may any Phase I or Phase II Utility use  
922 RECs from (i) renewable thermal energy, (ii) renewable thermal energy equivalent, or (iii) biomass-fired  
923 facilities that are outside the Commonwealth. From compliance year 2025 and all years after, each Phase I  
924 and Phase II Utility may only use RECs from RPS eligible sources for compliance with the RPS Program.

925 In order to qualify as RPS eligible sources, such sources must be (a) electric-generating resources that  
926 generate electric energy derived from solar or wind located in the Commonwealth or off the Commonwealth's  
927 Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth or physically  
928 located within the PJM region; (b) falling water resources located in the Commonwealth or physically located  
929 within the PJM region that were in operation as of January 1, 2020, that are owned by a Phase I or Phase II  
930 Utility or for which a Phase I or Phase II Utility has entered into a contract prior to January 1, 2020, to  
931 purchase the energy, capacity, and renewable attributes of such falling water resources; (c) non-utility-owned  
932 resources from falling water that (1) are less than 65 megawatts, (2) began commercial operation after  
933 December 31, 1979, or (3) added incremental generation representing greater than 50 percent of the original  
934 nameplate capacity after December 31, 1979, provided that such resources are located in the Commonwealth  
935 or are physically located within the PJM region; (d) waste-to-energy or landfill gas-fired generating resources  
936 located in the Commonwealth and in operation as of January 1, 2020, provided that such resources do not use

937 waste heat from fossil fuel combustion; (e) geothermal heating and cooling systems located in the  
 938 Commonwealth; (f) geothermal electric generating resources located in the Commonwealth or physically  
 939 located within the PJM region; or (g) biomass-fired facilities in operation in the Commonwealth and in  
 940 operation as of January 1, 2023, that (1) supply no more than 10 percent of their annual net electrical  
 941 generation to the electric grid or no more than 15 percent of their annual total useful energy to any entity  
 942 other than the manufacturing facility to which the generating source is interconnected and are fueled by  
 943 forest-product manufacturing residuals, including pulping liquor, bark, paper recycling residuals, biowastes,  
 944 or biomass, as described in subdivisions A 1, 2, and 4 of § 10.1-1308.1, provided that biomass as described in  
 945 subdivision A 1 of § 10.1-1308.1 results from harvesting in accordance with best management practices for  
 946 the sustainable harvesting of biomass developed and enforced by the State Forester pursuant to § 10.1-1105,  
 947 or (2) are owned by a Phase I or Phase II Utility, have less than 52 megawatts capacity, and are fueled by  
 948 forest-product manufacturing residuals, biowastes, or biomass, as described in subdivisions A 1, 2, and 4 of  
 949 § 10.1-1308.1, provided that biomass as described in subdivision A 1 of § 10.1-1308.1 results from  
 950 harvesting in accordance with best management practices for the sustainable harvesting of biomass developed  
 951 and enforced by the State Forester pursuant to § 10.1-1105. Regardless of any future maintenance, expansion,  
 952 or refurbishment activities, the total amount of RECs that may be sold by any RPS eligible source using  
 953 biomass in any year shall be no more than the number of megawatt hours of electricity produced by that  
 954 facility in 2022; however, in no year may any RPS eligible source using biomass sell RECs in excess of the  
 955 actual megawatt-hours of electricity generated by such facility that year. In order to comply with the RPS  
 956 Program, each Phase I and Phase II Utility may use and retire the environmental attributes associated with  
 957 any existing owned or contracted solar, wind, falling water, or biomass electric generating resources in  
 958 operation, or proposed for operation, in the Commonwealth or solar, wind, or falling water resources  
 959 physically located within the PJM region, with such resource qualifying as a Commonwealth-located  
 960 resource for purposes of this subsection, as of January 1, 2020, provided that such renewable attributes are  
 961 verified as RECs consistent with the PJM-EIS Generation Attribute Tracking System.

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

964	a	Phase I Utilities		Phase II Utilities	
965	a	Year	RPS Program Requirement	Year	RPS Program Requirement
966	b	2021	6%	2021	14%
967	e	2022	7%	2022	17%
968	d	2023	8%	2023	20%
969	e	2024	10%	2024	23%
970	f	2025	14%	2025	26%
971	g	2026	17%	2026	29%
972	h	2027	20%	2027	32%

973	i	2028	24%	2028	35%
974	j	2029	27%	2029	38%
975	k	2030	30%	2030	41%
976	l	2031	33%	2031	45%
977	m	2032	36%	2032	49%
978	n	2033	39%	2033	52%
979	o	2034	42%	2034	55%
980	p	2035	45%	2035	59%
981	q	2036	53%	2036	63%
982	r	2037	53%	2037	67%
983	s	2038	57%	2038	71%
984	t	2039	61%	2039	75%
985	u	2040	65%	2040	79%
986	v	2041	68%	2041	83%
987	w	2042	71%	2042	87%
988	x	2043	74%	2043	91%
989	y	2044	77%	2044	95%
990	z	2045	80%	2045 and	100%
991				thereafter	
992	aa	2046	84%		
993	ab	2047	88%		
994	ae	2048	92%		
995	ad	2049	96%		
996	ae	2050 and	100%		
997		thereafter			

998 2. A Phase II Utility shall meet one percent of the RPS Program requirements in any given compliancee  
999 year with solar, wind, or anaerobic digestion resources of one megawatt or less located in the  
1000 Commonwealth, with not more than 3,000 kilowatts at any single location or at contiguous locations owned  
1001 by the same entity or affiliated entities and, to the extent that low-income qualifying projects are available,  
1002 then no less than 25 percent of such one percent shall be composed of low-income qualifying projects. To the  
1003 extent that low-income qualifying projects are not available and projects located on or adjacent to public  
1004 elementary or secondary schools are available, the remainder of no less than 25 percent of such one percent  
1005 shall be composed of projects located on or adjacent to public elementary or secondary schools. A project  
1006 located on or adjacent to a public elementary or secondary school shall have a contractual relationship with  
1007 such school in order to qualify for the provisions of this section.

1008 3. Beginning with the 2025 compliancee year and thereafter, at least 75 percent of all RECs used by a  
1009 Phase II Utility in a compliancee period shall come from RPS eligible resources located in the  
1010 Commonwealth.

1011 4. Any Phase I or Phase II Utility may apply renewable energy sales achieved or RECs acquired in excess  
1012 of the sales requirement for that RPS Program to the sales requirements for RPS Program requirements in the  
1013 year in which it was generated and the five calendar years after the renewable energy was generated or the  
1014 RECs were created. To the extent that a Phase I or Phase II Utility procures RECs for RPS Program  
1015 compliancee from resources the utility does not own, the utility shall be entitled to recover the costs of such  
1016 certificates at its election pursuant to § 56-249.6 or subdivision A 5 d of § 56-585.1.

1017 5. Energy from a geothermal heating and cooling system is eligible for inclusion in meeting the  
1018 requirements of the RPS Program. RECs from a geothermal heating and cooling system are created based on  
1019 the amount of energy, converted from BTUs to kilowatt-hours, that is generated by a geothermal heating and  
1020 cooling system for space heating and cooling or water heating. The Commission shall determine the form and  
1021 manner in which such RECs are verified.

1022 D. Each Phase I or Phase II Utility shall petition the Commission for necessary approvals to procure zero-  
1023 carbon electricity generating capacity as set forth in this subsection and energy storage resources as set forth  
1024 in subsection E. To the extent that a Phase I or Phase II Utility constructs or acquires new zero-carbon  
1025 generating facilities or energy storage resources, the utility shall petition the Commission for the recovery of  
1026 the costs of such facilities, at the utility's election, either through its rates for generation and distribution  
1027 services or through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1. All costs not sought  
1028 for recovery through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 associated with  
1029 generating facilities provided by sunlight or onshore or offshore wind are also eligible to be applied by the  
1030 utility as a customer credit reinvestment offset as provided in subdivision A 8 of § 56-585.1. Costs associated  
1031 with the purchase of energy, capacity, or environmental attributes from facilities owned by the persons other  
1032 than the utility required by this subsection shall be recovered by the utility either through its rates for  
1033 generation and distribution services or pursuant to § 56-249.6.

1034 1. Each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or  
1035 enter into agreements to purchase the energy, capacity, and environmental attributes of 600 megawatts of  
1036 generating capacity using energy derived from sunlight or onshore wind.

1037 a. By December 31, 2023, each Phase I Utility shall petition the Commission for necessary approvals to  
1038 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of  
1039 at least 200 megawatts of generating capacity located in the Commonwealth using energy derived from  
1040 sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of  
1041 energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other  
1042 than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I  
1043 Utility.

1044 b. By December 31, 2027, each Phase I Utility shall petition the Commission for necessary approvals to  
1045 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of  
1046 at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived  
1047 from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the

1048 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by  
1049 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by  
1050 such Phase I Utility.

1051 e. By December 31, 2030, each Phase I Utility shall petition the Commission for necessary approvals to  
1052 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of  
1053 at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived  
1054 from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the  
1055 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by  
1056 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by  
1057 such Phase I Utility.

1058 d. Nothing in this subdivision 1 shall prohibit such Phase I Utility from constructing, acquiring, or  
1059 entering into agreements to purchase the energy, capacity, and environmental attributes of more than 600  
1060 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or  
1061 onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and  
1062 56-585.1.

1063 2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to  
1064 (i) construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes  
1065 of 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from  
1066 sunlight or onshore wind, which shall include 1,100 megawatts of solar generation of a nameplate capacity  
1067 not to exceed three megawatts per individual project and 35 percent of such generating capacity procured  
1068 shall be from the purchase of energy, capacity, and environmental attributes from solar facilities owned by  
1069 persons other than a utility, including utility affiliates and deregulated affiliates and (ii) pursuant to  
1070 § 56-585.1:11, construct or purchase one or more offshore wind generation facilities located off the  
1071 Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth  
1072 with an aggregate capacity of up to 5,200 megawatts. At least 200 megawatts of the 16,100 megawatts shall  
1073 be placed on previously developed project sites.

1074 a. By December 31, 2024, each Phase II Utility shall petition the Commission for necessary approvals to  
1075 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of  
1076 at least 3,000 megawatts of generating capacity located in the Commonwealth using energy derived from  
1077 sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of  
1078 energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other

1079 than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase H  
1080 Utility.

1081 b. By December 31, 2027, each Phase H Utility shall petition the Commission for necessary approvals to  
1082 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of  
1083 at least 3,000 megawatts of additional generating capacity located in the Commonwealth using energy  
1084 derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the  
1085 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by  
1086 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by  
1087 such Phase H Utility.

1088 e. By December 31, 2030, each Phase H Utility shall petition the Commission for necessary approvals to  
1089 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of  
1090 at least 4,000 megawatts of additional generating capacity located in the Commonwealth using energy  
1091 derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the  
1092 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by  
1093 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by  
1094 such Phase H Utility.

1095 d. By December 31, 2035, each Phase H Utility shall petition the Commission for necessary approvals to  
1096 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of  
1097 at least 6,100 megawatts of additional generating capacity located in the Commonwealth using energy  
1098 derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the  
1099 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by  
1100 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by  
1101 such Phase H Utility.

1102 e. Nothing in this subdivision 2 shall prohibit such Phase H Utility from constructing, acquiring, or  
1103 entering into agreements to purchase the energy, capacity, and environmental attributes of more than 16,100  
1104 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or  
1105 onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and  
1106 56-585.1.

1107 ~~3. 1.~~ Nothing in this section shall prohibit a utility from petitioning the Commission to construct or  
1108 acquire zero-carbon electricity or from entering into contracts to procure the energy, *and* capacity, *and*  
1109 environmental attributes of zero-carbon electricity generating resources in excess of the requirements in

1110 ~~subsection B~~. The Commission shall determine whether to approve such petitions on a stand-alone basis  
1111 pursuant to §§ 56-580 and 56-585.1, provided that the Commission's review shall also consider whether the  
1112 proposed generating capacity (i) is necessary to meet the utility's native load, (ii) is likely to lower customer  
1113 fuel costs, (iii) will provide economic development opportunities in the Commonwealth, and (iv) serves a  
1114 need that cannot be more affordably met with demand-side or energy storage resources.

1115 2. Each Phase I and Phase II Utility shall, at least once every year, conduct a request for proposals for new  
1116 solar and wind resources. Such requests shall quantify and describe the utility's need for energy; *or* capacity;  
1117 ~~or renewable energy certificates~~. The requests for proposals shall be publicly announced and made available  
1118 for public review on the utility's website at least 45 days prior to the closing of such request for proposals.  
1119 The requests for proposals shall provide, at a minimum, the following information: ~~(a)~~ (i) the size, type, and  
1120 timing of resources for which the utility anticipates contracting; ~~(b)~~ (ii) any minimum thresholds that must be  
1121 met by respondents; ~~(c)~~ (iii) major assumptions to be used by the utility in the bid evaluation process,  
1122 including environmental emission standards; ~~(d)~~ (iv) detailed instructions for preparing bids so that bids can  
1123 be evaluated on a consistent basis; ~~(e)~~ (v) the preferred general location of additional capacity; and ~~(f)~~ (vi)  
1124 specific information concerning the factors involved in determining the price and non-price criteria used for  
1125 selecting winning bids. A utility may evaluate responses to requests for proposals based on any criteria that it  
1126 deems reasonable but shall at a minimum consider the following in its selection process: ~~(1)~~ (a) the status of a  
1127 particular project's development; ~~(2)~~ (b) the age of existing generation facilities; ~~(3)~~ (c) the demonstrated  
1128 financial viability of a project and the developer; ~~(4)~~ (d) a developer's prior experience in the field; ~~(5)~~ (e) the  
1129 location and effect on the transmission grid of a generation facility; ~~(6)~~ (f) benefits to the Commonwealth that  
1130 are associated with particular projects, including regional economic development and the use of goods and  
1131 services from Virginia businesses; and ~~(7)~~ (g) the environmental impacts of particular resources, including  
1132 impacts on air quality within the Commonwealth and the carbon intensity of the utility's generation portfolio.

1133 4. 3. In connection with the requirements of this subsection, each Phase I and Phase II Utility shall,  
1134 commencing in 2020 and concluding in 2035, submit annually a plan and petition for approval for the  
1135 development of new solar and onshore wind generation capacity. Such plan shall reflect, in the aggregate and  
1136 over its duration, the requirements of ~~subsection D~~ *this subsection* concerning the allocation percentages for  
1137 construction or purchase of such capacity. Such petition shall contain any request for approval to construct  
1138 such facilities pursuant to subsection D of § 56-580 and a request for approval or update of a rate adjustment  
1139 clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of such facilities. ~~Such plan shall also~~  
1140 ~~include the utility's plan to meet the energy storage project targets of subsection E, including the goal of~~

1141 installing at least 10 percent of such energy storage projects behind the meter. In determining whether to  
1142 approve the utility's plan and any associated petition requests, the Commission shall determine whether they  
1143 are reasonable and prudent and shall give due consideration to (i) the RPS and carbon dioxide reduction  
1144 requirements in this section; (ii) the promotion of new renewable generation and energy storage resources  
1145 within the Commonwealth; and associated economic development; and (iii) (ii) fuel savings projected to be  
1146 achieved by the plan. Notwithstanding any other provision of this title, the Commission's final order  
1147 regarding any such petition and associated requests shall be entered by the Commission not more than six  
1148 months after the date of the filing of such petition.

1149 5. If, in any year, a Phase I or Phase II Utility is unable to meet the compliance obligation of the RPS  
1150 Program requirements or if the cost of RECs necessary to comply with RPS Program requirements exceeds  
1151 \$45 per megawatt hour, such supplier shall be obligated to make a deficiency payment equal to \$45 for each  
1152 megawatt-hour shortfall for the year of noncompliance, except that the deficiency payment for any shortfall  
1153 in procuring RECs for solar, wind, or anaerobic digesters located in the Commonwealth shall be \$75 per  
1154 megawatts hour for resources one megawatt and lower. The amount of any deficiency payment shall increase  
1155 by one percent annually after 2021. A Phase I or Phase II Utility shall be entitled to recover the costs of such  
1156 payments as a cost of compliance with the requirements of this subsection pursuant to subdivision A 5 d of  
1157 § 56-585.1. All proceeds from the deficiency payments shall be deposited into an interest-bearing account  
1158 administered by the Department of Energy. In administering this account, the Department of Energy shall  
1159 manage the account as follows: (i) 50 percent of total revenue shall be directed to job training programs in  
1160 historically economically disadvantaged communities; (ii) 16 percent of total revenue shall be directed to  
1161 energy efficiency measures for public facilities; (iii) 30 percent of total revenue shall be directed to renewable  
1162 energy programs located in historically economically disadvantaged communities; and (iv) four percent of  
1163 total revenue shall be directed to administrative costs.

1164 4. For any project constructed pursuant to this subsection or subsection E, a utility shall, subject to a  
1165 competitive procurement process, procure equipment from a Virginia-based or United States-based  
1166 manufacturer using materials or product components made in Virginia or the United States, if reasonably  
1167 available and competitively priced.

1168 E. To enhance reliability and performance of the utility's generation and distribution system, each Phase I  
1169 and Phase II Utility shall petition the Commission for necessary approvals to construct or acquire new,  
1170 utility-owned energy storage resources.

1171 1. By December 31, 2035, each Phase I Utility shall petition the Commission for necessary approvals to

1172 construct or acquire 400 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a  
1173 Phase I Utility from constructing or acquiring more than 400 megawatts of energy storage, provided that the  
1174 utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

1175 2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to  
1176 construct or acquire 2,700 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a  
1177 Phase II Utility from constructing or acquiring more than 2,700 megawatts of energy storage, provided that  
1178 the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

1179 3. No single energy storage project shall exceed 500 megawatts in size, except that a Phase II Utility may  
1180 procure a single energy storage project up to 800 megawatts.

1181 4. All energy storage projects procured pursuant to this subsection shall meet the competitive procurement  
1182 protocols established in subdivision D 3.

1183 5. After July 1, 2020, at least 35 percent of the energy storage facilities placed into service shall be (i)  
1184 purchased by the public utility from a party other than the public utility or (ii) owned by a party other than a  
1185 public utility, with the capacity from such facilities sold to the public utility. By January 1, 2021, the  
1186 Commission shall adopt regulations to achieve the deployment of energy storage for the Commonwealth  
1187 required in subdivisions 1 and 2, including regulations that set interim targets and update existing utility  
1188 planning and procurement rules. The regulations shall include programs and mechanisms to deploy energy  
1189 storage, including competitive solicitations, behind-the-meter incentives, non-wires alternatives programs,  
1190 and peak demand reduction programs.

1191 F. D. All costs incurred by a Phase I or Phase II Utility related to compliance with the requirements of this  
1192 section or pursuant to § 56-585.1:11, including (i) costs of generation facilities powered by sunlight or  
1193 onshore or offshore wind, or energy storage facilities, that are constructed or acquired by a Phase I or Phase II  
1194 Utility after July 1, 2020; (ii) costs of capacity, or energy, or environmental attributes from generation  
1195 facilities powered by sunlight, or onshore or offshore wind, or falling water, or energy storage facilities  
1196 purchased by the utility from persons other than the utility through agreements after July 1, 2020; and (iii) all  
1197 other costs of compliance, including costs associated with the purchase of RECs associated with RPS  
1198 Program requirements pursuant to this section shall be recovered from all retail customers in the service  
1199 territory of a Phase I or Phase II Utility as a non-bypassable charge, irrespective of the generation supplier of  
1200 such customer, except (a) as provided in subsection G E for an accelerated renewable energy buyer or (b) as  
1201 provided in subdivision C 3 of § 56-585.1:11, with respect to the costs of an offshore wind generation  
1202 facility, for a PIPP eligible utility customer or an advanced clean energy buyer or qualifying large general

1203 service customer, as those terms are defined in § 56-585.1:11. If a Phase I or Phase II Utility serves  
1204 customers in more than one jurisdiction, such utility shall recover all of the costs of compliance with the ~~RPS~~  
1205 ~~Program~~ requirements *of this section* from its Virginia customers through the applicable cost recovery  
1206 mechanism, and all associated energy; *and* capacity; ~~and environmental attributes~~ shall be assigned to  
1207 Virginia to the extent that such costs are requested but not recovered from any system customers outside the  
1208 Commonwealth.

1209 By September 1, 2020, the Commission shall direct the initiation of a proceeding for each Phase I and  
1210 Phase II Utility to review and determine the amount of such costs, net of benefits, that should be allocated to  
1211 retail customers within the utility's service territory which have elected to receive electric supply service from  
1212 a supplier of electric energy other than the utility, and shall direct that tariff provisions be implemented to  
1213 recover those costs from such customers beginning no later than January 1, 2021. Thereafter, such charges  
1214 and tariff provisions shall be updated and trued up by the utility on an annual basis, subject to continuing  
1215 review and approval by the Commission.

1216 ~~G. E.~~ 1. An accelerated renewable energy buyer may contract with a Phase I or Phase II Utility, or a  
1217 person other than a Phase I or Phase II Utility, to obtain (i) ~~RECs from RPS eligible resources~~ *renewable*  
1218 *energy certificates (RECs)* or (ii) bundled capacity, energy, and RECs from solar ~~or~~, wind, or zero-carbon  
1219 electricity generation resources located within the PJM region and initially placed in commercial operation  
1220 after January 1, 2015, including any contract with a utility for such generation resources that does not allocate  
1221 the cost of such resources to or recover the cost of such resources from any other customers of the utility that  
1222 have not voluntarily agreed to pay such cost. Such an accelerated renewable energy buyer may offset all or a  
1223 portion of its electric load ~~for purposes of RPS compliance~~ through such arrangements. An accelerated  
1224 renewable energy buyer shall be exempt from the assignment of non-bypassable ~~RPS~~ compliance costs  
1225 pursuant to subsection ~~F D~~, with the exception of the costs of an offshore wind generating facility pursuant to  
1226 § 56-585.1:11, based on the amount of RECs obtained pursuant to this subsection in proportion to the  
1227 customer's total electric energy consumption, on an annual basis. An accelerated renewable energy buyer may  
1228 also contract with a Phase I or Phase II Utility, or a person other than a Phase I or Phase II Utility, to obtain  
1229 capacity from energy storage facilities located within the network service area of the utility pursuant to this  
1230 subsection, provided that the costs of such resources are not recovered from any of the utility's customers  
1231 who have not voluntarily agreed to pay for such costs. Such accelerated renewable energy buyer shall be  
1232 exempt from the assignment of non-bypassable ~~RPS Program~~ compliance costs specifically associated with  
1233 energy storage facilities pursuant to this subsection in proportion to the customer's total capacity demand on

1234 an annual basis. An accelerated renewable energy buyer obtaining RECs only shall not be exempt from costs  
1235 related to procurement of new solar or onshore wind generation capacity, energy, or environmental attributes;  
1236 ~~or energy storage facilities~~, by the utility pursuant to ~~subsections D and E~~, *however subsection C. However,*  
1237 an accelerated renewable energy buyer that is a customer of a Phase II Utility and was subscribed, as of  
1238 March 1, 2020, to a voluntary companion experimental tariff offering of the utility for the purchase of  
1239 renewable attributes from renewable energy facilities that requires a renewable facilities agreement and the  
1240 purchase of a minimum of 2,000 renewable attributes annually, shall be exempt from allocation of the net  
1241 costs related to procurement of new solar or onshore wind generation capacity, energy, or environmental  
1242 attributes; ~~or energy storage facilities~~, by the utility pursuant to ~~subsections D and E~~ *subsection C*, based on  
1243 the amount of RECs associated with the customer's renewable facilities agreements associated with such  
1244 tariff offering as of that date in proportion to the customer's total electric energy consumption, on an annual  
1245 basis. To the extent that an accelerated renewable energy buyer contracts for the capacity of new solar or  
1246 wind generation resources or energy storage facilities pursuant to this subsection, the aggregate amount of  
1247 such nameplate capacity shall be offset from the utility's procurement requirements pursuant to subsection ~~D~~  
1248 *C. All RECs associated with contracts entered into by an accelerated renewable energy buyer with the utility,*  
1249 *or a person other than the utility, for an RPS Program shall not be credited to the utility's compliance with its*  
1250 *RPS requirements, and the calculation of the utility's RPS Program requirements shall not include the electric*  
1251 *load covered by customers certified as accelerated renewable energy buyers.*

1252 2. Each Phase I or Phase II Utility shall certify, and verify as necessary, to the Commission that the  
1253 accelerated renewable energy buyer has satisfied the exemption requirements of this subsection for each year,  
1254 or an accelerated renewable energy buyer may choose to certify satisfaction of this exemption by reporting to  
1255 the Commission individually. The Commission may promulgate such rules and regulations as may be  
1256 necessary to implement the provisions of this subsection.

1257 3. Provided that no incremental costs associated with any contract between a Phase I or Phase II Utility  
1258 and an accelerated renewable energy buyer is allocated to or recovered from any other customer of the utility,  
1259 any such contract with an accelerated renewable energy buyer that is a jurisdictional customer of the utility  
1260 shall not be deemed a special rate or contract requiring Commission approval pursuant to § 56-235.2.

1261 4. ~~The State Corporation~~ Commission shall ensure that any distribution and transmission costs associated  
1262 with new energy generation resources procured pursuant to ~~subsection G of § 56-585.5 of the Code of~~  
1263 ~~Virginia, as amended by this act,~~ *this section* are justly and reasonably allocated.

1264 ~~H. F.~~ No customer of a Phase II Utility with a peak demand in excess of 100 megawatts in 2019 that

1265 elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service  
1266 provider prior to April 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F D for  
1267 such period that the customer is not purchasing electric energy from the utility; ~~and such customer's electric~~  
1268 ~~load shall not be included in the utility's RPS Program requirements.~~ No customer of a Phase I Utility that  
1269 elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service  
1270 provider prior to February 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F D  
1271 for such period that the customer is not purchasing electric energy from the utility; ~~and such customer's~~  
1272 ~~electric load shall not be included in the utility's RPS Program requirements.~~

1273 ~~F. In any petition by a Phase I or Phase II Utility for a certificate of public convenience and necessity to~~  
1274 ~~construct and operate an electrical generating facility that generates electric energy derived from sunlight~~  
1275 ~~submitted pursuant to § 56-580, such utility shall demonstrate that the proposed facility was subject to~~  
1276 ~~competitive procurement or solicitation as set forth in subdivision D 3.~~

1277 ~~J. Notwithstanding any contrary provision of law, for the purposes of this section, any falling water~~  
1278 ~~generation facility located in the Commonwealth and commencing commercial operations prior to July 1,~~  
1279 ~~2024, shall be considered a renewable energy portfolio standard (RPS) eligible source.~~

1280 ~~K. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et seq.).~~

1281 ~~L. G. The Commission shall adopt such rules and regulations as may be necessary to implement the~~  
1282 ~~provisions of this section, including a requirement that participants verify whether the RPS Program~~  
1283 ~~requirements are met in accordance with this section.~~

1284 **§ 56-594.3. Shared solar programs; Phase II Utility.**

1285 A. As used in this section:

1286 "Administrative cost" means the reasonable incremental cost to the investor-owned utility to process  
1287 subscribers' bills for the program.

1288 "Applicable bill credit rate" means the dollar-per-kilowatt-hour rate used to calculate the subscriber's bill  
1289 credit.

1290 "Bill credit" means the monetary value of the electricity, in kilowatt-hours, generated by the shared solar  
1291 facility allocated to a subscriber to offset that subscriber's electricity bill.

1292 "Dual-use agricultural facility" means agricultural production and electricity production from solar  
1293 photovoltaic panels occurring simultaneously on the same property.

1294 "Gross bill" means the amount that a customer would pay to the utility based on the customer's monthly

1295 energy consumption before any bill credits are applied.

1296 "Incremental cost" means any cost directly caused by the implementation of the shared solar program that  
1297 would not have occurred absent the implementation of the shared solar program.

1298 "Low-income customer" means any person or household whose income is no more than 80 percent of the  
1299 median income of the locality in which the customer resides. The median income of the locality is determined  
1300 by the U.S. Department of Housing and Urban Development.

1301 "Low-income service organization" means a nonresidential customer of an investor-owned utility whose  
1302 primary purpose is to serve low-income individuals and households.

1303 "Low-income shared solar facility" means a shared solar facility at least 30 percent of the capacity of  
1304 which is subscribed by low-income customers or low-income service organizations.

1305 "Minimum bill" means an amount determined by the Commission under subsection D that a subscriber is  
1306 required to, at a minimum, pay on the subscriber's utility bill each month after accounting for any bill credits.

1307 "Net bill" means the resulting amount a customer must pay the utility after deducting the bill credit from  
1308 the customer's monthly gross bill.

1309 "Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

1310 "Shared solar facility" means a facility that:

1311 1. Generates electricity by means of a solar photovoltaic device with a nameplate capacity rating that does  
1312 not exceed 5,000 kilowatts of alternating current;

1313 2. Is interconnected with a Phase II Utility's distribution system within the Commonwealth;

1314 3. Has at least three subscribers;

1315 4. Has at least 40 percent of its capacity subscribed by customers with subscriptions of 25 kilowatts or  
1316 less; and

1317 5. Is located on a single parcel of land.

1318 "Shared solar program" or "program" means the program created through the adoption of rules to allow  
1319 for the development of shared solar facilities.

1320 "Subscriber" means a retail customer of a utility that (i) owns one or more subscriptions of a shared solar  
1321 facility that is interconnected with the utility and (ii) receives service in the service territory of the same  
1322 utility in whose service territory the shared solar facility is interconnected.

1323 "Subscriber organization" means any for-profit or nonprofit entity that owns or operates one or more

1324 shared solar facilities. A subscriber organization shall not be considered a utility solely as a result of its  
1325 ownership or operation of a shared solar facility. A subscriber organization licensed with the Commission  
1326 shall be eligible to own or operate shared solar facilities in more than one investor-owned utility service  
1327 territory.

1328 "Subscribed" means, in relation to a subscription, that a subscriber has made initial payments or provided  
1329 a deposit to the owner of a shared solar facility for such subscription.

1330 "Subscription" means a contract or other agreement between a subscriber and the owner of a shared solar  
1331 facility. A subscription shall be sized such that the estimated bill credits do not exceed the subscriber's  
1332 average annual bill for the customer account to which the subscription is attributed.

1333 "Utility" means a Phase II Utility.

1334 B. The Commission shall establish by regulation a program that affords customers of a Phase II Utility the  
1335 opportunity to participate in shared solar projects. Under its shared solar program, a utility shall provide a bill  
1336 credit for the proportional output of a shared solar facility attributable to that subscriber. The shared solar  
1337 program shall be administered as follows:

1338 1. The value of the bill credit for the subscriber shall be calculated by multiplying the subscriber's portion  
1339 of the kilowatt-hour electricity production from the shared solar facility by the applicable bill credit rate for  
1340 the subscriber. Any amount of the bill credit that exceeds the subscriber's monthly bill, minus the minimum  
1341 bill, shall be carried over and applied to the next month's bill.

1342 2. The utility shall provide bill credits to a shared solar facility's subscribers for not less than 25 years  
1343 from the date the shared solar facility becomes commercially operational.

1344 3. The subscriber organization shall, on a monthly basis and in a standardized electronic format, and  
1345 pursuant to guidelines established by the Commission, provide to the utility a subscriber list indicating the  
1346 kilowatt-hours of generation attributable to each of the subscribers participating in a shared solar facility in  
1347 accordance with the subscriber's portion of the output of the shared solar facility.

1348 4. Subscriber lists may be updated monthly to reflect canceling subscribers and to add new subscribers.  
1349 The utility shall apply bill credits to subscriber bills within two billing cycles following the cycle during  
1350 which the energy was generated by the shared solar facility.

1351 5. Each utility shall, on a monthly basis and in a standardized electronic format, provide to the subscriber  
1352 organization a report indicating the total value of bill credits generated by the shared solar facility in the prior

1353 month, as well as the amount of the bill credit applied to each subscriber.

1354 6. A subscriber organization may accumulate bill credits in the event that all of the electricity generated  
1355 by a shared solar facility is not allocated to subscribers in a given month. On an annual basis and pursuant to  
1356 guidelines established by the Commission, the subscriber organization shall furnish to the utility allocation  
1357 instructions for distributing excess bill credits to subscribers.

1358 7. A subscriber organization that registers a shared solar facility in the program within the first 200  
1359 megawatts alternating current of awarded capacity shall own all environmental attributes associated with a  
1360 shared solar facility, including renewable energy certificates. At such subscriber organization's direction, such  
1361 environmental attributes may be distributed to subscribers, sold to load-serving entities with compliance  
1362 obligations or other buyers, accumulated, or retired. For a shared solar facility registered in the program after  
1363 the first 200 megawatts alternating current of awarded capacity, the registering subscriber organization shall  
1364 transfer renewable energy certificates to a Phase II Utility ~~to be retired for compliance with such Phase II~~  
1365 ~~Utility's renewable portfolio standard obligations pursuant to subsection C of § 56-585.5.~~

1366 8. Projects shall be entitled to receive incentives when they are located on rooftops, brownfields, or  
1367 landfills, are dual-use agricultural facilities, or meet the definition of another category established by the  
1368 Department of Energy pursuant to this section.

1369 C. Each subscriber shall pay a minimum bill, established pursuant to subsection D, and shall receive an  
1370 applicable bill credit based on the subscriber's customer class of residential, commercial, or industrial. Each  
1371 class's applicable credit rate shall be calculated by the Commission annually by dividing revenues to the class  
1372 by sales, measured in kilowatt-hours, to that class to yield a bill credit rate for the class (\$/kWh).

1373 D. The Commission shall establish a minimum bill, which shall include the costs of all utility  
1374 infrastructure and services used to provide electric service and administrative costs of the shared solar  
1375 program. The Commission may modify the minimum bill over time. In establishing the minimum bill, the  
1376 Commission shall (i) consider further costs the Commission deems relevant to ensure subscribing customers  
1377 pay a fair share of the costs of providing electric services and generation sufficient to meet customer needs at  
1378 all times, (ii) minimize the costs shifted to customers not in a shared solar program, and (iii) calculate the  
1379 benefits of shared solar to the electric grid and to the Commonwealth and deduct such benefits from other  
1380 costs. The Commission shall explicitly set forth its findings as to each cost and benefit, or other value used to  
1381 determine such minimum bill. Low-income customers shall be exempt from the minimum bill.

1382 E. The Commission shall approve part one of a shared solar program with an aggregate capacity of 200  
1383 megawatts. Upon a determination that at least 90 percent of the megawatts of the aggregate capacity of such  
1384 program have been subscribed and that project construction is substantially complete, the Commission shall  
1385 approve up to an additional 150 megawatts of capacity as part two of such program, 75 megawatts of which  
1386 shall serve no more than 51 percent low-income customers. Subscriber organizations shall be allowed to  
1387 demonstrate compliance with the low income requirement using either project capacity or project savings  
1388 methodology. The Commission, in collaboration with the Department of Energy, may adopt mechanisms to  
1389 ensure low-income customer participation.

1390 F. The Commission shall establish by regulation a shared solar program that complies with the provisions  
1391 of subsections B, C, D, and E by March 1, 2025, and shall require each utility to file any tariffs, agreements,  
1392 or forms necessary for implementation of the program by December 1, 2025. Any tariffs, agreements, and  
1393 forms currently in effect at the time of enactment shall remain in effect until such revisions are approved by  
1394 the Commission. Any rule or utility implementation filings approved by the Commission shall:

- 1395 1. Reasonably allow for the creation of shared solar facilities;
- 1396 2. Allow all customer classes to participate in the program;
- 1397 3. Create a stakeholder working group including low-income community representatives and community  
1398 solar providers to facilitate low-income customer and low-income service organization participation in the  
1399 program;
- 1400 4. Encourage public-private partnerships to further the Commonwealth's clean energy and equity goals,  
1401 such as state agency and affordable housing provider participation as subscribers of a shared solar program;
- 1402 5. Not remove a customer from its otherwise applicable customer class in order to participate in a shared  
1403 solar facility;
- 1404 6. Reasonably allow for the transferability and portability of subscriptions, including allowing a  
1405 subscriber to retain a subscription to a shared solar facility if the subscriber moves within the same utility's  
1406 service territory;
- 1407 7. Establish standards, fees, and processes for the interconnection of shared solar facilities that allow the  
1408 utility to recover reasonable interconnection costs for each shared solar facility;
- 1409 8. Adopt standardized consumer disclosure forms;
- 1410 9. Allow the utility the opportunity to recover reasonable costs of administering the program;

1411 10. Ensure nondiscriminatory and efficient requirements and utility procedures for interconnecting  
1412 projects;

1413 11. Address the co-location of two or more shared solar facilities on a single parcel of land and provide  
1414 guidelines for determining when two or more such facilities are co-located;

1415 12. Include a program implementation schedule;

1416 13. Prohibit credit checks as a means of establishing eligibility for residential customers to become  
1417 subscribers;

1418 14. Prohibit early termination fees and credit reporting for any low-income customer;

1419 15. Require a customer's affirmative consent by written or electronic signature before providing access to  
1420 customer billing and usage data to a subscriber organization;

1421 16. Establish customer engagement rules and minimum rules for education, contract reviews, and  
1422 continued engagement;

1423 17. Require net crediting functionality. Under net crediting, the utility shall include the shared solar  
1424 subscription fee on the customer's utility bill and provide the customer with a net credit equivalent to the total  
1425 bill credit value for that generation period minus the shared solar subscription fee as set by the subscriber  
1426 organization. The net crediting fee shall not exceed one percent of the bill credit value. Net crediting shall be  
1427 optional for subscriber organizations, and any shared solar subscription fees charged via the net crediting  
1428 model shall be set to ensure that subscribers do not pay more in subscription fees than they receive in bill  
1429 credits; and

1430 18. Allow the utility to recover as the cost of purchased power pursuant to § 56-249.6 any difference  
1431 between the bill credit provided to the subscriber and the cost of energy injected into the grid by the  
1432 subscriber organization.

1433 G. Within 180 days of finalization of the Commission's adoption of regulations for the shared solar  
1434 program, a utility shall begin crediting subscriber accounts of each shared solar facility interconnected in its  
1435 service territory, subject to the requirements of this section and regulations adopted thereto.

1436 **§ 56-594.4. Shared solar programs; Phase I Utility.**

1437 A. As used in this section:

1438 "Administrative cost" means the reasonable incremental cost to the investor-owned utility to process  
1439 subscribers' bills for the program.

1440 "Applicable bill credit rate" means the dollar-per-kilowatt-hour rate used to calculate the subscriber's bill  
1441 credit.

1442 "Bill credit" means the monetary value of the electricity, in kilowatt-hours, generated by the shared solar  
1443 facility allocated to a subscriber to offset that subscriber's electricity bill.

1444 "Dual-use agricultural facility" means agricultural production and electricity production from solar  
1445 photovoltaic panels occurring simultaneously on the same property.

1446 "Gross bill" means the amount that a customer would pay to the utility based on the customer's monthly  
1447 energy consumption before any bill credits are applied.

1448 "Incremental cost" means any cost directly caused by the implementation of the shared solar program that  
1449 would not have occurred absent the implementation of the shared solar program.

1450 "Minimum bill" means an amount determined by the Commission under subsection D that a subscriber is  
1451 required to, at a minimum, pay on the subscriber's utility bill each month after accounting for any bill credits.

1452 "Net bill" means the resulting amount a customer must pay the utility after deducting the bill credit from  
1453 the customer's monthly gross bill.

1454 "Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

1455 "Shared solar facility" means a facility that:

1456 1. Generates electricity by means of a solar photovoltaic device with a nameplate capacity rating that does  
1457 not exceed 5,000 kilowatts of alternating current;

1458 2. Is interconnected with the distribution system of an investor-owned electric utility within the  
1459 Commonwealth;

1460 3. Has at least three subscribers;

1461 4. Has at least 40 percent of its capacity subscribed by customers with subscriptions of 25 kilowatts or  
1462 less; and

1463 5. Is located on a single parcel of land.

1464 "Shared solar program" or "program" means the program created through the adoption of rules to allow  
1465 for the development of shared solar facilities.

1466 "Subscriber" means a retail customer of a utility that (i) owns one or more subscriptions of a shared solar  
1467 facility that is interconnected with the utility and (ii) receives service in the service territory of the same  
1468 utility in whose service territory the shared solar facility is interconnected.

1469 "Subscriber organization" means any for-profit or nonprofit entity that owns or operates one or more  
1470 shared solar facilities. A subscriber organization shall not be considered a utility solely as a result of its  
1471 ownership or operation of a shared solar facility. A subscriber organization licensed with the Commission  
1472 shall be eligible to own or operate shared solar facilities in more than one investor-owned utility service  
1473 territory.

1474 "Subscription" means a contract or other agreement between a subscriber and the owner of a shared solar  
1475 facility. A subscription shall be sized such that the estimated bill credits do not exceed the subscriber's  
1476 average annual bill for the customer account to which the subscription is attributed.

1477 "Utility" means a Phase I Utility.

1478 B. The Commission shall establish by regulation a program that affords customers of a Phase I Utility the  
1479 opportunity to participate in shared solar projects. Under its shared solar program, a utility shall provide a bill  
1480 credit for the proportional output of a shared solar facility attributable to that subscriber. The shared solar  
1481 program shall be administered as follows:

1482 1. The value of the bill credit for the subscriber shall be calculated by multiplying the subscriber's portion  
1483 of the kilowatt-hour electricity production from the shared solar facility by the applicable bill credit rate for  
1484 the subscriber. Any amount of the bill credit that exceeds the subscriber's monthly bill, minus the minimum  
1485 bill, shall be carried over and applied to the next month's bill.

1486 2. The utility shall provide bill credits to a shared solar facility's subscribers for not less than 25 years  
1487 from the date the shared solar facility becomes commercially operational.

1488 3. The subscriber organization shall, on a monthly basis and in a standardized electronic format, and  
1489 pursuant to guidelines established by the Commission, provide to the utility a subscriber list indicating the  
1490 percentage of shared solar capacity attributable to each of the subscribers participating in a shared solar  
1491 facility in accordance with the subscriber's portion of the output of the shared solar facility.

1492 4. Subscriber lists may be updated monthly to reflect canceling subscribers and to add new subscribers.  
1493 The utility shall apply bill credits to subscriber bills within two billing cycles following the cycle during  
1494 which the energy was generated by the shared solar facility.

1495 5. Each utility shall, on a monthly basis and in a standardized electronic format, provide to the subscriber  
1496 organization a report indicating the total value of bill credits generated by the shared solar facility in the prior  
1497 month, as well as the amount of the bill credit applied to each subscriber.

1498 6. A subscriber organization may accumulate bill credits in the event that all of the electricity generated  
1499 by a shared solar facility is not allocated to subscribers in a given month. On an annual basis and pursuant to  
1500 guidelines established by the Commission, the subscriber organization shall furnish to the utility allocation  
1501 instructions for distributing excess bill credits to subscribers.

1502 7. Any renewable energy certificates associated with a shared solar facility shall be distributed to a Phase I  
1503 Utility ~~to be retired for compliance with such Phase I Utility's renewable portfolio standard obligations~~  
1504 ~~pursuant to subsection C of § 56-585.5.~~

1505 8. Projects shall be entitled to receive incentives when they are located on rooftops, brownfields, or  
1506 landfills, are dual-use agricultural facilities, or meet the definition of another category established by the  
1507 Department of Energy pursuant to this section.

1508 C. Each subscriber shall pay a minimum bill, established pursuant to subsection D, and shall receive an  
1509 applicable bill credit based on the subscriber's customer class of residential, commercial, or industrial. Each  
1510 class's applicable credit rate shall be calculated by the Commission annually by dividing revenues to the class  
1511 by sales, measured in kilowatt-hours, to that class to yield a bill credit rate for the class (\$/kWh).

1512 D. The Commission shall establish a minimum bill, which shall include the costs of all utility  
1513 infrastructure and services used to provide electric service and administrative costs of the shared solar  
1514 program. The Commission may modify the minimum bill over time. In establishing the minimum bill, the  
1515 Commission shall (i) consider further costs the Commission deems relevant to ensure subscribing customers  
1516 pay a fair share of the costs of providing electric services, (ii) minimize the costs shifted to customers not in a  
1517 shared solar program, and (iii) calculate the benefits of shared solar to the electric grid and to the  
1518 Commonwealth and deduct such benefits from other costs. The Commission shall explicitly set forth its  
1519 findings as to each cost and benefit, or other value used to determine such minimum bill.

1520 E. The Commission shall approve a shared solar program of 50 megawatts or six percent of peak load,  
1521 whichever is less.

1522 F. The Commission shall establish by regulation a shared solar program that complies with the provisions  
1523 of subsections B, C, D, and E by January 1, 2025, and shall require each utility to file any tariffs, agreements,  
1524 or forms necessary for implementation of the program by July 1, 2025. Any rule or utility implementation  
1525 filings approved by the Commission shall:

1526 1. Reasonably allow for the creation of shared solar facilities;

- 1527 2. Allow all customer classes to participate in the program;
- 1528 3. Encourage public-private partnerships to further the Commonwealth's clean energy and equity goals,  
1529 such as state agency and affordable housing provider participation as subscribers of a shared solar program;
- 1530 4. Not remove a customer from its otherwise applicable customer class in order to participate in a shared  
1531 solar facility;
- 1532 5. Reasonably allow for the transferability and portability of subscriptions, including allowing a  
1533 subscriber to retain a subscription to a shared solar facility if the subscriber moves within the same utility's  
1534 service territory;
- 1535 6. Establish standards, fees, and processes for the interconnection of shared solar facilities that allow the  
1536 utility to recover reasonable interconnection costs for each shared solar facility;
- 1537 7. Adopt standardized consumer disclosure forms;
- 1538 8. Allow the utility the opportunity to recover reasonable costs of administering the program;
- 1539 9. Ensure nondiscriminatory and efficient requirements and utility procedures for interconnecting projects;
- 1540 10. Allow for the co-location of two or more shared solar facilities on a single parcel of land and provide  
1541 guidelines for determining when two or more such facilities are co-located;
- 1542 11. Include a program implementation schedule;
- 1543 12. Prohibit credit checks as a means of establishing eligibility for residential customers to become  
1544 subscribers;
- 1545 13. Require a customer's affirmative consent by written or electronic signature before providing access to  
1546 customer billing and usage data to a subscriber organization;
- 1547 14. Establish customer engagement rules and minimum rules for education, contract reviews, and  
1548 continued engagement;
- 1549 15. Require net financial savings for low-income customers, as that term is defined in § 56-594.3, of at  
1550 least 10 percent, relative to the subscription fee throughout the life of the subscription; and
- 1551 16. Allow the utility to recover as the cost of purchased power pursuant to § 56-249.6 any difference  
1552 between the bill credit provided to the subscriber and the cost of energy injected into the grid by the  
1553 subscriber organization.
- 1554 G. Within 180 days of finalization of the Commission's adoption of regulations for the shared solar  
1555 program, a utility shall begin crediting subscriber accounts of each shared solar facility interconnected in its

**1556** service territory, subject to the requirements of this section and regulations adopted thereto.