

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

4 [H 369]  
5 Approved

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

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

8 **§ 56-585.5. Generation of electricity from renewable and zero carbon sources.**

9 A. As used in this section:

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

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

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

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

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

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

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

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

26 "Previously developed project site" means any property, including related buffer areas, if any, that has  
27 been previously disturbed or developed for non-single-family residential, nonagricultural, or nonsilvicultural  
28 use, regardless of whether such property currently is being used for any purpose. "Previously developed  
29 project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has been previously used (i)  
30 for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of a parking lot canopy or  
31 structure; (iv) for mining, which is any lands affected by coal mining that took place before August 3, 1977,  
32 or any lands upon which extraction activities have been permitted by the Department of Energy under Title  
33 45.2; (v) for quarrying; or (vi) as a landfill.

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

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

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

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

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

55 C. Each Phase I and Phase II Utility shall participate in a renewable energy portfolio standard program  
56 (RPS Program) that establishes annual goals for the sale of renewable energy to all retail customers in the

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

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

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

		Phase I Utilities		Phase II Utilities	
	a	RPS Program Requirement	Year	RPS Program Requirement	Year
107	a				
108	b	6%	2021	14%	2021
109	c	7%	2022	17%	2022
110	d	8%	2023	20%	2023
111	e	10%	2024	23%	2024
112	f	14%	2025	26%	2025
113	g	17%	2026	29%	2026
114	h	20%	2027	32%	2027
115	i	24%	2028	35%	2028
116	j	27%	2029	38%	2029
117	k	30%	2030	41%	2030
118					

119	l	2031	33%	2031	45%
120	m	2032	36%	2032	49%
121	n	2033	39%	2033	52%
122	o	2034	42%	2034	55%
123	p	2035	45%	2035	59%
124	q	2036	53%	2036	63%
125	r	2037	53%	2037	67%
126	s	2038	57%	2038	71%
127	t	2039	61%	2039	75%
128	u	2040	65%	2040	79%
129	v	2041	68%	2041	83%
130	w	2042	71%	2042	87%
131	x	2043	74%	2043	91%
132	y	2044	77%	2044	95%
133	z	2045	80%	2045 and	100%
134				thereafter	
135	aa	2046	84%		
136	ab	2047	88%		
137	ac	2048	92%		
138	ad	2049	96%		
139	ae	2050 and	100%		
140		thereafter			

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

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

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

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

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

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

180 a. By December 31, 2023, each Phase I Utility shall petition the Commission for necessary approvals to  
181 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of

182 at least 200 megawatts of generating capacity located in the Commonwealth using energy derived from  
183 sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of  
184 energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other  
185 than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I  
186 Utility.

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

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

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

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

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

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

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

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

244 such Phase II Utility.

245 e. Nothing in this subdivision 2 shall prohibit such Phase II Utility from constructing, acquiring, or  
246 entering into agreements to purchase the energy, capacity, and environmental attributes of more than 16,100  
247 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or  
248 onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and  
249 56-585.1.

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

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

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

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

306 total revenue shall be directed to administrative costs.

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

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

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

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

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

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

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

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

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

358 G. 1. An accelerated ~~renewable~~ *clean* energy buyer may contract with a Phase I or Phase II Utility, or a  
 359 person other than a Phase I or Phase II Utility, to obtain (i) RECs from RPS eligible resources or (ii) bundled  
 360 capacity, energy, and RECs from solar or, wind, or ~~zero-carbon electricity~~ generation resources located  
 361 within the PJM region and initially placed in commercial operation after January 1, 2015, including any  
 362 contract with a utility for such generation resources that does not allocate the cost of such resources to or  
 363 recover the cost of such resources from any other customers of the utility that have not voluntarily agreed to  
 364 pay such cost. *Beginning July 1, 2026, an accelerated clean energy buyer that is a customer of a Phase I or*  
 365 *Phase II Utility may also contract with a Phase I or Phase II Utility, or a person other than a Phase I or*  
 366 *Phase II Utility, to obtain zero-carbon electricity from generation resources located within the PJM region*  
 367 *and initially placed in commercial operation after January 1, 2015, or placed in commercial operation on or*

368 before January 1, 2015, if investments to increase the maximum thermal power output of such facility  
 369 resulted in the generation of new electricity after July 1, 2026, or if a financial agreement for procurement of  
 370 energy and capacity was entered into with such facility after July 1, 2026, to prevent the previously  
 371 announced early retirement or decommissioning of such facility due to financial constraints. Such an  
 372 accelerated renewable clean energy buyer may offset all or a portion of its electric load for purposes of RPS  
 373 compliance through such arrangements. An accelerated renewable clean energy buyer obtaining capacity,  
 374 energy, or RECs from qualifying solar, wind, or zero-carbon electricity generation resources or energy  
 375 storage facilities shall be exempt from the assignment of non-bypassable RPS compliance costs pursuant to  
 376 subsection F, with the exception of the costs of an offshore wind generating facility pursuant to  
 377 § 56-585.1:11, based on the amount of (i) RECs from generation resources located within the PJM region  
 378 and (ii) zero-carbon electricity from generation resources located within the Commonwealth obtained  
 379 pursuant to this subsection in proportion to the customer's total electric energy consumption, on an annual  
 380 basis. An accelerated clean energy buyer obtaining bundled capacity or energy from zero-carbon electricity  
 381 generation resources located within the PJM region but not located within the Commonwealth shall only be  
 382 exempt from the assignment of non-bypassable RPS compliance costs pursuant to subdivision F that are  
 383 associated with the purchase of RECs required for RPS program compliance, based on the amount of zero-  
 384 carbon electric energy obtained pursuant to this subsection in proportion to the customer's total electric  
 385 energy consumption, on an annual basis. An accelerated renewable clean energy buyer may also contract  
 386 with a Phase I or Phase II Utility, or a person other than a Phase I or Phase II Utility, to obtain capacity from  
 387 energy storage facilities located within the network service area of the utility pursuant to this subsection,  
 388 provided that the costs of such resources are not recovered from any of the utility's customers who have not  
 389 voluntarily agreed to pay for such costs. Such accelerated renewable clean energy buyer shall be exempt from  
 390 the assignment of non-bypassable RPS Program compliance costs specifically associated with energy storage  
 391 facilities pursuant to this subsection in proportion to the customer's total capacity demand on an annual basis.  
 392 An accelerated renewable clean energy buyer obtaining RECs only shall not be exempt from costs related to  
 393 procurement of new solar or onshore wind generation capacity, energy, or environmental attributes, or energy  
 394 storage facilities, by the utility pursuant to subsections D and E, however, an accelerated renewable clean  
 395 energy buyer that is a customer of a Phase II Utility and was subscribed, as of March 1, 2020, to a voluntary  
 396 companion experimental tariff offering of the utility for the purchase of renewable attributes from renewable  
 397 energy facilities that requires a renewable facilities agreement and the purchase of a minimum of 2,000  
 398 renewable attributes annually, shall be exempt from allocation of the net costs related to procurement of new  
 399 solar or onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities, by  
 400 the utility pursuant to subsections D and E, based on the amount of RECs associated with the customer's  
 401 renewable facilities agreements associated with such tariff offering as of that date in proportion to the  
 402 customer's total electric energy consumption, on an annual basis. To the extent that an accelerated renewable  
 403 clean energy buyer contracts for the capacity of new solar or wind generation resources or energy storage  
 404 facilities pursuant to this subsection, the aggregate amount of such nameplate capacity shall be offset from  
 405 the utility's procurement requirements pursuant to subsection D. All RECs associated with contracts entered  
 406 into by an accelerated renewable clean energy buyer with the utility, or a person other than the utility, for an  
 407 RPS Program shall not be credited to the utility's compliance with its RPS requirements, and the calculation  
 408 of the utility's RPS Program requirements shall not include the electric load covered by customers certified as  
 409 accelerated renewable clean energy buyers.

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

415 3. Provided that no incremental costs associated with any contract between a Phase I or Phase II Utility  
 416 and an accelerated renewable clean energy buyer is allocated to or recovered from any other customer of the  
 417 utility, any such contract with an accelerated renewable clean energy buyer that is a jurisdictional customer of  
 418 the utility shall not be deemed a special rate or contract requiring Commission approval pursuant to  
 419 § 56-235.2.

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

423 H. No customer of a Phase II Utility with a peak demand in excess of 100 megawatts in 2019 that elected  
 424 pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior  
 425 to April 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that  
 426 the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be  
 427 included in the utility's RPS Program requirements. No customer of a Phase I Utility that elected pursuant to  
 428 subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior to February  
 429 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the

430 customer is not purchasing electric energy from the utility, and such customer's electric load shall not be  
431 included in the utility's RPS Program requirements.

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

436 J. Notwithstanding any contrary provision of law, for the purposes of this section, any falling water  
437 generation facility located in the Commonwealth and commencing commercial operations prior to July 1,  
438 2024, shall be considered a renewable energy portfolio standard (RPS) eligible source.

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

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