

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 56-580 of the Code of Virginia, relating to State Corporation Commission;*
 3 *time frame for completion of certain proceedings.*

4 [S 310]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 56-580 of the Code of Virginia is amended and reenacted as follows:**8 **§ 56-580. Transmission and distribution of electric energy.**

9 A. Subject to the provisions of § 56-585.1, the Commission shall continue to regulate pursuant to this title
 10 the distribution of retail electric energy to retail customers in the Commonwealth and, to the extent not
 11 prohibited by federal law, the transmission of electric energy in the Commonwealth.

12 B. The Commission shall continue to regulate, to the extent not prohibited by federal law, the reliability,
 13 quality and maintenance by transmitters and distributors of their transmission and retail distribution systems.

14 C. The Commission shall develop codes of conduct governing the conduct of incumbent electric utilities
 15 and affiliates thereof when any such affiliates provide, or control any entity that provides, generation,
 16 distribution, or transmission services, to the extent necessary to prevent impairment of competition. Nothing
 17 in this chapter shall prevent an incumbent electric utility from offering metering options to its customers.

18 D. The Commission shall permit the construction and operation of electrical generating facilities in
 19 Virginia upon a finding that such generating facility and associated facilities (i) will have no material adverse
 20 effect upon reliability of electric service provided by any regulated public utility, (ii) are required by the
 21 public convenience and necessity, if a petition for such permit is filed after July 1, 2007, and if they are to be
 22 constructed and operated by any regulated utility whose rates are regulated pursuant to § 56-585.1, and (iii)
 23 are not otherwise contrary to the public interest. In review of a petition for a certificate to construct and
 24 operate a generating facility described in this subsection, the Commission shall give consideration to the
 25 effect of the facility and associated facilities on the environment and establish such conditions as may be
 26 desirable or necessary to minimize adverse environmental impact as provided in § 56-46.1, unless exempt as
 27 a small renewable energy project for which the Department of Environmental Quality has issued a permit by
 28 rule pursuant to Article 5 (§ 10.1-1197.5 et seq.) of Chapter 11.1 of Title 10.1. In order to avoid duplication
 29 of governmental activities, any valid permit or approval required for an electric generating plant and
 30 associated facilities issued or granted by a federal, state or local governmental entity charged by law with
 31 responsibility for issuing permits or approvals regulating environmental impact and mitigation of adverse
 32 environmental impact or for other specific public interest issues such as building codes, transportation plans,
 33 and public safety, whether such permit or approval is prior to or after the Commission's decision, shall be
 34 deemed to satisfy the requirements of this section with respect to all matters that (i) (a) are governed by the
 35 permit or approval or (ii) (b) are within the authority of, and were considered by, the governmental entity in
 36 issuing such permit or approval, and the Commission shall impose no additional conditions with respect to
 37 such matters. Nothing in this section shall affect the ability of the Commission to keep the record of a case
 38 open. Nothing in this section shall affect any right to appeal such permits or approvals in accordance with
 39 applicable law. In the case of a proposed facility located in a region that was designated as of July 1, 2001, as
 40 serious nonattainment for the one-hour ozone standard as set forth in the federal Clean Air Act, the
 41 Commission shall not issue a decision approving such proposed facility that is conditioned upon issuance of
 42 any environmental permit or approval. The Commission shall complete any proceeding under this section, or
 43 under any provision of the Utility Facilities Act (§ 56-265.1 et seq.), involving an application for a certificate,
 44 permit, or approval required for the construction or operation by a public utility of a small renewable energy
 45 project as defined in § 10.1-1197.5 or a facility subject to the requirements of subsection B of § 56-46.1,
 46 within nine months following the utility's submission of a complete application ~~therefore~~ *therefor*. For
 47 facilities subject to the requirements of subsection B of § 56-46.1, the Commission may enlarge such period
 48 for up to 120 days to ensure sufficient review, public participation, and other considerations in the public
 49 interest. Small renewable energy projects as defined in § 10.1-1197.5 are in the public interest and in
 50 determining whether to approve such project, the Commission shall liberally construe the provisions of this
 51 title.

52 E. Nothing in this section shall impair the distribution service territorial rights of incumbent electric
 53 utilities, and incumbent electric utilities shall continue to provide distribution services within their exclusive
 54 service territories as established by the Commission. Subject to the provisions of § 56-585.1, the Commission
 55 shall continue to exercise its existing authority over the provision of electric distribution services to retail
 56 customers in the Commonwealth including, but not limited to, the authority contained in Chapters 10

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57 (§ 56-232 et seq.) and 10.1 (§ 56-265.1 et seq.) of this title.

58 F. Nothing in this chapter shall impair the exclusive territorial rights of an electric utility owned or
59 operated by a municipality as of July 1, 1999, or by an authority created by a governmental unit exempt from
60 the referendum requirement of § 15.2-5403. Nor shall any provision of this chapter apply to any such electric
61 utility unless (i) that municipality or that authority created by a governmental unit exempt from the
62 referendum requirement of § 15.2-5403 elects to have this chapter apply to that utility or (ii) that utility,
63 directly or indirectly, sells, offers to sell or seeks to sell electric energy to any retail customer eligible to
64 purchase electric energy from any supplier in accordance with § 56-577 if that retail customer is outside the
65 geographic area that was served by such municipality as of July 1, 1999, except (a) any area within the
66 municipality that was served by an incumbent public utility as of that date but was thereafter served by an
67 electric utility owned or operated by a municipality or by an authority created by a governmental unit exempt
68 from the referendum requirement of § 15.2-5403 pursuant to the terms of a franchise agreement between the
69 municipality and the incumbent public utility, or (b) where the geographic area served by an electric utility
70 owned or operated by a municipality is changed pursuant to mutual agreement between the municipality and
71 the affected incumbent public utility in accordance with § 56-265.4:1. If an electric utility owned or operated
72 by a municipality as of July 1, 1999, or by an authority created by a governmental unit exempt from the
73 referendum requirement of § 15.2-5403 is made subject to the provisions of this chapter pursuant to clause (i)
74 or (ii) of this subsection, then in such event the provisions of this chapter applicable to incumbent electric
75 utilities shall also apply to any such utility, mutatis mutandis.

76 G. The applicability of all provisions of this chapter except § 56-594 to any investor-owned incumbent
77 electric utility supplying electric service to retail customers on January 1, 2003, whose service territory
78 assigned to it by the Commission is located entirely within Dickenson, Lee, Russell, Scott, and Wise
79 Counties shall be suspended effective July 1, 2003, so long as such utility does not provide retail electric
80 services in any other service territory in any jurisdiction to customers who have the right to receive retail
81 electric energy from another supplier. During any such suspension period, the utility's rates shall be (i) its
82 capped rates established pursuant to § 56-582 for the duration of the capped rate period established
83 thereunder, and (ii) determined thereafter by the Commission on the basis of such utility's prudently incurred
84 costs pursuant to Chapter 10 (§ 56-232 et seq.) of this title.

85 H. The expiration date of any certificates granted by the Commission pursuant to subsection D, for which
86 applications were filed with the Commission prior to July 1, 2002, shall be extended for an additional two
87 years from the expiration date that otherwise would apply.