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HOUSE BILL NO. 1393

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Second Joint Conference Committee
on March 14, 2025)

(Patrons Prior to Substitute—Delegates LeVere Bolling and Kilgore [HB 634])

A BILL to amend and reenact § 56-585.1:2 of the Code of Virginia, relating to electric utilities; pilot program for energy assistance and weatherization for certain individuals; recovery for certain costs; revised tariff; securitization of certain costs; prevailing wage rate.

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.1:2 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.1:2. Pilot program for energy assistance and weatherization.

Notwithstanding the provisions of §§ 56-249.6 and 56-585.1:

Each Phase I and II Utility shall conduct a pilot program for energy assistance and weatherization for ~~low income~~ *low-income*, elderly, and disabled individuals in their respective service territories in the Commonwealth. Each pilot program shall be funded by the utility and shall commence September 1, 2015. Each Phase I Utility shall continue such pilot program at no less than ~~the existing levels of funding as of July 1, 2018;~~ *\$1 million and no more than \$1.5 million* for each year that the utility provides such service. Each Phase II Utility shall continue such pilot program at no less than ~~\$13~~ *\$156 million and no more than \$204 million for the time period beginning July 1, 2026, and ending July 1, 2038, with an annual minimum of \$13 million* for each year the utility is providing such service. The funding for the pilot programs established pursuant hereto for energy assistance and weatherization for low-income, elderly, and disabled individuals in the service territory in the Commonwealth of each respective utility shall continue until ~~the earlier of amendment or repeal of this section or July 1, 2028~~ *2038*. Each such utility shall report on the status of its pilot program, including the number of individuals served thereby *and the amount of annual expenditures for such program*, to the Governor, the State Corporation Commission, the ~~Chairman~~ *Chairman* Chair of the House Committee on Labor and Commerce and, the ~~Chairman~~ *Chairman* Chair of the Senate Committee on Commerce and Labor, *and the Commission on Electric Utility Regulation* by July 1, 2016, ~~and of each year thereafter.~~

2. That notwithstanding any provision of subdivision A 6 of § 56-585.1 of the Code of Virginia, a Phase II Utility, as defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, may recover costs associated with any petition for cost recovery made pursuant to clause (iv) of such subdivision A 6 that has been approved by the State Corporation Commission (the Commission) as of December 1, 2033, provided that, in connection with any such petition filed by the Phase II Utility between July 1, 2026, and March 1, 2033, the total costs for tap line conversion that are to be deemed reasonable, prudently incurred, and approved for recovery by the Commission pursuant to such petition shall not exceed an average cost per mile of tap lines converted, exclusive of financing costs, of \$900,000, and no such petition shall seek an annual incremental increase in the level of investments associated with such petition that exceeds four percent of the Phase II Utility's distribution rate base, as such rate base was determined for the most recently ended 12-month test period in the Phase II Utility's most recently concluded biennial review proceeding prior to the filing of such petition.

3. That a Phase II Utility, as defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, shall propose to the State Corporation Commission (the Commission), in any proceeding to determine rates for generation and distribution services pursuant to subdivision A 3 of § 56-585.1 of the Code of Virginia (biennial review proceeding) commencing after January 1, 2027, and before July 1, 2033, that (i) all net costs of electric generating capacity incurred by the Phase II Utility on a total system basis as a result of capacity procurement requirements imposed by the regional transmission entity of which the Phase II Utility is a member shall be directly assigned to the Phase II Utility's customer class approved to serve customers with a contracted or measured electric demand of 25 megawatts or greater and an anticipated or measured average annual electric load factor of 75 percent or greater, and shall not be assigned to any other customer class of the Phase II Utility, with such costs applying as a non-bypassable charge to any such customer that has received electric supply service from the Phase II Utility at any time on or after January 1, 2026, other than a customer making an election pursuant to the fourth enactment of this act to not be served under the Phase II Utility's principal rate schedule approved to serve customers with a contracted or measured electric demand of 25 megawatts or greater and an anticipated or measured average annual electric load factor of 75 percent or greater, and (ii) all financing costs related to distribution infrastructure investments required to interconnect new customers with a contracted or measured electric demand of 25 megawatts or greater and an anticipated or measured average annual electric load factor of 75 percent or greater that are incurred by the Phase II Utility prior to the energization of such facilities shall be directly assigned to the Phase II Utility's customer class approved to serve such customers, and shall not be assigned to any other

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customer class of the Phase II Utility. In evaluating proposals by the Phase II Utility pursuant to this enactment, as well as other customer class cost allocation issues and methodologies in future biennial review proceedings, the Commission shall consider the goal of mitigating any rate increases to the broad customer base of the Phase II Utility that are associated with connecting and serving high-load, high load factor customers, in addition to any other factors the Commission determines to be in the public interest and may, in its discretion, approve or deny the Phase II Utility's proposal in whole or in part.

4. That any customer of a Phase II Utility, as defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, that, as of January 1, 2026, maintained a full-time equivalent employment workforce engaged in manufacturing, industrial, or consumer goods warehousing and distribution activities other than data storage, of at least 200 individuals at facilities located within the Phase II Utility's service territory at a single or contiguous customer account location that is subject to migration to a principal rate schedule of the Phase II Utility applicable to customers with a contracted or measured electric demand of 25 megawatts or greater and an anticipated or measured average annual electric load factor of 75 percent or greater as of January 1, 2027, may, by providing notice to the Phase II Utility on or before July 1, 2026, elect to remain on its existing default rate schedule or any applicable voluntary rate schedule. Any such election shall be on a one-time basis and shall not be revocable at any time prior to December 31, 2033, after which time an electing customer may continue to remain on its existing default rate schedule or take service under any other rate schedule for which such customer qualifies. A Phase II Utility shall also permit a customer executing a new electric service agreement on or after July 1, 2026, or a customer that executed a new electric service agreement between July 1, 2024 and July 1, 2026, to serve facilities that are under construction as of July 1, 2026, that has a contracted or measured electric demand of 25 megawatts or greater and an anticipated or measured average annual electric load factor of 75 percent or greater and meets the manufacturing, industrial, or consumer goods warehousing and distribution employment criteria of this enactment at the time of any election to elect to take service on any rate schedule for which such customer qualifies based on its contracted or measured electric demand, regardless of anticipated or measured annual electric load factor.

5. That a Phase II Utility, as defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, in connection with its first proceeding to determine rates for generation and distribution services pursuant to subdivision A 3 of § 56-585.1 of the Code of Virginia (biennial review proceeding) commencing after July 1, 2026, shall include in its petition to the State Corporation Commission (the Commission) a proposal to revise its tariff for supplementary, maintenance, or standby service for customers with power plants, effective as of January 1, 2028. The Commission shall only approve such proposal if it determines that such tariff will not adversely affect other retail customers or the utility in a manner contrary to the public interest, and any revised tariff terms shall include protections against stranded cost risks to the utility customer base, including minimum demand charge provisions for generation, transmission, and distribution services that are no less stringent than any such provisions applicable to high-load, high load factor customers that were approved by the Commission in the utility's most recently concluded biennial review proceeding.

6. That notwithstanding any provision of § 56-249.6:2 of the Code of Virginia, a Phase II Utility, as defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, may file a petition for a financing order regarding deferred fuel costs as provided in § 56-249.6:2 of the Code of Virginia on or before July 15, 2026, and that the provisions of the fourth enactment of Chapter 757 and the fourth enactment of Chapter 775 of the Acts of Assembly of 2023 shall be applicable to any such petition, notwithstanding any time limitations established in such enactment. If a Phase II Utility petitions the State Corporation Commission (the Commission) for a financing order pursuant to this enactment, the Commission, following notice and an opportunity for hearing, shall issue either (i) a financing order or (ii) an order rejecting such petition. The Commission shall issue its final order upon any such petition filed between May 1, 2026, and July 15, 2026, within four months after the date of such filing.

7. That, in evaluating any petition (i) for an electric generating facility that requires a certificate of public convenience and necessity pursuant to subsection D of § 56-580 of the Code of Virginia, (ii) submitted pursuant to subdivision D 4 of § 56-585.5 of the Code of Virginia, or (iii) otherwise authorized by an act of the 2026 Session of the General Assembly and related to the construction of electric generation or energy storage facilities, the State Corporation Commission (the Commission) shall require to the greatest extent it finds in the public interest the use of wages, salaries, benefits, and other remuneration to any mechanic, laborer, or worker employed, retained, or otherwise hired to perform services in connection with a contract contemplated pursuant to such petition at the prevailing wage rate, as determined by the Commissioner of Labor and Industry in accordance with § 2.2-4321.3 of the Code of Virginia. The Commission shall also require, to the greatest extent practicable, the use of a skilled workforce through registered apprenticeship programs for any authorized demand flexibility programs, utility-related procurement through utility-owned or third-party providers, and an evaluation of other potential opportunities to develop Virginia's skilled workforce by requiring

122 minimum apprenticeship program requirements for such electric generation or energy storage facility
123 work. The provisions of this enactment shall only apply, as applicable, to petitions for electric
124 generation or energy storage facilities with nameplate capacity greater than five megawatts, as
125 measured in alternating current, that contemplate services performed under a contract entered into on
126 or after July 1, 2026, and shall not apply to any petition for electric generation or energy storage
127 facilities for which a binding construction contract, power purchase agreement, or interconnection
128 agreement was entered into prior to July 1, 2026.
129 8. That this act shall be referred to as the Fair and Affordable Electric Rates and Reliability Act.