

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 56-594 of the Code of Virginia, relating to net energy metering; standby*
 3 *charge; facility capacity.*

4 [H 1255]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 56-594 of the Code of Virginia is amended and reenacted as follows:**8 **§ 56-594. Net energy metering provisions.**

9 A. The Commission shall establish by regulation a program that affords eligible customer-generators the
 10 opportunity to participate in net energy metering, and a program, to begin no later than July 1, 2014, for
 11 customers of investor-owned utilities and to begin no later than July 1, 2015, and to end July 1, 2019, for
 12 customers of electric cooperatives as provided in subsection G, to afford eligible agricultural
 13 customer-generators the opportunity to participate in net energy metering. The regulations may include, but
 14 need not be limited to, requirements for (i) retail sellers; (ii) owners or operators of distribution or
 15 transmission facilities; (iii) providers of default service; (iv) eligible customer-generators; (v) eligible
 16 agricultural customer-generators; or (vi) any combination of the foregoing, as the Commission determines
 17 will facilitate the provision of net energy metering, provided that the Commission determines that such
 18 requirements do not adversely affect the public interest. On and after July 1, 2017, small agricultural
 19 generators or eligible agricultural customer-generators may elect to interconnect pursuant to the provisions of
 20 this section or as small agricultural generators pursuant to § 56-594.2, but not both. Existing eligible
 21 agricultural customer-generators may elect to become small agricultural generators, but may not revert to
 22 being eligible agricultural customer-generators after such election. On and after July 1, 2019, interconnection
 23 of eligible agricultural customer-generators shall cease for electric cooperatives only, and such facilities shall
 24 interconnect solely as small agricultural generators. For electric cooperatives, eligible agricultural
 25 customer-generators whose renewable energy generating facilities were interconnected before July 1, 2019,
 26 may continue to participate in net energy metering pursuant to this section for a period not to exceed 25 years
 27 from the date of their renewable energy generating facility's original interconnection.

28 B. For the purpose of this section:

29 "Eligible agricultural customer-generator" means a customer that operates a renewable energy generating
 30 facility as part of an agricultural business, which generating facility (i) uses as its sole energy source solar
 31 power, wind power, or aerobic or anaerobic digester gas, (ii) does not have an aggregate generation capacity
 32 of more than 500 kilowatts, (iii) is located on land owned or controlled by the agricultural business, (iv) is
 33 connected to the customer's wiring on the customer's side of its interconnection with the distributor; (v) is
 34 interconnected and operated in parallel with an electric company's transmission and distribution facilities, and
 35 (vi) is used primarily to provide energy to metered accounts of the agricultural business. An eligible
 36 agricultural customer-generator may be served by multiple meters serving the eligible agricultural customer-
 37 generator that are located at the same or adjacent sites, such that the eligible agricultural customer-generator
 38 may aggregate in a single account the electricity consumption and generation measured by the meters,
 39 provided that the same utility serves all such meters. The aggregated load shall be served under the
 40 appropriate tariff.

41 "Eligible customer-generator" means a customer that owns and operates, or contracts with other persons
 42 to own, operate, or both, an electrical generating facility, including any additions or enhancements such as
 43 battery storage or a smart inverter, that (i) has a capacity of not more than 25 kilowatts for residential
 44 customers and not more than three megawatts for nonresidential customers; (ii) uses as its total source of fuel
 45 renewable energy, as defined in § 56-576; (iii) is located on land owned or leased by the customer and is
 46 connected to the customer's wiring on the customer's side of its interconnection with the distributor; (iv) is
 47 interconnected and operated in parallel with an electric company's transmission and distribution facilities; and
 48 (v) is intended primarily to offset all or part of the customer's own electricity requirements. No contract,
 49 lease, or arrangement by which a third party owns, maintains, or operates an electrical generating facility on
 50 an eligible customer-generator's property shall constitute the sale of electricity or cause the
 51 customer-generator or the third party to be considered an electric utility by virtue of participating in net
 52 energy metering. In addition to the electrical generating facility size limitations in clause (i), the capacity of
 53 any generating facility installed under this section between July 1, 2015, and July 1, 2020, shall not exceed
 54 the expected annual energy consumption based on the previous 12 months of billing history or an annualized
 55 calculation of billing history if 12 months of billing history is not available. In addition to the electrical
 56 generating facility size limitation in clause (i), in the certificated service territory of a Phase I Utility, the

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57 capacity of any generating facility installed under this section after July 1, 2020, shall not exceed 100 percent
58 of the expected annual energy consumption based on the previous 12 months of billing history or an
59 annualized calculation of billing history if 12 months of billing history is not available, and in the certificated
60 service territory of a Phase II Utility, the capacity of any generating facility installed under this section after
61 July 1, 2020, shall not exceed 150 percent of the expected annual energy consumption based on the previous
62 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is
63 not available.

64 "Net energy metering" means measuring the difference, over the net metering period, between (i)
65 electricity supplied to an eligible customer-generator or eligible agricultural customer-generator from the
66 electric grid and (ii) the electricity generated and fed back to the electric grid by the eligible customer-
67 generator or eligible agricultural customer-generator.

68 "Net metering period" means the 12-month period following the date of final interconnection of the
69 eligible customer-generator's or eligible agricultural customer-generator's system with an electric service
70 provider, and each 12-month period thereafter.

71 "Small agricultural generator" has the same meaning that is ascribed to that term in § 56-594.2.

72 C. The Commission's regulations shall ensure that (i) the metering equipment installed for net metering
73 shall be capable of measuring the flow of electricity in two directions and (ii) any eligible customer-generator
74 seeking to participate in net energy metering shall notify its supplier and receive approval to interconnect
75 prior to installation of an electrical generating facility. The electric distribution company shall have 30 days
76 from the date of notification for residential facilities, and 60 days from the date of notification for
77 nonresidential facilities, to determine whether the interconnection requirements have been met. Such
78 regulations shall allocate fairly the cost of such equipment and any necessary interconnection. An eligible
79 customer-generator's electrical generating system, and each electrical generating system of an eligible
80 agricultural customer-generator, shall meet all applicable safety and performance standards established by the
81 National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing
82 laboratories such as Underwriters Laboratories. Beyond the requirements set forth in this section and to
83 ensure public safety, power quality, and reliability of the supplier's electric distribution system, an eligible
84 customer-generator or eligible agricultural customer-generator whose electrical generating system meets
85 those standards and rules shall bear all reasonable costs of equipment required for the interconnection to the
86 supplier's electric distribution system, including costs, if any, to (a) install additional controls and (b) perform
87 or pay for additional tests. No eligible customer-generator or eligible agricultural customer-generator shall be
88 required to provide proof of liability insurance or to purchase additional liability insurance as a condition of
89 interconnection.

90 D. The Commission shall establish minimum requirements for contracts to be entered into by the parties
91 to net metering arrangements. Such requirements shall protect the eligible customer-generator or eligible
92 agricultural customer-generator against discrimination by virtue of its status as an eligible customer-generator
93 or eligible agricultural customer-generator, and permit customers that are served on time-of-use tariffs that
94 have electricity supply demand charges contained within the electricity supply portion of the time-of-use
95 tariffs to participate as an eligible customer-generator or eligible agricultural customer-generator.
96 Notwithstanding the cost allocation provisions of subsection C, eligible customer-generators or eligible
97 agricultural customer-generators served on demand charge-based time-of-use tariffs shall bear the
98 incremental metering costs required to net meter such customers.

99 E. If electricity generated by an eligible customer-generator or eligible agricultural customer-generator
100 over the net metering period exceeds the electricity consumed by the eligible customer-generator or eligible
101 agricultural customer-generator, the customer-generator or eligible agricultural customer-generator shall be
102 compensated for the excess electricity if the entity contracting to receive such electric energy and the eligible
103 customer-generator or eligible agricultural customer-generator enter into a power purchase agreement for
104 such excess electricity. Upon the written request of the eligible customer-generator or eligible agricultural
105 customer-generator, the supplier that serves the eligible customer-generator or eligible agricultural customer-
106 generator shall enter into a power purchase agreement with the requesting eligible customer-generator or
107 eligible agricultural customer-generator that is consistent with the minimum requirements for contracts
108 established by the Commission pursuant to subsection D. The power purchase agreement shall obligate the
109 supplier to purchase such excess electricity at the rate that is provided for such purchases in a net metering
110 standard contract or tariff approved by the Commission, unless the parties agree to a higher rate. The eligible
111 customer-generator or eligible agricultural customer-generator owns any renewable energy certificates
112 associated with its electrical generating facility; however, at the time that the eligible customer-generator or
113 eligible agricultural customer-generator enters into a power purchase agreement with its supplier, the eligible
114 customer-generator or eligible agricultural customer-generator shall have a one-time option to sell the
115 renewable energy certificates associated with such electrical generating facility to its supplier and be
116 compensated at an amount that is established by the Commission to reflect the value of such renewable
117 energy certificates. Nothing in this section shall prevent the eligible customer-generator or eligible
118 agricultural customer-generator and the supplier from voluntarily entering into an agreement for the sale and

119 purchase of excess electricity or renewable energy certificates at mutually-agreed upon prices if the eligible
 120 customer-generator or eligible agricultural customer-generator does not exercise its option to sell its
 121 renewable energy certificates to its supplier at Commission-approved prices at the time that the eligible
 122 customer-generator or eligible agricultural customer-generator enters into a power purchase agreement with
 123 its supplier. All costs incurred by the supplier to purchase excess electricity and renewable energy certificates
 124 from eligible customer-generators or eligible agricultural customer-generators shall be recoverable through its
 125 Renewable Energy Portfolio Standard (RPS) rate adjustment clause, if the supplier has a Commission-
 126 approved RPS plan. If not, then all costs shall be recoverable through the supplier's fuel adjustment clause.
 127 For purposes of this section, "all costs" shall be defined as the rates paid to the eligible customer-generator or
 128 eligible agricultural customer-generator for the purchase of excess electricity and renewable energy
 129 certificates and any administrative costs incurred to manage the eligible customer-generator's or eligible
 130 agricultural customer-generator's power purchase arrangements. The net metering standard contract or tariff
 131 shall be available to eligible customer-generators or eligible agricultural customer-generators on a first-come,
 132 first-served basis in each electric distribution company's Virginia service area until the rated generating
 133 capacity owned and operated by eligible customer-generators, eligible agricultural customer-generators, and
 134 small agricultural generators in the Commonwealth reaches six percent, in the aggregate, five percent of
 135 which is available to all customers and one percent of which is available only to low-income utility customers
 136 of each electric distribution company's adjusted Virginia peak-load forecast for the previous year, and shall
 137 require the supplier to pay the eligible customer-generator or eligible agricultural customer-generator for such
 138 excess electricity in a timely manner at a rate to be established by the Commission.

139 On and after the earlier of (i) 2024 for a Phase I Utility or 2025 for a Phase II Utility or (ii) when the
 140 aggregate rated generating capacity owned and operated by eligible customer-generators, eligible agricultural
 141 customer-generators, and small agricultural generators in the Commonwealth reaches three percent of a Phase
 142 I or Phase II Utility's adjusted Virginia peak-load forecast for the previous year, the Commission shall
 143 conduct a net energy metering proceeding.

144 In any net energy metering proceeding, the Commission shall, after notice and opportunity for hearing,
 145 evaluate and establish (a) an amount customers shall pay on their utility bills each month for the costs of
 146 using the utility's infrastructure; (b) an amount the utility shall pay to appropriately compensate the customer,
 147 as determined by the Commission, for the total benefits such facilities provide; (c) the direct and indirect
 148 economic impact of net metering to the Commonwealth; and (d) any other information the Commission
 149 deems relevant. The Commission shall establish an appropriate rate structure related thereto, which shall
 150 govern compensation related to all eligible customer-generators, eligible agricultural customer-generators,
 151 and small agricultural generators, except low-income utility customers, that interconnect after the effective
 152 date established in the Commission's final order. Nothing in the Commission's final order shall affect any
 153 eligible customer-generators, eligible agricultural customer-generators, and small agricultural generators who
 154 interconnect before the effective date of such final order. As part of the net energy metering proceeding, the
 155 Commission shall evaluate the six percent aggregate net metering cap and may, if appropriate, raise or
 156 remove such cap. The Commission shall enter its final order in such a proceeding no later than 12 months
 157 after it commences such proceeding, and such final order shall establish a date by which the new terms and
 158 conditions shall apply for interconnection and shall also provide that, if the terms and conditions of
 159 compensation in the final order differ from the terms and conditions available to customers before the
 160 proceeding, low-income utility customers may interconnect under whichever terms are most favorable to
 161 them.

162 F. Any residential eligible customer-generator or eligible agricultural customer-generator, in the service
 163 territory of a Phase II Utility who owns and operates, or contracts with other persons to own, operate, or both,
 164 an electrical generating facility with ~~a~~ *an aggregate nameplate* capacity that exceeds ~~15~~ *20* kilowatts of
 165 *alternating current* shall pay to its supplier, in addition to any other charges authorized by law, a monthly
 166 standby charge. The amount of the standby charge and the terms and conditions under which it is assessed
 167 shall be in accordance with a methodology developed by the supplier and approved by the Commission. The
 168 Commission shall approve a supplier's proposed standby charge methodology if it finds that the standby
 169 charges collected from all such eligible customer-generators and eligible agricultural customer-generators
 170 allow the supplier to recover only the portion of the supplier's infrastructure costs that are properly associated
 171 with serving such eligible customer-generators or eligible agricultural customer-generators. Such an eligible
 172 customer-generator or eligible agricultural customer-generator shall not be liable for a standby charge until
 173 the date specified in an order of the Commission approving its supplier's methodology. For customers of all
 174 other investor-owned utilities, on and after July 1, 2020, standby charges are prohibited for any residential
 175 eligible customer-generator or agricultural customer-generator.

176 G. On and after the later of July 1, 2019, or the effective date of regulations that the Commission is
 177 required to adopt pursuant to § 56-594.01, (i) net energy metering in the service territory of each electric
 178 cooperative shall be conducted as provided in a program implemented pursuant to § 56-594.01 and (ii) the
 179 provisions of this section shall not apply to net energy metering in the service territory of an electric
 180 cooperative except as provided in § 56-594.01.

181 H. The Commission may adopt such rules or establish such guidelines as may be necessary for its general
182 administration of this section.

183 I. When the Commission conducts a net energy metering proceeding, it shall:

184 1. Investigate and determine the costs and benefits of the current net energy metering program;

185 2. Establish an appropriate netting measurement interval for a successor tariff that is just and reasonable in
186 light of the costs and benefits of the net metering program in aggregate, and applicable to new requests for
187 net energy metering service;

188 3. Determine a specific avoided cost for customer-generators, the different type of customer-generator
189 technologies where the Commission deems it appropriate, and establish the methodology for determining the
190 compensation rate for any net excess generation determined according to the applicable net measurement
191 interval for any new tariff; and

192 4. Make all reasonable efforts to ensure that the net energy metering program does not result in
193 unreasonable cost-shifting to nonparticipating electric utility customers.

194 J. In evaluating the costs and benefits of the net energy metering program, the Commission shall consider:

195 1. The aggregate impact of customer-generators on the electric utility's long-run marginal costs of
196 generation, distribution, and transmission;

197 2. The cost of service implications of customer-generators on other customers within the same class,
198 including an evaluation of whether customer-generators provide an adequate rate of return to the electrical
199 utility compared to the otherwise applicable rate class when, for analytical purposes only, examined as a
200 separate class within a cost of service study;

201 3. The direct and indirect economic impact of the net energy metering program to the Commonwealth;
202 and

203 4. Any other information it deems relevant, including environmental and resilience benefits of customer-
204 generator facilities.

205 K. Notwithstanding the provisions of this section, § 56-585.1:8, or any other provision of law to the
206 contrary, any locality that is a nonjurisdictional customer of a Phase II Utility, as defined in § 56-585.1:3, and
207 is in Planning District Eight with a population greater than 1 million may (i) install solar-powered or
208 wind-powered electric generation facilities with a rated capacity not exceeding five megawatts, whether the
209 facilities are owned by the locality or owned and operated by a third party pursuant to a contract with the
210 locality, on any locality-owned site within the locality and (ii) credit the electricity generated at any such
211 facility as directed by the governing body of the locality to any one or more of the metered accounts of
212 buildings or other facilities of the locality or the locality's public school division that are located within the
213 locality, without regard to whether the buildings and facilities are located at the same site where the electric
214 generation facility is located or at a site contiguous thereto. The amount of the credit for such electricity to
215 the metered accounts of the locality or its public school division shall be identical, with respect to the rate
216 structure, all retail rate components, and monthly charges, to the amount the locality or public school division
217 would otherwise be charged for such amount of electricity under its contract with the public utility, without
218 the assessment by the public utility of any distribution charges, service charges, or fees in connection with or
219 arising out of such crediting.

220 L. Any eligible customer-generator or eligible agricultural customer-generator may participate in demand
221 response, energy efficiency, or peak reduction from dispatch of onsite battery service, provided that the
222 compensation received is in exchange for a distinct service that is not already compensated by net metering
223 credits for electricity exported to the electric distribution system or compensated by any other utility program
224 or tariff. The Commission shall review and evaluate the continuing need for the imposition of standby or
225 other charges on eligible customer-generators or eligible agricultural customer-generators in any net energy
226 metering proceeding conducted pursuant to subsection E.