

# VIRGINIA ACTS OF ASSEMBLY -- 2024 RECONVENED SESSION

## CHAPTER 836

*An Act to amend the Code of Virginia by adding a section numbered 56-585.1:14, relating to Phase I Utility; recovery of development costs associated with small modular nuclear facility.*

[H 1491]

Approved April 17, 2024

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

**1. That the Code of Virginia is amended by adding a section numbered 56-585.1:14 as follows:**

**§ 56-585.1:14. Recovery of development costs associated with small modular nuclear facility.**

**A. As used in this section:**

"Phase I Utility" means an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended its application beyond January 1, 2002.

"Project development costs" means all capital and operation and maintenance costs associated with a potential small modular nuclear facility incurred by a Phase I Utility before issuance of a certificate for a small modular nuclear facility located in the Commonwealth, including the costs of evaluation, design, engineering, environmental analysis and permitting, land options or acquisition, and early site permitting, as that term is defined in 10 C.F.R. § 52.1. "Project development costs" does not include the costs to obtain construction permits, combined licensing costs required by the Nuclear Regulatory Commission, or construction costs other than construction costs necessary for early site permitting.

"Small modular nuclear facility" means a nuclear reactor that has a rated electric generating capacity of not more than 500 megawatts that is capable of being constructed and operated either alone or in combination with one or more similar reactors at a single site.

**B.** Prior to the filing of an application for a certificate to construct a small modular nuclear facility to serve customers in the Commonwealth or in West Virginia and no earlier than July 1, 2024, a Phase I Utility may request the Commission to review the Phase I Utility's decision to incur project development costs. The Commission shall hold a hearing regarding the request and shall issue a final order within 180 days after the date on which the Phase I Utility files its request.

**C.** All approved reasonable and prudent project development costs incurred for a potential small modular nuclear facility shall be recovered through a rate adjustment clause filed pursuant to subdivision A 6 of § 56-585.1, amortized over a period equal to the period during which the costs were incurred or five years, whichever is greater. Beginning July 1, 2025, a Phase I Utility may make annual filings pursuant to subdivision A 6 of § 56-585.1 to recover project development costs incurred for a small modular nuclear facility, provided that the annual revenue requirement shall not exceed \$25 million and that the overall project development costs recovered in such rate adjustment clause shall not exceed \$125 million, excluding the cost of acquiring a site. Any such rate adjustment clause shall not be implemented prior to January 1, 2026.

**D.** A Phase I Utility may only request for review under subsection B project development costs that are (i) associated with the preliminary analysis, testing, and evaluation of a site related to the property to be owned by such Phase I Utility, (ii) associated with the purchase of property to be owned by such Phase I Utility, or (iii) related to siting work on property owned by such Phase I Utility.

**E.** If a Phase I Utility serves customers in more than one jurisdiction, the percentage of project development costs to be recovered shall be equal to the percentage of associated energy and capacity from the small modular nuclear facility that is assigned to serve customers located in the Commonwealth.

**F.** As part of a final order approving cost recovery pursuant to this section, the Commission may impose a deadline by which the Phase I Utility shall either (i) place a small modular nuclear facility into commercial operation or (ii) sell the permitted site and return the proceeds of the sale to customers. The length of such deadline shall be at the Commission's discretion; however, it shall provide the utility a reasonable timeframe in which to obtain all necessary permits and approvals, including allowing for approval by federal agencies such as the Nuclear Regulatory Commission, and completing construction of a small modular nuclear facility.

**2. That the provisions of this act shall expire on July 1, 2034.**