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SENATE BILL NO. 578

Offered January 10, 2024

Prefiled January 10, 2024

A BILL to amend and reenact §§ 56-585.1:11 and 56-585.5 of the Code of Virginia, relating to electric utilities; offshore wind generation facilities; competitive procurement process; Department of Energy.

Patron—Deeds

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-585.1:11 and 56-585.5 of the Code of Virginia are amended and reenacted as follows: § 56-585.1:11. Development of offshore wind capacity.

A. As used in this section:

"Advanced clean energy buyer" means a commercial or industrial customer of a Phase II Utility, irrespective of generation supplier, (i) with an aggregate load over 100 megawatts; (ii) with an aggregate amount of at least 200 megawatts of solar or wind energy supply under contract with a term of 10 years or more from facilities located within the Commonwealth by January 1, 2024; and (iii) that directly procures from the utility the electric supply and environmental attributes of the offshore wind facility associated with the lesser of 50 megawatts of nameplate capacity or 15 percent of the commercial or industrial customer's annual peak demand for a contract period of 15 years.

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

"BOEM lease sale" means the lease sale of wind energy areas in the Central Atlantic by the U.S. Bureau of Ocean Energy Management.

"Control" means the legal right, directly or indirectly, to direct or cause the direction of the management, actions, or policies of an affiliated entity, whether through the ability to exercise voting power, by contract, or otherwise. "Control" does not include control of an entity through a franchise or similar contractual agreement.

"Department" means the Department of Energy.

"Offshore wind affiliate" means a regulated affiliate company of a Phase II Utility subject to the Commission's jurisdiction established by such utility in connection with any project constructed pursuant to subdivision C 1 for the purpose of securing a noncontrolling equity financing partner for the project.

"Qualifying large general service customer" means a customer of a Phase II Utility, irrespective of general supplier, (i) whose peak demand during the most recent calendar year exceeded five megawatts and (ii) that contracts with the utility to directly procure electric supply and environmental attributes associated with the offshore wind facility in amounts commensurate with the customer's electric usage for a contract period of 15 years or more.

"Wind turbine generator" means a structure composed of a tower, a rotor with blades connected at the hub, and nacelle and ancillary electrical and other equipment that is affixed to a foundation of which multiple structures comprise a generating facility.

B. In order to meet the Commonwealth's clean energy goals, prior to December 31, 2032, (i) the construction or purchase by a public utility of one or more offshore wind generation facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth, with an aggregate capacity of up to 5,200 megawatts, or (ii) the purchase by a public utility of energy, capacity, and environmental attributes from offshore wind generation facilities described in clause (i) that are owned by persons other than a public utility is in the public interest and the Commission shall so find, provided that no customers of the utility shall be responsible for costs of any such facility in a proportion greater than the utility's ownership share of the facility, including any ownership share held by an offshore wind affiliate.

C. 1. Pursuant to subsection B, construction by a Phase II Utility of one or more new utility-owned and utility-operated generating facilities utilizing energy derived from offshore wind and located off the Commonwealth's Atlantic shoreline, with an aggregate rated capacity of not less than 2,500 megawatts and not more than 3,000 megawatts, along with electrical transmission or distribution facilities associated therewith for interconnection is in the public interest. In acting upon any request for cost recovery by a Phase II Utility or its offshore wind affiliate for costs associated with such a facility, the Commission shall determine the reasonableness and prudence of any such costs, provided that such costs shall be

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59 presumed to be reasonably and prudently incurred if the Commission determines that (i) the utility has
60 complied with the competitive solicitation and procurement requirements pursuant to subsection E; (ii)
61 the project's projected total levelized cost of energy, including any tax credit, on a cost per megawatt
62 hour basis, inclusive of the costs of transmission and distribution facilities associated with the facility's
63 interconnection, does not exceed 1.4 times the comparable cost, on an unweighted average basis, of a
64 conventional simple cycle combustion turbine generating facility as estimated by the U.S. Energy
65 Information Administration in its Annual Energy Outlook 2019; and (iii) the utility has commenced
66 construction of such facilities for U.S. income taxation purposes prior to January 1, 2024, or has a plan
67 for such facility or facilities to be in service prior to January 1, 2028. The Commission shall disallow
68 costs, or any portion thereof, only if they are otherwise unreasonably and imprudently incurred. In its
69 review, the Commission shall give due consideration to (a) the Commonwealth's renewable portfolio
70 standards and carbon reduction requirements, (b) the promotion of new renewable generation resources,
71 and (c) the economic development benefits of the project for the Commonwealth, including capital
72 investments and job creation, arising from project construction and operation and the manufacture of
73 wind turbine generator components and subcomponents.

74 2. Notwithstanding the provisions of § 56-585.1, the Commission shall not grant an enhanced rate of
75 return to a Phase II Utility for the construction of one or more new utility-owned and utility-operated
76 generating facilities utilizing energy derived from offshore wind and located off the Commonwealth's
77 Atlantic shoreline pursuant to this section.

78 3. Any such costs proposed for recovery through a rate adjustment clause pursuant to subdivision A
79 6 of § 56-585.1 shall be allocated to all customers of the utility in the Commonwealth as a
80 non-bypassable charge, regardless of the generation supplier of any such customer, other than (i) PIPP
81 eligible utility customers, (ii) advanced clean energy buyers, and (iii) qualifying large general service
82 customers. No electric cooperative customer of the utility shall be assigned, nor shall the utility collect
83 from any such cooperative, any of the costs of such facilities, including electrical transmission or
84 distribution facilities associated therewith for interconnection. The Commission may promulgate such
85 rules, regulations, or other directives necessary to administer the eligibility for these exemptions.

86 4. The Commission shall permit a portion of the nameplate capacity of any such facility, in the
87 aggregate, to be allocated to (i) advanced clean energy buyers or (ii) qualifying large general service
88 customers, provided that no more than 10 percent of the offshore wind facility's capacity is allocated to
89 qualifying large general service customers. A Phase II Utility or its offshore wind affiliate shall petition
90 the Commission for approval of a special contract with any advanced clean energy buyer, or any special
91 rate applicable to qualifying large general service customers, pursuant to § 56-235.2, no later than 15
92 months prior to the projected commercial operation date of the facility, and all customer enrollments
93 associated with such special contracts or rates shall be completed prior to commercial operation of the
94 facility. Any such special contract or rate may include provisions for levelized rates of service over the
95 duration of the customer's contracted agreement with the utility, and the Commission shall determine
96 that such special contract or rate is designed to hold nonparticipating customers harmless over its term
97 in connection with any petition for approval by the utility. The utility may petition for approval of such
98 special contracts or rates in connection with any petition for approval of a rate adjustment clause
99 pursuant to subdivision A 6 of § 56-585.1 to recover the costs of the facility, and the Commission shall
100 rule upon any such petitions in its final order in such proceeding within nine months from the date of
101 filing.

102 D. In constructing any such facility contemplated in subsection B, the utility shall develop and
103 submit a plan to the Commission for review that includes the following considerations: (i) options for
104 utilizing local workers; (ii) the economic development benefits of the project for the Commonwealth,
105 including capital investments and job creation; (iii) consultation with the Commonwealth's Chief
106 Workforce Development Officer, the Chief Diversity, Equity, and Inclusion Officer, and the Virginia
107 Economic Development Partnership on opportunities to advance the Commonwealth's workforce and
108 economic development goals, including furtherance of apprenticeship and other workforce training
109 programs; (iv) giving priority to the hiring, apprenticeship, and training of veterans, as that term is
110 defined in § 2.2-2000.1, local workers, and workers from historically economically disadvantaged
111 communities; and (v) procurement of equipment from Virginia-based or United States-based
112 manufacturers using materials or product components made in Virginia or the United States, if
113 reasonably available and competitively priced.

114 E. ~~Any project constructed or purchased~~ *The construction or purchase by a public utility of one or*
115 *more offshore wind generation facilities* pursuant to subsection B shall (i) be subject to competitive
116 procurement or solicitation for a substantial majority of the services and equipment, exclusive of
117 interconnection costs, associated with the facility's construction; (ii) involve at least one experienced
118 developer; and (iii) demonstrate the economic development benefits within the Commonwealth, including
119 capital investments and job creation. A utility may give appropriate consideration to suppliers and
120 developers that have demonstrated successful experience in offshore wind.

121 F. 1. Except for the Coastal Virginia Offshore Wind Project approved in 2022 by the Commission for
 122 a Phase II Utility, the purchase or construction of offshore wind facilities or the purchase by a public
 123 utility of energy, capacity, and environmental attributes from such facilities pursuant to subsection B
 124 shall include a competitive procurement process administered by the Department. By the earlier of (i)
 125 August 1, 2024, or (ii) the date on which the BOEM lease sale is completed, the Department shall,
 126 through a request for proposals, select an independent third-party evaluator to provide
 127 recommendations, analysis, and administrative support in the execution of such competitive procurement
 128 process. Such third-party evaluator shall not have a financial relationship with a Phase II Utility, either
 129 directly or through an affiliate or subsidiary. The Department shall defray the costs of such third-party
 130 evaluator through an application fee on bids in response to such competitive procurement process.

131 2. The Department, in consultation with such third-party evaluator, shall:

132 a. Within three months after the date on which the BOEM lease sale is completed, issue a set of
 133 draft guidelines for the competitive procurement of 2,600 megawatts of offshore wind capacity. Such
 134 draft guidelines shall be subject to a 45-day public comment period;

135 b. Within six months after the date on which the BOEM lease sale is completed, issue the final
 136 competitive procurement for 2,600 megawatts of offshore wind capacity;

137 c. Require that bids in response to such competitive procurement process are due within 18 months
 138 after the date on which the BOEM lease sale is completed; and

139 d. Within 24 months after the date on which the BOEM lease sale is completed, select a winning bid
 140 or bids with a total combined capacity of 2,600 megawatts in response to such competitive procurement
 141 process.

142 3. In evaluating bids in response to the competitive procurement process described in this subsection,
 143 the Department shall consider:

144 a. The total construction cost for such offshore wind generation facilities located off the
 145 Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the
 146 Commonwealth, including interconnection costs;

147 b. The economic development benefits within the Commonwealth, including capital investment, job
 148 creation, and benefits to ports in the Commonwealth;

149 c. The benefits arising from project construction and operation and the manufacture of components
 150 and subcomponents utilized in the operation of offshore wind projects in the Commonwealth;

151 d. The extent to which a bid provides for financial and technical assistance to support monitoring
 152 and mitigation of wildlife and habitat impacts associated with the proposed offshore wind project in the
 153 Commonwealth, and other economic development benefits;

154 e. The extent to which the bid includes mechanisms for inflation adjustment, interconnection
 155 cost-sharing, and other cost containment measures; and

156 f. Other bid selection criteria identified by the Department. All such bids shall meet the prevailing
 157 wage and apprenticeship requirements necessary to qualify for bonus credits available pursuant to §
 158 13101, 13701, or 13702 of the federal Inflation Reduction Act (P.L. 117-169).

159 4. A Phase II Utility is authorized to submit a bid pursuant to such competitive procurement process.
 160 The third-party evaluator selected pursuant to this subsection shall examine any bid submitted by a
 161 Phase II Utility to ensure that such bid includes all costs that would be reasonably incurred if such bid
 162 were not submitted by a public utility and that the public utility does not subsidize such bid through its
 163 rate-regulated assets. Such Phase II Utility shall not participate in evaluating bids or making selections
 164 in such competitive procurement process. If the Department selects a bid submitted by such Phase II
 165 Utility, such Phase II Utility may petition the Commission for recovery of the costs associated with
 166 preparing and submitting a bid in response to such competitive procurement process.

167 5. If the Department selects a bid or bids other than by a Phase II Utility through the competitive
 168 procurement process described in this subsection, such Phase II Utility shall timely petition the
 169 Commission to purchase energy, capacity, and environmental attributes from facilities as provided in
 170 subsection B for a duration of no less than 35 years from the facility or facilities representing such
 171 selected bid. If the Department selects a bid submitted by such Phase II Utility, such Phase II Utility
 172 shall petition the Commission to construct or purchase a facility or facilities pursuant to subsection B
 173 and as detailed in such bid. In such petition, a Phase II Utility shall include information (i)
 174 demonstrating compliance with the considerations provided in this subsection; (ii) describing the
 175 economic development benefits of such purchase or construction in the Commonwealth and otherwise,
 176 including capital investments, job creation, and the local manufacture of components and subcomponents
 177 utilized in the operation of offshore wind projects; and (iii) outlining an environmental and fisheries
 178 mitigation plan pursuant to subsection G. The Commission shall approve such petition and may approve
 179 reasonable remuneration of the annual total value of a Phase II Utility's purchase of energy, capacity,
 180 and environmental attributes from offshore wind facilities through such competitive procurement process,
 181 to be distributed annually. The Department and the Commission are authorized to promulgate

182 regulations governing competitive procurement processes consistent with the provisions of this
183 subsection. The provisions of this subsection shall be exempt from the provisions of the Administrative
184 Process Act (§ 2.2-4000 et seq.).

185 G. Any project constructed or purchased pursuant to subsection B shall include an environmental and
186 fisheries mitigation plan submitted to the Commission for the construction and operation of such
187 offshore wind facilities, provided that such plan includes an explicit description of the best management
188 practices the bidder will employ that considers the latest science at the time the proposal is made to
189 mitigate adverse impacts to wildlife, natural resources, ecosystems, and traditional or existing
190 water-dependent uses. The plan shall include a summary of pre-construction assessment activities,
191 consistent with federal requirements, to determine the spatial and temporal presence and abundance of
192 marine mammals, sea turtles, birds, and bats in the offshore wind lease area.

193 G. H. In connection with any project constructed by a Phase II Utility pursuant to subdivision C 1,
194 such utility may, subject to Commission approval pursuant to Chapter 4 (§ 56-76 et seq.), establish an
195 offshore wind affiliate for the purpose of securing a noncontrolling equity financing partner for the
196 project, and such offshore wind affiliate may be permitted to construct, own, or operate such project
197 pursuant to subdivision C 1, or a portion thereof. Notwithstanding the provisions of the Utility Facilities
198 Act (§ 56-265.1 et seq.), an offshore wind affiliate shall be permitted to operate as a public utility in
199 association with the Phase II Utility and shall be entitled to all rights and privileges of a public utility
200 solely in connection with the project. Nothing in this subsection shall prevent the Phase II Utility or its
201 offshore wind affiliate from recovering the prudently incurred costs of constructing or operating the
202 project pursuant to this section or subdivision A 6 of § 56-585.1, regardless of whether such costs are
203 incurred by the utility or its offshore wind affiliate. In acting upon any such request for cost recovery by
204 the Phase II Utility, the Commission shall utilize the capital structure and cost of capital of the utility,
205 consistent with subdivision A 10 of § 56-585.1, and the capital structure and cost of capital of any
206 noncontrolling entity's interest in the offshore wind affiliate shall be disregarded. If any ownership
207 interest in the offshore wind affiliate is transferred to such a noncontrolling entity, the Commission shall
208 ensure, in granting any approval for such transfer pursuant to the Utility Transfers Act (§ 56-88 et seq.),
209 or for cost recovery under this section or subdivision A 6 of § 56-585.1, that any gain on the utility's
210 basis for the project is credited to the utility's customers through a rate adjustment clause credit
211 mechanism and amortized over such period as the Commission determines to be appropriate.

212 **§ 56-585.5. Generation of electricity from renewable and zero carbon sources.**

213 A. As used in this section:

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

218 "Aggregate load" means the combined electrical load associated with selected accounts of an
219 accelerated renewable energy buyer with the same legal entity name as, or in the names of affiliated
220 entities that control, are controlled by, or are under common control of, such legal entity or are the
221 names of affiliated entities under a common parent.

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

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

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

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

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

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

238 "Total electric energy" means total electric energy sold to retail customers in the Commonwealth
239 service territory of a Phase I or Phase II Utility, other than accelerated renewable energy buyers, by the
240 incumbent electric utility or other retail supplier of electric energy in the previous calendar year,
241 excluding an amount equivalent to the annual percentages of the electric energy that was supplied to
242 such customer from nuclear generating plants located within the Commonwealth in the previous calendar
243 year, provided such nuclear units were operating by July 1, 2020, or from any zero-carbon electric

244 generating facilities not otherwise RPS eligible sources and placed into service in the Commonwealth
245 after July 1, 2030.

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

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

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

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

261 C. Each Phase I and Phase II Utility shall participate in a renewable energy portfolio standard
262 program (RPS Program) that establishes annual goals for the sale of renewable energy to all retail
263 customers in the utility's service territory, other than accelerated renewable energy buyers pursuant to
264 subsection G, regardless of whether such customers purchase electric supply service from the utility or
265 from suppliers other than the utility. To comply with the RPS Program, each Phase I and Phase II
266 Utility shall procure and retire Renewable Energy Certificates (RECs) originating from renewable energy
267 standard eligible sources (RPS eligible sources). For purposes of complying with the RPS Program from
268 2021 to 2024, a Phase I and Phase II Utility may use RECs from any renewable energy facility, as
269 defined in § 56-576, provided that such facilities are located in the Commonwealth or are physically
270 located within the PJM Interconnection, LLC (PJM) region. However, at no time during this period or
271 thereafter may any Phase I or Phase II Utility use RECs from (i) renewable thermal energy, (ii)
272 renewable thermal energy equivalent, or (iii) biomass-fired facilities that are outside the Commonwealth.
273 From compliance year 2025 and all years after, each Phase I and Phase II Utility may only use RECs
274 from RPS eligible sources for compliance with the RPS Program.

275 In order to qualify as RPS eligible sources, such sources must be (a) electric-generating resources
276 that generate electric energy derived from solar or wind located in the Commonwealth or off the
277 Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the
278 Commonwealth or physically located within the PJM region; (b) falling water resources located in the
279 Commonwealth or physically located within the PJM region that were in operation as of January 1,
280 2020, that are owned by a Phase I or Phase II Utility or for which a Phase I or Phase II Utility has
281 entered into a contract prior to January 1, 2020, to purchase the energy, capacity, and renewable
282 attributes of such falling water resources; (c) non-utility-owned resources from falling water that (1) are
283 less than 65 megawatts, (2) began commercial operation after December 31, 1979, or (3) added
284 incremental generation representing greater than 50 percent of the original nameplate capacity after
285 December 31, 1979, provided that such resources are located in the Commonwealth or are physically
286 located within the PJM region; (d) waste-to-energy or landfill gas-fired generating resources located in
287 the Commonwealth and in operation as of January 1, 2020, provided that such resources do not use
288 waste heat from fossil fuel combustion; or (e) biomass-fired facilities in operation in the Commonwealth
289 and in operation as of January 1, 2023, that (1) supply no more than 10 percent of their annual net
290 electrical generation to the electric grid or no more than 15 percent of their annual total useful energy to
291 any entity other than the manufacturing facility to which the generating source is interconnected and are
292 fueled by forest-product manufacturing residuals, including pulping liquor, bark, paper recycling
293 residuals, biowastes, or biomass, as described in subdivisions A 1, 2, and 4 of § 10.1-1308.1, provided
294 that biomass as described in subdivision A 1 of § 10.1-1308.1 results from harvesting in accordance with
295 best management practices for the sustainable harvesting of biomass developed and enforced by the
296 State Forester pursuant to § 10.1-1105, or (2) are owned by a Phase I or phase II Utility, have less than
297 52 megawatts capacity, and are fueled by forest-product manufacturing residuals, biowastes, or biomass,
298 as described in subdivisions A 1, 2, and 4 of § 10.1-1308.1, provided that biomass as described in
299 subdivision A 1 of § 10.1-1308.1 results from harvesting in accordance with best management practices
300 for the sustainable harvesting of biomass developed and enforced by the State Forester pursuant to
301 § 10.1-1105. Regardless of any future maintenance, expansion, or refurbishment activities, the total
302 amount of RECs that may be sold by any RPS eligible source using biomass in any year shall be no
303 more than the number of megawatt hours of electricity produced by that facility in 2022; however, in no
304 year may any RPS eligible source using biomass sell RECs in excess of the actual megawatt-hours of

305 electricity generated by such facility that year. In order to comply with the RPS Program, each Phase I
 306 and Phase II Utility may use and retire the environmental attributes associated with any existing owned
 307 or contracted solar, wind, falling water, or biomass electric generating resources in operation, or
 308 proposed for operation, in the Commonwealth or solar, wind, or falling water resources physically
 309 located within the PJM region, with such resource qualifying as a Commonwealth-located resource for
 310 purposes of this subsection, as of January 1, 2020, provided that such renewable attributes are verified
 311 as RECs consistent with the PJM-EIS Generation Attribute Tracking System.

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

314 Phase I Utilities		315 Phase II Utilities	
316 Year	RPS Program Requirement	Year	RPS Program Requirement
317 2021	6%	2021	14%
318 2022	7%	2022	17%
319 2023	8%	2023	20%
320 2024	10%	2024	23%
321 2025	14%	2025	26%
322 2026	17%	2026	29%
323 2027	20%	2027	32%
324 2028	24%	2028	35%
325 2029	27%	2029	38%
326 2030	30%	2030	41%
327 2031	33%	2031	45%
328 2032	36%	2032	49%
329 2033	39%	2033	52%
330 2034	42%	2034	55%
331 2035	45%	2035	59%
332 2036	53%	2036	63%
333 2037	53%	2037	67%
334 2038	57%	2038	71%
335 2039	61%	2039	75%
336 2040	65%	2040	79%
337 2041	68%	2041	83%
338 2042	71%	2042	87%
339 2043	74%	2043	91%
340 2044	77%	2044	95%
341 2045	80%	2045 and	100%
342		thereafter	
343 2046	84%		
344 2047	88%		
345 2048	92%		
346 2049	96%		
347 2050 and	100%		
348 thereafter			

349 A Phase II Utility shall meet one percent of the RPS Program requirements in any given compliance
 350 year with solar, wind, or anaerobic digestion resources of one megawatt or less located in the
 351 Commonwealth, with not more than 3,000 kilowatts at any single location or at contiguous locations
 352 owned by the same entity or affiliated entities and, to the extent that low-income qualifying projects are
 353 available, then no less than 25 percent of such one percent shall be composed of low-income qualifying
 354 projects.

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

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

365 D. Each Phase I or Phase II Utility shall petition the Commission for necessary approvals to procure
 366 zero-carbon electricity generating capacity as set forth in this subsection and energy storage resources as
 367 set forth in subsection E. To the extent that a Phase I or Phase II Utility constructs or acquires new
 368 zero-carbon generating facilities or energy storage resources, the utility shall petition the Commission for
 369 the recovery of the costs of such facilities, at the utility's election, either through its rates for generation

370 and distribution services or through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1.
 371 All costs not sought for recovery through a rate adjustment clause pursuant to subdivision A 6 of
 372 § 56-585.1 associated with generating facilities provided by sunlight or onshore or offshore wind are
 373 also eligible to be applied by the utility as a customer credit reinvestment offset as provided in
 374 subdivision A 8 of § 56-585.1. Costs associated with the purchase of energy, capacity, or environmental
 375 attributes from facilities owned by the persons other than the utility required by this subsection shall be
 376 recovered by the utility either through its rates for generation and distribution services or pursuant to §
 377 56-249.6.

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

381 a. By December 31, 2023, each Phase I Utility shall petition the Commission for necessary approvals
 382 to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental
 383 attributes of at least 200 megawatts of generating capacity located in the Commonwealth using energy
 384 derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be
 385 from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities
 386 owned by persons other than the utility, with the remainder, in the aggregate, being from construction or
 387 acquisition by such Phase I Utility.

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

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

402 d. Nothing in this subdivision 1 shall prohibit such Phase I Utility from constructing, acquiring, or
 403 entering into agreements to purchase the energy, capacity, and environmental attributes of more than 600
 404 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or
 405 onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and
 406 56-585.1.

407 2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary
 408 approvals to (i) construct, acquire, or enter into agreements to purchase the energy, capacity, and
 409 environmental attributes of 16,100 megawatts of generating capacity located in the Commonwealth using
 410 energy derived from sunlight or onshore wind, which shall include 1,100 megawatts of solar generation
 411 of a nameplate capacity not to exceed three megawatts per individual project and 35 percent of such
 412 generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes
 413 from solar facilities owned by persons other than a utility, including utility affiliates and deregulated
 414 affiliates and (ii) pursuant to § 56-585.1:11, construct or purchase one or more offshore wind generation
 415 facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected
 416 directly into the Commonwealth with an aggregate capacity of up to 5,200 megawatts *or purchase*
 417 *energy, capacity, and environmental attributes from such offshore wind generation facilities that are*
 418 *owned by persons other than a public utility.* At least 200 megawatts of the 16,100 megawatts shall be
 419 placed on previously developed project sites.

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

427 b. By December 31, 2027, each Phase II Utility shall petition the Commission for necessary
 428 approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and
 429 environmental attributes of at least 3,000 megawatts of additional generating capacity located in the
 430 Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating

431 capacity procured shall be from the purchase of energy, capacity, and environmental attributes from
432 solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the
433 aggregate, being from construction or acquisition by such Phase II Utility.

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

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

448 e. Nothing in this subdivision 2 shall prohibit such Phase II Utility from constructing, acquiring, or
449 entering into agreements to purchase the energy, capacity, and environmental attributes of more than
450 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from
451 sunlight or onshore wind, provided the utility receives approval from the Commission pursuant to
452 §§ 56-580 and 56-585.1.

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

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

480 4. In connection with the requirements of this subsection, each Phase I and Phase II Utility shall,
481 commencing in 2020 and concluding in 2035, submit annually a plan and petition for approval for the
482 development of new solar and onshore wind generation capacity. Such plan shall reflect, in the
483 aggregate and over its duration, the requirements of subsection D concerning the allocation percentages
484 for construction or purchase of such capacity. Such petition shall contain any request for approval to
485 construct such facilities pursuant to subsection D of § 56-580 and a request for approval or update of a
486 rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of such facilities.
487 Such plan shall also include the utility's plan to meet the energy storage project targets of subsection E,
488 including the goal of installing at least 10 percent of such energy storage projects behind the meter. In
489 determining whether to approve the utility's plan and any associated petition requests, the Commission
490 shall determine whether they are reasonable and prudent and shall give due consideration to (i) the RPS
491 and carbon dioxide reduction requirements in this section, (ii) the promotion of new renewable
492 generation and energy storage resources within the Commonwealth, and associated economic

493 development, and (iii) fuel savings projected to be achieved by the plan. Notwithstanding any other
494 provision of this title, the Commission's final order regarding any such petition and associated requests
495 shall be entered by the Commission not more than six months after the date of the filing of such
496 petition.

497 5. If, in any year, a Phase I or Phase II Utility is unable to meet the compliance obligation of the
498 RPS Program requirements or if the cost of RECs necessary to comply with RPS Program requirements
499 exceeds \$45 per megawatt hour, such supplier shall be obligated to make a deficiency payment equal to
500 \$45 for each megawatt-hour shortfall for the year of noncompliance, except that the deficiency payment
501 for any shortfall in procuring RECs for solar, wind, or anaerobic digesters located in the Commonwealth
502 shall be \$75 per megawatts hour for resources one megawatt and lower. The amount of any deficiency
503 payment shall increase by one percent annually after 2021. A Phase I or Phase II Utility shall be entitled
504 to recover the costs of such payments as a cost of compliance with the requirements of this subsection
505 pursuant to subdivision A 5 d of § 56-585.1. All proceeds from the deficiency payments shall be
506 deposited into an interest-bearing account administered by the Department of Energy. In administering
507 this account, the Department of Energy shall manage the account as follows: (i) 50 percent of total
508 revenue shall be directed to job training programs in historically economically disadvantaged
509 communities; (ii) 16 percent of total revenue shall be directed to energy efficiency measures for public
510 facilities; (iii) 30 percent of total revenue shall be directed to renewable energy programs located in
511 historically economically disadvantaged communities; and (iv) four percent of total revenue shall be
512 directed to administrative costs.

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

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

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

524 2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary
525 approvals to construct or acquire 2,700 megawatts of energy storage capacity. Nothing in this
526 subdivision shall prohibit a Phase II Utility from constructing or acquiring more than 2,700 megawatts
527 of energy storage, provided that the utility receives approval from the Commission pursuant to
528 §§ 56-580 and 56-585.1.

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

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

533 5. After July 1, 2020, at least 35 percent of the energy storage facilities placed into service shall be
534 (i) purchased by the public utility from a party other than the public utility or (ii) owned by a party
535 other than a public utility, with the capacity from such facilities sold to the public utility. By January 1,
536 2021, the Commission shall adopt regulations to achieve the deployment of energy storage for the
537 Commonwealth required in subdivisions 1 and 2, including regulations that set interim targets and
538 update existing utility planning and procurement rules. The regulations shall include programs and
539 mechanisms to deploy energy storage, including competitive solicitations, behind-the-meter incentives,
540 non-wires alternatives programs, and peak demand reduction programs.

541 F. All costs incurred by a Phase I or Phase II Utility related to compliance with the requirements of
542 this section or pursuant to § 56-585.1:11, including (i) costs of generation facilities powered by sunlight
543 or onshore or offshore wind, or energy storage facilities, that are constructed or acquired by a Phase I or
544 Phase II Utility after July 1, 2020, (ii) costs of capacity, energy, or environmental attributes from
545 generation facilities powered by sunlight or onshore or offshore wind, or falling water, or energy storage
546 facilities purchased by the utility from persons other than the utility through agreements after July 1,
547 2020, and (iii) all other costs of compliance, including costs associated with the purchase of RECs
548 associated with RPS Program requirements pursuant to this section shall be recovered from all retail
549 customers in the service territory of a Phase I or Phase II Utility as a non-bypassable charge,
550 irrespective of the generation supplier of such customer, except (a) as provided in subsection G for an
551 accelerated renewable energy buyer or (b) as provided in subdivision C 3 of § 56-585.1:11, with respect
552 to the costs of an offshore wind generation facility, for a PIPP eligible utility customer or an advanced
553 clean energy buyer or qualifying large general service customer, as those terms are defined in

554 § 56-585.1:11. If a Phase I or Phase II Utility serves customers in more than one jurisdiction, such
555 utility shall recover all of the costs of compliance with the RPS Program requirements from its Virginia
556 customers through the applicable cost recovery mechanism, and all associated energy, capacity, and
557 environmental attributes shall be assigned to Virginia to the extent that such costs are requested but not
558 recovered from any system customers outside the Commonwealth.

559 By September 1, 2020, the Commission shall direct the initiation of a proceeding for each Phase I
560 and Phase II Utility to review and determine the amount of such costs, net of benefits, that should be
561 allocated to retail customers within the utility's service territory which have elected to receive electric
562 supply service from a supplier of electric energy other than the utility, and shall direct that tariff
563 provisions be implemented to recover those costs from such customers beginning no later than January
564 1, 2021. Thereafter, such charges and tariff provisions shall be updated and tried up by the utility on an
565 annual basis, subject to continuing review and approval by the Commission.

566 G. 1. An accelerated renewable energy buyer may contract with a Phase I or Phase II Utility, or a
567 person other than a Phase I or Phase II Utility, to obtain (i) RECs from RPS eligible resources or (ii)
568 bundled capacity, energy, and RECs from solar or wind generation resources located within the PJM
569 region and initially placed in commercial operation after January 1, 2015, including any contract with a
570 utility for such generation resources that does not allocate to or recover from any other customer of the
571 utility the cost of such resources. Such an accelerated renewable energy buyer may offset all or a
572 portion of its electric load for purposes of RPS compliance through such arrangements. An accelerated
573 renewable energy buyer shall be exempt from the assignment of non-bypassable RPS compliance costs
574 pursuant to subsection F, with the exception of the costs of an offshore wind generating facility pursuant
575 to § 56-585.1:11, based on the amount of RECs obtained pursuant to this subsection in proportion to the
576 customer's total electric energy consumption, on an annual basis. An accelerated renewable energy buyer
577 obtaining RECs only shall not be exempt from costs related to procurement of new solar or onshore
578 wind generation capacity, energy, or environmental attributes, or energy storage facilities, by the utility
579 pursuant to subsections D and E, however, an accelerated renewable energy buyer that is a customer of
580 a Phase II Utility and was subscribed, as of March 1, 2020, to a voluntary companion experimental
581 tariff offering of the utility for the purchase of renewable attributes from renewable energy facilities that
582 requires a renewable facilities agreement and the purchase of a minimum of 2,000 renewable attributes
583 annually, shall be exempt from allocation of the net costs related to procurement of new solar or
584 onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities, by the
585 utility pursuant to subsections D and E, based on the amount of RECs associated with the customer's
586 renewable facilities agreements associated with such tariff offering as of that date in proportion to the
587 customer's total electric energy consumption, on an annual basis. To the extent that an accelerated
588 renewable energy buyer contracts for the capacity of new solar or wind generation resources pursuant to
589 this subsection, the aggregate amount of such nameplate capacity shall be offset from the utility's
590 procurement requirements pursuant to subsection D. All RECs associated with contracts entered into by
591 an accelerated renewable energy buyer with the utility, or a person other than the utility, for an RPS
592 Program shall not be credited to the utility's compliance with its RPS requirements, and the calculation
593 of the utility's RPS Program requirements shall not include the electric load covered by customers
594 certified as accelerated renewable energy buyers.

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

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

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

614 I. In any petition by a Phase I or Phase II Utility for a certificate of public convenience and
615 necessity to construct and operate an electrical generating facility that generates electric energy derived

616 from sunlight submitted pursuant to § 56-580, such utility shall demonstrate that the proposed facility
617 was subject to competitive procurement or solicitation as set forth in subdivision D 3.
618 J. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et seq.).
619 K. The Commission shall adopt such rules and regulations as may be necessary to implement the
620 provisions of this section, including a requirement that participants verify whether the RPS Program
621 requirements are met in accordance with this section.