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HOUSE BILL NO. 405

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Commerce and Energy

on _____)

(Patron Prior to Substitute--Delegate Ballard)

A BILL to amend and reenact §§ 56-576 and 56-585.1:10 of the Code of Virginia, relating to business park electric transmission infrastructure pilot program; location of qualifying projects.

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-576 and 56-585.1:10 of the Code of Virginia are amended and reenacted as follows:

§ 56-576. Definitions.

As used in this chapter:

"Affiliate" means any person that controls, is controlled by, or is under common control with an electric utility.

"Aggregator" means a person that, as an agent or intermediary, (i) offers to purchase, or purchases, electric energy or (ii) offers to arrange for, or arranges for, the purchase of electric energy, for sale to, or on behalf of, two or more retail customers not controlled by or under common control with such person.

The following activities shall not, in and of themselves, make a person an aggregator under this chapter:

- (i) furnishing legal services to two or more retail customers, suppliers or aggregators;
- (ii) furnishing educational, informational, or analytical services to two or more retail customers, unless direct or indirect compensation for such services is paid by an aggregator or supplier of electric energy;
- (iii) furnishing educational, informational, or analytical services to two or more suppliers or aggregators;
- (iv) providing default service under § 56-585;
- (v) engaging in activities of a retail electric energy supplier, licensed pursuant to § 56-587, which are authorized by such supplier's license; and
- (vi) engaging in actions of a retail customer, in common with one or more other such retail customers, to issue a request for proposal or to negotiate a purchase of electric energy for consumption by such retail customers.

26 (Expires December 31, 2023) "Business park" means a land development containing a minimum
27 of 100 contiguous acres classified as a Tier 4 site under the Virginia Economic Development Partnership's
28 Business Ready Sites Program that is developed and constructed by a locality, an industrial development
29 authority, or a similar political subdivision of the Commonwealth created pursuant to § 15.2-4903 or other
30 act of the General Assembly, in order to promote business development ~~and that is located in an area of~~
31 ~~the Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via~~
32 ~~his delegation of authority to the Internal Revenue Service.~~

33 "Combined heat and power" means a method of using waste heat from electrical generation to
34 offset traditional processes, space heating, air conditioning, or refrigeration.

35 "Commission" means the State Corporation Commission.

36 "Community in which a majority of the population are people of color" means a U.S. Census tract
37 where more than 50 percent of the population comprises individuals who identify as belonging to one or
38 more of the following groups: Black, African American, Asian, Pacific Islander, Native American, other
39 non-white race, mixed race, Hispanic, Latino, or linguistically isolated.

40 "Cooperative" means a utility formed under or subject to Chapter 9.1 (§ 56-231.15 et seq.).

41 "Covered entity" means a provider in the Commonwealth of an electric service not subject to
42 competition but does not include default service providers.

43 "Covered transaction" means an acquisition, merger, or consolidation of, or other transaction
44 involving stock, securities, voting interests or assets by which one or more persons obtains control of a
45 covered entity.

46 "Curtailment" means inducing retail customers to reduce load during times of peak demand so as
47 to ease the burden on the electrical grid.

48 "Customer choice" means the opportunity for a retail customer in the Commonwealth to purchase
49 electric energy from any supplier licensed and seeking to sell electric energy to that customer.

50 "Demand response" means measures aimed at shifting time of use of electricity from peak-use
51 periods to times of lower demand by inducing retail customers to curtail electricity usage during periods
52 of congestion and higher prices in the electrical grid.

53 "Distribute," "distributing," or "distribution of" electric energy means the transfer of electric
54 energy through a retail distribution system to a retail customer.

55 "Distributor" means a person owning, controlling, or operating a retail distribution system to
56 provide electric energy directly to retail customers.

57 "Electric distribution grid transformation project" means a project associated with electric
58 distribution infrastructure, including related data analytics equipment, that is designed to accommodate or
59 facilitate the integration of utility-owned or customer-owned renewable electric generation resources with
60 the utility's electric distribution grid or to otherwise enhance electric distribution grid reliability, electric
61 distribution grid security, customer service, or energy efficiency and conservation, including advanced
62 metering infrastructure; intelligent grid devices for real time system and asset information; automated
63 control systems for electric distribution circuits and substations; communications networks for service
64 meters; intelligent grid devices and other distribution equipment; distribution system hardening projects
65 for circuits, other than the conversion of overhead tap lines to underground service, and substations
66 designed to reduce service outages or service restoration times; physical security measures at key
67 distribution substations; cyber security measures; energy storage systems and microgrids that support
68 circuit-level grid stability, power quality, reliability, or resiliency or provide temporary backup energy
69 supply; electrical facilities and infrastructure necessary to support electric vehicle charging systems; LED
70 street light conversions; and new customer information platforms designed to provide improved customer
71 access, greater service options, and expanded access to energy usage information.

72 "Electric utility" means any person that generates, transmits, or distributes electric energy for use
73 by retail customers in the Commonwealth, including any investor-owned electric utility, cooperative
74 electric utility, or electric utility owned or operated by a municipality.

75 "Energy efficiency program" means a program that reduces the total amount of electricity that is
76 required for the same process or activity implemented after the expiration of capped rates. Energy
77 efficiency programs include equipment, physical, or program change designed to produce measured and
78 verified reductions in the amount of electricity required to perform the same function and produce the
79 same or a similar outcome. Energy efficiency programs may include, but are not limited to, (i) programs

80 that result in improvements in lighting design, heating, ventilation, and air conditioning systems,
81 appliances, building envelopes, and industrial and commercial processes; (ii) measures, such as but not
82 limited to the installation of advanced meters, implemented or installed by utilities, that reduce fuel use or
83 losses of electricity and otherwise improve internal operating efficiency in generation, transmission, and
84 distribution systems; and (iii) customer engagement programs that result in measurable and verifiable
85 energy savings that lead to efficient use patterns and practices. Energy efficiency programs include
86 demand response, combined heat and power and waste heat recovery, curtailment, or other programs that
87 are designed to reduce electricity consumption so long as they reduce the total amount of electricity that
88 is required for the same process or activity. Utilities shall be authorized to install and operate such
89 advanced metering technology and equipment on a customer's premises; however, nothing in this chapter
90 establishes a requirement that an energy efficiency program be implemented on a customer's premises and
91 be connected to a customer's wiring on the customer's side of the inter-connection without the customer's
92 expressed consent.

93 "Generate," "generating," or "generation of" electric energy means the production of electric
94 energy.

95 "Generator" means a person owning, controlling, or operating a facility that produces electric
96 energy for sale.

97 "Historically economically disadvantaged community" means (i) a community in which a majority
98 of the population are people of color or (ii) a low-income geographic area.

99 "Incumbent electric utility" means each electric utility in the Commonwealth that, prior to July 1,
100 1999, supplied electric energy to retail customers located in an exclusive service territory established by
101 the Commission.

102 "Independent system operator" means a person that may receive or has received, by transfer
103 pursuant to this chapter, any ownership or control of, or any responsibility to operate, all or part of the
104 transmission systems in the Commonwealth.

105 "In the public interest," for purposes of assessing energy efficiency programs, describes an energy
106 efficiency program if the Commission determines that the net present value of the benefits exceeds the net

107 present value of the costs as determined by not less than any three of the following four tests: (i) the Total
108 Resource Cost Test; (ii) the Utility Cost Test (also referred to as the Program Administrator Test); (iii) the
109 Participant Test; and (iv) the Ratepayer Impact Measure Test. Such determination shall include an analysis
110 of all four tests, and a program or portfolio of programs shall be approved if the net present value of the
111 benefits exceeds the net present value of the costs as determined by not less than any three of the four
112 tests. If the Commission determines that an energy efficiency program or portfolio of programs is not in
113 the public interest, its final order shall include all work product and analysis conducted by the
114 Commission's staff in relation to that program, including testimony relied upon by the Commission's staff,
115 that has bearing upon the Commission's decision. If the Commission reduces the proposed budget for a
116 program or portfolio of programs, its final order shall include an analysis of the impact such budget
117 reduction has upon the cost-effectiveness of such program or portfolio of programs. An order by the
118 Commission (a) finding that a program or portfolio of programs is not in the public interest or (b) reducing
119 the proposed budget for any program or portfolio of programs shall adhere to existing protocols for
120 extraordinarily sensitive information. In addition, an energy efficiency program may be deemed to be "in
121 the public interest" if the program (1) provides measurable and verifiable energy savings to low-income
122 customers or elderly customers or (2) is a pilot program of limited scope, cost, and duration, that is
123 intended to determine whether a new or substantially revised program or technology would be cost-
124 effective.

125 "Low-income geographic area" means any locality, or community within a locality, that has a
126 median household income that is not greater than 80 percent of the local median household income, or
127 any area in the Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the
128 Treasury via his delegation of authority to the Internal Revenue Service.

129 "Low-income utility customer" means any person or household whose income is no more than 80
130 percent of the median income of the locality in which the customer resides. The median income of the
131 locality is determined by the U.S. Department of Housing and Urban Development.

132 "Measured and verified" means a process determined pursuant to methods accepted for use by
133 utilities and industries to measure, verify, and validate energy savings and peak demand savings. This may

134 include the protocol established by the United States Department of Energy, Office of Federal Energy
135 Management Programs, Measurement and Verification Guidance for Federal Energy Projects,
136 measurement and verification standards developed by the American Society of Heating, Refrigeration and
137 Air Conditioning Engineers (ASHRAE), or engineering-based estimates of energy and demand savings
138 associated with specific energy efficiency measures, as determined by the Commission.

139 "Municipality" means a city, county, town, authority, or other political subdivision of the
140 Commonwealth.

141 "New underground facilities" means facilities to provide underground distribution service. "New
142 underground facilities" includes underground cables with voltages of 69 kilovolts or less, pad-mounted
143 devices, connections at customer meters, and transition terminations from existing overhead distribution
144 sources.

145 "Peak-shaving" means measures aimed solely at shifting time of use of electricity from peak-use
146 periods to times of lower demand by inducing retail customers to curtail electricity usage during periods
147 of congestion and higher prices in the electrical grid.

148 "Percentage of Income Payment Program (PIPP) eligible utility customer" means any person or
149 household whose income does not exceed 150 percent of the federal poverty level.

150 "Person" means any individual, corporation, partnership, association, company, business, trust,
151 joint venture, or other private legal entity, and the Commonwealth or any municipality.

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

160 "Qualified waste heat resource" means (i) exhaust heat or flared gas from an industrial process that
161 does not have, as its primary purpose, the production of electricity and (ii) a pressure drop in any gas for
162 an industrial or commercial process.

163 "Renewable energy" means energy derived from sunlight, wind, falling water, biomass,
164 sustainable or otherwise, (the definitions of which shall be liberally construed), energy from waste, landfill
165 gas, municipal solid waste, wave motion, tides, and geothermal power, and does not include energy
166 derived from coal, oil, natural gas, or nuclear power. "Renewable energy" also includes the proportion of
167 the thermal or electric energy from a facility that results from the co-firing of biomass. "Renewable
168 energy" does not include waste heat from fossil-fired facilities or electricity generated from pumped
169 storage but includes run-of-river generation from a combined pumped-storage and run-of-river facility.

170 "Renewable thermal energy" means the thermal energy output from (i) a renewable-fueled
171 combined heat and power generation facility that is (a) constructed, or renovated and improved, after
172 January 1, 2012, (b) located in the Commonwealth, and (c) utilized in industrial processes other than the
173 combined heat and power generation facility or (ii) a solar energy system, certified to the OG-100 standard
174 of the Solar Ratings and Certification Corporation or an equivalent certification body, that (a) is
175 constructed, or renovated and improved, after January 1, 2013, (b) is located in the Commonwealth, and
176 (c) heats water or air for residential, commercial, institutional, or industrial purposes.

177 "Renewable thermal energy equivalent" means the electrical equivalent in megawatt hours of
178 renewable thermal energy calculated by dividing (i) the heat content, measured in British thermal units
179 (BTUs), of the renewable thermal energy at the point of transfer to a residential, commercial, institutional,
180 or industrial process by (ii) the standard conversion factor of 3.413 million BTUs per megawatt hour.

181 "Renovated and improved facility" means a facility the components of which have been upgraded
182 to enhance its operating efficiency.

183 "Retail customer" means any person that purchases retail electric energy for its own consumption
184 at one or more metering points or nonmetered points of delivery located in the Commonwealth.

185 "Retail electric energy" means electric energy sold for ultimate consumption to a retail customer.

186 "Revenue reductions related to energy efficiency programs" means reductions in the collection of
187 total non-fuel revenues, previously authorized by the Commission to be recovered from customers by a
188 utility, that occur due to measured and verified decreased consumption of electricity caused by energy
189 efficiency programs approved by the Commission and implemented by the utility, less the amount by
190 which such non-fuel reductions in total revenues have been mitigated through other program-related
191 factors, including reductions in variable operating expenses.

192 "Rooftop solar installation" means a distributed electric generation facility, storage facility, or
193 generation and storage facility utilizing energy derived from sunlight, with a rated capacity of not less
194 than 50 kilowatts, that is installed on the roof structure of an incumbent electric utility's commercial or
195 industrial class customer, including host sites on commercial buildings, multifamily residential buildings,
196 school or university buildings, and buildings of a church or religious body.

197 "Solar energy system" means a system of components that produces heat or electricity, or both,
198 from sunlight.

199 "Supplier" means any generator, distributor, aggregator, broker, marketer, or other person who
200 offers to sell or sells electric energy to retail customers and is licensed by the Commission to do so, but it
201 does not mean a generator that produces electric energy exclusively for its own consumption or the
202 consumption of an affiliate.

203 "Supply" or "supplying" electric energy means the sale of or the offer to sell electric energy to a
204 retail customer.

205 "Total annual energy savings" means (i) the total combined kilowatt-hour savings achieved by
206 electric utility energy efficiency and demand response programs and measures installed in that program
207 year, as well as savings still being achieved by measures and programs implemented in prior years, or (ii)
208 savings attributable to newly installed combined heat and power facilities, including waste heat-to-power
209 facilities, and any associated reduction in transmission line losses, provided that biomass is not a fuel and
210 the total efficiency, including the use of thermal energy, for eligible combined heat and power facilities
211 must meet or exceed 65 percent and have a nameplate capacity rating of less than 25 megawatts.

212 "Transmission of," "transmit," or "transmitting" electric energy means the transfer of electric
213 energy through the Commonwealth's interconnected transmission grid from a generator to either a
214 distributor or a retail customer.

215 "Transmission system" means those facilities and equipment that are required to provide for the
216 transmission of electric energy.

217 "Waste heat to power" means a system that generates electricity through the recovery of a qualified
218 waste heat resource.

219 **§ 56-585.1:10. (Expires December 31, 2023) Pilot program for transmission facilities serving**
220 **business parks.**

221 The Virginia Economic Development Partnership shall conduct a pilot program within the
222 certificated service territory of each investor-owned electric utility other than a utility described in
223 subsection G of § 56-580 (Pilot Utility) for the purpose of promoting economic development in areas of
224 the Commonwealth ~~designated as an opportunity zone listed by the U.S. Secretary of the Treasury via his~~
225 ~~delegation of authority to the Internal Revenue Service.~~ The pilot program shall allow any Pilot Utility to
226 complete the construction phase of a transmission line and associated substation to provide the electric
227 infrastructure to a business park, as defined in § 56-576, ~~located in an opportunity zone~~ within the Pilot
228 Utility's certificated service territory where investments by a locality or an industrial development
229 authority; or a similar political subdivision of the Commonwealth created pursuant to § 15.2-4903 or other
230 act of the General Assembly, in the siting, environmental review, pre-engineering design, and transmission
231 right-of-way acquisition have been made prior to the public announcement of a prospective occupant of
232 the business park. Each pilot program shall be subject to the following terms, conditions, and restrictions:

233 1. ~~As used in this section, "opportunity zone" means areas of the Commonwealth designated as a~~
234 ~~qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the~~
235 ~~Internal Revenue Service.~~

236 2. The costs incurred by the Pilot Utility after January 1, 2019, to construct, operate, and maintain
237 transmission lines and associated substations installed in order to provide service to a business park

238 participating in the pilot program shall be recovered by the Pilot Utility pursuant to a rate adjustment
239 clause approved by the Commission in subdivision A 4 of § 56-585.1.

240 ~~3-2.~~ Qualifying projects shall have revenue sharing agreements between two or more localities.

241 ~~4-3.~~ Each individual qualifying project shall be less than seven miles in length.

242 ~~5-4.~~ The role of the Virginia Economic Development Partnership in conducting the pilot program
243 is to certify that up to three petitions within the certificated service territory of each Pilot Utility addresses
244 the eligibility criteria for participation in the pilot program set forth in § 56-576 and in this section.

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