

HOUSE BILL NO. 1770

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Commerce and Energy

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Kilgore)

A BILL to amend and reenact §§ 56-585.1, 56-585.1:4, and 56-599 of the Code of Virginia, relating to electric utilities; schedule for rate review proceedings; generation facility retirements subject to approval.

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

**1. That §§ 56-585.1, 56-585.1:4, and 56-599 of the Code of Virginia are amended and reenacted as follows:**

**§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.**

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to 100

27 basis points based on the generating plant performance, customer service, and operating efficiency of a  
28 utility, as compared to nationally recognized standards determined by the Commission to be appropriate  
29 for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may  
30 charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on  
31 common equity is more than 50 basis points below the combined rate of return as so determined, it shall  
32 be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover  
33 the costs of providing the utility's services and to earn not less than such combined rate of return. If the  
34 Commission finds that the utility's combined rate of return on common equity is more than 50 basis points  
35 above the combined rate of return as so determined, it shall be authorized either (i) to order reductions to  
36 the utility's rates it finds appropriate, provided that the Commission may not order such rate reduction  
37 unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs  
38 of providing its services and to earn not less than the fair rates of return on common equity applicable to  
39 the generation and distribution services; or (ii) to direct that 60 percent of the amount of the utility's  
40 earnings that were more than 50 basis points above the fair combined rate of return for calendar year 2008  
41 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12  
42 months, as determined at the discretion of the Commission, following the effective date of the  
43 Commission's order and be allocated among customer classes such that the relationship between the  
44 specific customer class rates of return to the overall target rate of return will have the same relationship as  
45 the last approved allocation of revenues used to design base rates. Commencing in 2011, the Commission,  
46 after notice and opportunity for hearing, shall conduct reviews of the rates, terms and conditions for the  
47 provision of generation, distribution and transmission services by each investor-owned incumbent electric  
48 utility, subject to the following provisions:

- 49 1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis,  
50 and such reviews shall be conducted in a single, combined proceeding. Pursuant to subsection A of § 56-  
51 585.1:1, the Commission shall conduct a review for a Phase I Utility in 2020, utilizing the three successive  
52 12-month test periods beginning January 1, 2017, and ending December 31, 2019. Thereafter, reviews for  
53 a Phase I Utility will be on a triennial basis with subsequent proceedings utilizing the three successive 12-

54 month test periods ending December 31 immediately preceding the year in which such review proceeding  
55 is conducted. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase  
56 II Utility in 2021, utilizing the four successive 12-month test periods beginning January 1, 2017, and  
57 ending December 31, 2020, with subsequent reviews on a ~~triennial~~ biennial basis commencing in 2023,  
58 with such proceedings utilizing the ~~three~~ two successive 12-month test periods ending December 31  
59 immediately preceding the year in which such review proceeding is conducted. ~~All such reviews occurring~~  
60 ~~after December 31, 2017, shall be referred to as triennial reviews.~~ For purposes of this section, a Phase I  
61 Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate  
62 case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and  
63 a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

64 2. Subject to the provisions of subdivision 6, the fair rate of return on common equity applicable  
65 separately to the generation and distribution services of such utility, and for the two such services  
66 combined, and for any rate adjustment clauses approved under subdivision 5 or 6, shall be determined by  
67 the Commission during each such ~~triennial~~ review, as follows:

68 a. The Commission may use any methodology to determine such return it finds consistent with the  
69 public interest, but for applications received by the Commission on or after January 1, 2020, such return  
70 shall not be set lower than the average of either (i) the returns on common equity reported to the Securities  
71 and Exchange Commission for the three most recent annual periods for which such data are available by  
72 not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-  
73 owned electric utilities in the peer group of the utility subject to such ~~triennial~~ review or (ii) the authorized  
74 returns on common equity that are set by the applicable regulatory commissions for the same selected peer  
75 group, nor shall the Commission set such return more than 150 basis points higher than such average.

76 b. In selecting such majority of peer group investor-owned electric utilities for applications  
77 received by the Commission on or after January 1, 2020, the Commission shall first remove from such  
78 group the two utilities within such group that have the lowest reported or authorized, as applicable, returns  
79 of the group, as well as the two utilities within such group that have the highest reported or authorized, as  
80 applicable, returns of the group, and the Commission shall then select a majority of the utilities remaining

81 in such peer group. In its final order regarding such ~~triennial~~ review, the Commission shall identify the  
82 utilities in such peer group it selected for the calculation of such limitation. For purposes of this  
83 subdivision, an investor-owned electric utility shall be deemed part of such peer group if (i) its principal  
84 operations are conducted in the southeastern United States east of the Mississippi River in either the states  
85 of West Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it  
86 is a vertically-integrated electric utility providing generation, transmission and distribution services whose  
87 facilities and operations are subject to state public utility regulation in the state where its principal  
88 operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of at  
89 least Baa at the end of the most recent test period subject to such ~~triennial~~ review, and (iv) it is not an  
90 affiliate of the utility subject to such ~~triennial~~ review.

91 c. The Commission may, consistent with its precedent for incumbent electric utilities prior to the  
92 enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, increase or decrease the utility's  
93 combined rate of return based on the Commission's consideration of the utility's performance.

94 d. In any Current Proceeding, the Commission shall determine whether the Current Return has  
95 increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a  
96 percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-  
97 U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the  
98 date on which the Commission determined the Initial Return. If so, the Commission may conduct an  
99 additional analysis of whether it is in the public interest to utilize such Current Return for the Current  
100 Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall  
101 be made without regard to any enhanced rate of return on common equity awarded pursuant to the  
102 provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration  
103 of overall economic conditions, the level of interest rates and cost of capital with respect to business and  
104 industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of goods  
105 and services, the effect on the utility's ability to provide adequate service and to attract capital if less than  
106 the Current Return were utilized for the Current Proceeding then pending, and such other factors as the  
107 Commission may deem relevant. If, as a result of such analysis, the Commission finds that use of the

108 Current Return for the Current Proceeding then pending would not be in the public interest, then the lower  
109 limit imposed by subdivision 2 a on the return to be determined by the Commission for such utility shall  
110 be calculated, for that Current Proceeding only, by increasing the Initial Return by a percentage at least  
111 equal to the increase, expressed as a percentage, in the United States Average Consumer Price Index for  
112 all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States  
113 Department of Labor, since the date on which the Commission determined the Initial Return. For purposes  
114 of this subdivision:

115 "Current Proceeding" means any proceeding conducted under any provisions of this subsection  
116 that require or authorize the Commission to determine a fair combined rate of return on common equity  
117 for a utility and that will be concluded after the date on which the Commission determined the Initial  
118 Return for such utility.

119 "Current Return" means the minimum fair combined rate of return on common equity required for  
120 any Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

121 "Initial Return" means the fair combined rate of return on common equity determined for such  
122 utility by the Commission on the first occasion after July 1, 2009, under any provision of this subsection  
123 pursuant to the provisions of subdivision 2 a.

124 e. In addition to other considerations, in setting the return on equity within the range allowed by  
125 this section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive  
126 with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

127 f. The determination of such returns shall be made by the Commission on a stand-alone basis, and  
128 specifically without regard to any return on common equity or other matters determined with regard to  
129 facilities described in subdivision 6.

130 g. If the combined rate of return on common equity earned by the generation and distribution  
131 services is no more than 50 basis points above or below the return as so determined or, for any test period  
132 commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I  
133 Utility, such return is no more than 70 basis points above or below the return as so determined, such  
134 combined return shall not be considered either excessive or insufficient, respectively. However, for any

135 test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for  
136 a Phase I Utility, if the utility has, during the test period or periods under review, earned below the return  
137 as so determined, whether or not such combined return is within 70 basis points of the return as so  
138 determined, the utility may petition the Commission for approval of an increase in rates in accordance  
139 with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a fair combined  
140 rate of return, and such proceeding shall otherwise be conducted in accordance with the provisions of this  
141 section. The provisions of this subdivision are subject to the provisions of subdivision 8.

142 h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills  
143 pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any  
144 subsequent ~~triennial~~ review.

145 3. Each such utility shall make a triennial filing by March 31 of every third year, with such filings  
146 commencing for a Phase I Utility in 2020, and such filings commencing for a Phase II Utility in 2021,  
147 ~~consisting of the schedules contained in the Commission's rules governing utility rate increase applications~~  
148 and terminating thereafter. Such filing shall encompass the three successive 12-month test periods ending  
149 December 31 immediately preceding the year in which such proceeding is conducted, except that the filing  
150 for a Phase II Utility in 2021 shall encompass the four successive 12-month test periods ending December  
151 31, 2020. After 2021, each Phase II Utility shall make a biennial filing by March 31 of every second year,  
152 except that the 2023 filing for a Phase II Utility shall be made on or after July 1, 2023. All biennial filings  
153 shall encompass the two successive 12-month test periods ending December 31 immediately preceding  
154 the year in which such review proceeding is conducted. All such filings shall consist of the schedules  
155 contained in the Commission's rules governing utility rate increase applications, and in every such case  
156 the filing for each year shall be identified separately and shall be segregated from any other year  
157 encompassed by the filing. In a filing under this subdivision that does not result in an overall rate change,  
158 a utility may propose an adjustment to one or more tariffs that are revenue neutral to the utility.

159 If the Commission determines that rates should be revised or credits be applied to customers' bills  
160 pursuant to subdivision 8 or 9, any rate adjustment clauses previously implemented related to facilities  
161 utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's

162 costs, revenues and investments until the amounts that are the subject of such rate adjustment clauses are  
163 fully recovered. The Commission shall combine such clauses with the utility's costs, revenues and  
164 investments only after it makes its initial determination with regard to necessary rate revisions or credits  
165 to customers' bills, and the amounts thereof, but after such clauses are combined as ~~herein~~ specified in this  
166 paragraph, they shall thereafter be considered part of the utility's costs, revenues, and investments for the  
167 purposes of future ~~triennial~~ review proceedings. ~~In a triennial filing under this subdivision that does not~~  
168 ~~result in an overall rate change a utility may propose an adjustment to one or more tariffs that are revenue~~  
169 ~~neutral to the utility.~~

170 4. (Expires December 31, 2023) The following costs incurred by the utility shall be deemed  
171 reasonable and prudent: (i) costs for transmission services provided to the utility by the regional  
172 transmission entity of which the utility is a member, as determined under applicable rates, terms and  
173 conditions approved by the Federal Energy Regulatory Commission; (ii) costs charged to the utility that  
174 are associated with demand response programs approved by the Federal Energy Regulatory Commission  
175 and administered by the regional transmission entity of which the utility is a member; and (iii) costs  
176 incurred by the utility to construct, operate, and maintain transmission lines and substations installed in  
177 order to provide service to a business park. Upon petition of a utility at any time after the expiration or  
178 termination of capped rates, but not more than once in any 12-month period, the Commission shall approve  
179 a rate adjustment clause under which such costs, including, without limitation, costs for transmission  
180 service; charges for new and existing transmission facilities, including costs incurred by the utility to  
181 construct, operate, and maintain transmission lines and substations installed in order to provide service to  
182 a business park; administrative charges; and ancillary service charges designed to recover transmission  
183 costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs  
184 shall be designed using the appropriate billing determinants in the retail rate schedules.

185 4. (Effective January 1, 2024) The following costs incurred by the utility shall be deemed  
186 reasonable and prudent: (i) costs for transmission services provided to the utility by the regional  
187 transmission entity of which the utility is a member, as determined under applicable rates, terms and  
188 conditions approved by the Federal Energy Regulatory Commission, and (ii) costs charged to the utility

189 that are associated with demand response programs approved by the Federal Energy Regulatory  
190 Commission and administered by the regional transmission entity of which the utility is a member. Upon  
191 petition of a utility at any time after the expiration or termination of capped rates, but not more than once  
192 in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs,  
193 including, without limitation, costs for transmission service, charges for new and existing transmission  
194 facilities, administrative charges, and ancillary service charges designed to recover transmission costs,  
195 shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall  
196 be designed using the appropriate billing determinants in the retail rate schedules.

197 5. A utility may at any time, after the expiration or termination of capped rates, but not more than  
198 once in any 12-month period, petition the Commission for approval of one or more rate adjustment clauses  
199 for the timely and current recovery from customers of the following costs:

200 a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1,  
201 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such  
202 costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582.  
203 The Commission shall approve such a petition allowing the recovery of such costs that comply with the  
204 requirements of clause (vi) of subsection B of § 56-582;

205 b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving  
206 programs or pilot programs. The Commission shall approve such a petition if it finds that the program is  
207 in the public interest, provided that the Commission shall allow the recovery of such costs as it finds are  
208 reasonable;

209 c. Projected and actual costs for the utility to design, implement, and operate energy efficiency  
210 programs or pilot programs. Any such petition shall include a proposed budget for the design,  
211 implementation, and operation of the energy efficiency program, including anticipated savings from and  
212 spending on each program, and the Commission shall grant a final order on such petitions within eight  
213 months of initial filing. The Commission shall only approve such a petition if it finds that the program is  
214 in the public interest. If the Commission determines that an energy efficiency program or portfolio of  
215 programs is not in the public interest, its final order shall include all work product and analysis conducted



216 by the Commission's staff in relation to that program that has bearing upon the Commission's  
217 determination. Such order shall adhere to existing protocols for extraordinarily sensitive information.

218 Energy efficiency pilot programs are in the public interest provided that the pilot program is (i) of  
219 limited scope, cost, and duration and (ii) intended to determine whether a new or substantially revised  
220 program would be cost-effective.

221 Prior to January 1, 2022, the Commission shall award a margin for recovery on operating expenses  
222 for energy efficiency programs and pilot programs, which margin shall be equal to the general rate of  
223 return on common equity determined as described in subdivision 2. Beginning January 1, 2022, and  
224 thereafter, if the Commission determines that the utility meets in any year the annual energy efficiency  
225 standards set forth in § 56-596.2, in the following year, the Commission shall award a margin on energy  
226 efficiency program operating expenses in that year, to be recovered through a rate adjustment clause,  
227 which margin shall be equal to the general rate of return on common equity determined as described in  
228 subdivision 2. If the Commission does not approve energy efficiency programs that, in the aggregate, can  
229 achieve the annual energy efficiency standards, the Commission shall award a margin on energy efficiency  
230 operating expenses in that year for any programs the Commission has approved, to be recovered through  
231 a rate adjustment clause under this subdivision, which margin shall equal the general rate of return on  
232 common equity determined as described in subdivision 2. Any margin awarded pursuant to this  
233 subdivision shall be applied as part of the utility's next rate adjustment clause true-up proceeding. The  
234 Commission shall also award an additional 20 basis points for each additional incremental 0.1 percent in  
235 annual savings in any year achieved by the utility's energy efficiency programs approved by the  
236 Commission pursuant to this subdivision, beyond the annual requirements set forth in § 56-596.2, provided  
237 that the total performance incentive awarded in any year shall not exceed 10 percent of that utility's total  
238 energy efficiency program spending in that same year.

239 The Commission shall annually monitor and report to the General Assembly the performance of  
240 all programs approved pursuant to this subdivision, including each utility's compliance with the total  
241 annual savings required by § 56-596.2, as well as the annual and lifecycle net and gross energy and  
242 capacity savings, related emissions reductions, and other quantifiable benefits of each program; total

243 customer bill savings that the programs produce; utility spending on each program, including any  
244 associated administrative costs; and each utility's avoided costs and cost-effectiveness results.

245 Notwithstanding any other provision of law, unless the Commission finds in its discretion and after  
246 consideration of all in-state and regional transmission entity resources that there is a threat to the reliability  
247 or security of electric service to the utility's customers, the Commission shall not approve construction of  
248 any new utility-owned generating facilities that emit carbon dioxide as a by-product of combusting fuel  
249 to generate electricity unless the utility has already met the energy savings goals identified in § 56-596.2  
250 and the Commission finds that supply-side resources are more cost-effective than demand-side or energy  
251 storage resources.

252 As used in this subdivision, "large general service customer" means a customer that has a verifiable  
253 history of having used more than one megawatt of demand from a single site.

254 Large general service customers shall be exempt from requirements that they participate in energy  
255 efficiency programs if the Commission finds that the large general service customer has, at the customer's  
256 own expense, implemented energy efficiency programs that have produced or will produce measured and  
257 verified results consistent with industry standards and other regulatory criteria stated in this section. The  
258 Commission shall, no later than June 30, 2021, adopt rules or regulations (a) establishing the process for  
259 large general service customers to apply for such an exemption, (b) establishing the administrative  
260 procedures by which eligible customers will notify the utility, and (c) defining the standard criteria that  
261 shall be satisfied by an applicant in order to notify the utility, including means of evaluation measurement  
262 and verification and confidentiality requirements. At a minimum, such rules and regulations shall require  
263 that each exempted large general service customer certify to the utility and Commission that its  
264 implemented energy efficiency programs have delivered measured and verified savings within the prior  
265 five years. In adopting such rules or regulations, the Commission shall also specify the timing as to when  
266 a utility shall accept and act on such notice, taking into consideration the utility's integrated resource  
267 planning process, as well as its administration of energy efficiency programs that are approved for cost  
268 recovery by the Commission. Savings from large general service customers shall be accounted for in  
269 utility reporting in the standards in § 56-596.2.

270           The notice of nonparticipation by a large general service customer shall be for the duration of the  
271 service life of the customer's energy efficiency measures. The Commission may on its own motion initiate  
272 steps necessary to verify such nonparticipant's achievement of energy efficiency if the Commission has a  
273 body of evidence that the nonparticipant has knowingly misrepresented its energy efficiency achievement.

274           A utility shall not charge such large general service customer for the costs of installing energy  
275 efficiency equipment beyond what is required to provide electric service and meter such service on the  
276 customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency  
277 equipment. In all relevant proceedings pursuant to this section, the Commission shall take into  
278 consideration the goals of economic development, energy efficiency and environmental protection in the  
279 Commonwealth;

280           d. Projected and actual costs of compliance with renewable energy portfolio standard requirements  
281 pursuant to § 56-585.5 that are not recoverable under subdivision 6. The Commission shall approve such  
282 a petition allowing the recovery of such costs incurred as required by § 56-585.5, provided that the  
283 Commission does not otherwise find such costs were unreasonably or imprudently incurred;

284           e. Projected and actual costs of projects that the Commission finds to be necessary to mitigate  
285 impacts to marine life caused by construction of offshore wind generating facilities, as described in § 56-  
286 585.1:11, or to comply with state or federal environmental laws or regulations applicable to generation  
287 facilities used to serve the utility's native load obligations, including the costs of allowances purchased  
288 through a market-based trading program for carbon dioxide emissions. The Commission shall approve  
289 such a petition if it finds that such costs are necessary to comply with such environmental laws or  
290 regulations;

291           f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate  
292 programs approved by the Commission that accelerate the vegetation management of distribution rights-  
293 of-way. No costs shall be allocated to or recovered from customers that are served within the large general  
294 service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or  
295 take delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility;  
296 and

297 g. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate  
298 programs approved by the Commission to provide incentives to (i) low-income, elderly, and disabled  
299 individuals or (ii) organizations providing residential services to low-income, elderly, and disabled  
300 individuals for the installation of, or access to, equipment to generate electric energy derived from  
301 sunlight, provided the low-income, elderly, and disabled individuals, or organizations providing  
302 residential services to low-income, elderly, and disabled individuals, first participate in incentive programs  
303 for the installation of measures that reduce heating or cooling costs.

304 Any rate adjustment clause approved under subdivision 5 c by the Commission shall remain in  
305 effect until the utility exhausts the approved budget for the energy efficiency program. The Commission  
306 shall have the authority to determine the duration or amortization period for any other rate adjustment  
307 clause approved under this subdivision.

308 6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet  
309 the utility's projected native load obligations and to promote economic development, a utility may at any  
310 time, after the expiration or termination of capped rates, petition the Commission for approval of a rate  
311 adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a coal-  
312 fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the  
313 Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or  
314 without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major  
315 unit modifications of generation facilities, including the costs of any system or equipment upgrade, system  
316 or equipment replacement, or other cost reasonably appropriate to extend the combined operating license  
317 for or the operating life of one or more generation facilities utilizing nuclear power, (iv) one or more new  
318 underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or  
319 less located within the Commonwealth, (v) one or more pumped hydroelectricity generation and storage  
320 facilities that utilize on-site or off-site renewable energy resources as all or a portion of their power source  
321 and such facilities and associated resources are located in the coalfield region of the Commonwealth as  
322 described in § 15.2-6002, regardless of whether such facility is located within or without the utility's  
323 service territory, or (vi) one or more electric distribution grid transformation projects; however, subject to

324 the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often  
325 than annually and, in such petition, shall not seek any annual incremental increase in the level of  
326 investments associated with such a petition that exceeds five percent of such utility's distribution rate base,  
327 as such rate base was determined for the most recently ended 12-month test period in the utility's latest  
328 review proceeding conducted pursuant to subdivision 3 and concluded by final order of the Commission  
329 prior to the date of filing of such petition under clause (iv). In all proceedings regarding petitions filed  
330 under clause (iv) or (vi), the level of investments approved for recovery in such proceedings shall be in  
331 addition to, and not in lieu of, levels of investments previously approved for recovery in prior proceedings  
332 under clause (iv) or (vi), as applicable. As of December 1, 2028, any costs recovered by a utility pursuant  
333 to clause (iv) shall be limited to any remaining costs associated with conversions of overhead distribution  
334 facilities to underground facilities that have been previously approved or are pending approval by the  
335 Commission through a petition by the utility under this subdivision. Such a petition concerning facilities  
336 described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that are coal-fueled and  
337 will be built by a Phase I Utility, or facilities described in clause (i) may also be filed before the expiration  
338 or termination of capped rates. A utility that constructs or makes modifications to any such facility, or  
339 purchases any facility consisting of at least one megawatt of generating capacity using energy derived  
340 from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or  
341 in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as  
342 accrued against income, through its rates, including projected construction work in progress, and any  
343 associated allowance for funds used during construction, planning, development and construction or  
344 acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new  
345 underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake  
346 such projects, an enhanced rate of return on common equity calculated as specified below; however, in  
347 determining the amounts recoverable under a rate adjustment clause for new underground facilities, the  
348 Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the  
349 operation and maintenance costs attributable to either the overhead distribution facilities being replaced  
350 or the new underground facilities or (b) any other costs attributable to the overhead distribution facilities

351 being replaced. Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof  
352 shall remain eligible for recovery from customers through the utility's base rates for distribution service.  
353 A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt  
354 of generating capacity using energy derived from sunlight and located in the Commonwealth and that  
355 utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may propose  
356 a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A  
357 utility seeking approval to construct or purchase a generating facility that emits carbon dioxide shall  
358 demonstrate that it has already met the energy savings goals identified in § 56-596.2 and that the identified  
359 need cannot be met more affordably through the deployment or utilization of demand-side resources or  
360 energy storage resources and that it has considered and weighed alternative options, including third-party  
361 market alternatives, in its selection process.

362         The costs of the facility, other than return on projected construction work in progress and  
363 allowance for funds used during construction, shall not be recovered prior to the date a facility constructed  
364 by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility  
365 becomes the owner of a purchased generation facility consisting of at least one megawatt of generating  
366 capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or  
367 services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground  
368 facilities are classified by the utility as plant in service. In any application to construct a new generating  
369 facility, the utility shall include, and the Commission shall consider, the social cost of carbon, as  
370 determined by the Commission, as a benefit or cost, whichever is appropriate. The Commission shall  
371 ensure that the development of new, or expansion of existing, energy resources or facilities does not have  
372 a disproportionate adverse impact on historically economically disadvantaged communities. The  
373 Commission may adopt any rules it deems necessary to determine the social cost of carbon and shall use  
374 the best available science and technology, including the Technical Support Document: Technical Update  
375 of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866, published by  
376 the Interagency Working Group on Social Cost of Greenhouse Gases from the United States Government

377 in August 2016, as guidance. The Commission shall include a system to adjust the costs established in this  
378 section with inflation.

379         Such enhanced rate of return on common equity shall be applied to allowance for funds used during  
380 construction and to construction work in progress during the construction phase of the facility and shall  
381 thereafter be applied to the entire facility during the first portion of the service life of the facility. The first  
382 portion of the service life shall be as specified in the table below; however, the Commission shall  
383 determine the duration of the first portion of the service life of any facility, within the range specified in  
384 the table below, which determination shall be consistent with the public interest and shall reflect the  
385 Commission's determinations regarding how critical the facility may be in meeting the energy needs of  
386 the citizens of the Commonwealth and the risks involved in the development of the facility. After the first  
387 portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to  
388 such facility for the remainder of its service life. As used herein, the service life of the facility shall be  
389 deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v)  
390 begins commercial operation, the date the utility becomes the owner of a purchased generation facility  
391 consisting of at least one megawatt of generating capacity using energy derived from sunlight and located  
392 in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more  
393 Virginia businesses, or the date new underground facilities or new electric distribution grid transformation  
394 projects are classified by the utility as plant in service, and such service life shall be deemed equal in years  
395 to the life of that facility as used to calculate the utility's depreciation expense. Such enhanced rate of  
396 return on common equity shall be calculated by adding the basis points specified in the table below to the  
397 utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the  
398 subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated  
399 for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an  
400 enhanced rate of return on common equity as determined pursuant to this subdivision, until such  
401 construction work in progress is included in rates. The construction of any facility described in clause (i)  
402 or (v) is in the public interest, and in determining whether to approve such facility, the Commission shall  
403 liberally construe the provisions of this title. The construction or purchase by a utility of one or more

404 generation facilities with at least one megawatt of generating capacity, and with an aggregate rated  
405 capacity that does not exceed 16,100 megawatts, including rooftop solar installations with a capacity of  
406 not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts, that use energy derived from  
407 sunlight or from onshore wind and are located in the Commonwealth or off the Commonwealth's Atlantic  
408 shoreline, regardless of whether any of such facilities are located within or without the utility's service  
409 territory, is in the public interest, and in determining whether to approve such facility, the Commission  
410 shall liberally construe the provisions of this title. A utility may enter into short-term or long-term power  
411 purchase contracts for the power derived from sunlight generated by such generation facility prior to  
412 purchasing the generation facility. The replacement of any subset of a utility's existing overhead  
413 distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage events-  
414 per-mile over a preceding 10-year period with new underground facilities in order to improve electric  
415 service reliability is in the public interest. In determining whether to approve petitions for rate adjustment  
416 clauses for such new underground facilities that meet this criteria, and in determining the level of costs to  
417 be recovered thereunder, the Commission shall liberally construe the provisions of this title.

418         The conversion of any such facilities on or after September 1, 2016, is deemed to provide local  
419 and system-wide benefits and to be cost beneficial, and the costs associated with such new underground  
420 facilities are deemed to be reasonably and prudently incurred and, notwithstanding the provisions of  
421 subsection C or D, shall be approved for recovery by the Commission pursuant to this subdivision,  
422 provided that the total costs associated with the replacement of any subset of existing overhead distribution  
423 tap lines proposed by the utility with new underground facilities, exclusive of financing costs, shall not  
424 exceed an average cost per customer of \$20,000, with such customers, including those served directly by  
425 or downline of the tap lines proposed for conversion, and, further, such total costs shall not exceed an  
426 average cost per mile of tap lines converted, exclusive of financing costs, of \$750,000. A utility shall,  
427 without regard for whether it has petitioned for any rate adjustment clause pursuant to clause (vi), petition  
428 the Commission, not more than once annually, for approval of a plan for electric distribution grid  
429 transformation projects. Any plan for electric distribution grid transformation projects shall include both  
430 measures to facilitate integration of distributed energy resources and measures to enhance physical electric



431 distribution grid reliability and security. In ruling upon such a petition, the Commission shall consider  
 432 whether the utility's plan for such projects, and the projected costs associated therewith, are reasonable  
 433 and prudent. Such petition shall be considered on a stand-alone basis without regard to the other costs,  
 434 revenues, investments, or earnings of the utility; without regard to whether the costs associated with such  
 435 projects will be recovered through a rate adjustment clause under this subdivision or through the utility's  
 436 rates for generation and distribution services; and without regard to whether such costs will be the subject  
 437 of a customer credit offset, as applicable, pursuant to subdivision 8 d. The Commission's final order  
 438 regarding any such petition for approval of an electric distribution grid transformation plan shall be entered  
 439 by the Commission not more than six months after the date of filing such petition. The Commission shall  
 440 likewise enter its final order with respect to any petition by a utility for a certificate to construct and  
 441 operate a generating facility or facilities utilizing energy derived from sunlight, pursuant to subsection D  
 442 of § 56-580, within six months after the date of filing such petition. The basis points to be added to the  
 443 utility's general rate of return to calculate the enhanced rate of return on common equity, and the first  
 444 portion of that facility's service life to which such enhanced rate of return shall be applied, shall vary by  
 445 type of facility, as specified in the following table:

a	Type of Generation Facility	Basis Points	First Portion of Service Life
b	Nuclear-powered	200	Between 12 and 25 years
c	Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
d	Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
e	Coalbed methane gas powered	150	Between 5 and 15 years
f	Landfill gas powered	200	Between 5 and 15 years
g	Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years

446 Only those facilities as to which a rate adjustment clause under this subdivision has been  
 447 previously approved by the Commission, or as to which a petition for approval of such rate adjustment

448 clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate  
449 of return on common equity as specified in the above table during the construction phase of the facility  
450 and the approved first portion of its service life.

451           Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between  
452 July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be  
453 deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time  
454 as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent  
455 of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall  
456 not be deferred for recovery through a rate adjustment clause under this subdivision; however, such  
457 remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by  
458 the Commission in the test periods under review in the utility's next review filed after July 1, 2014. Thirty  
459 percent of all costs of a facility utilizing energy derived from offshore wind that the utility incurred  
460 between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013,  
461 may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at  
462 such time as the Commission provides in an order approving such a rate adjustment clause. The remaining  
463 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31,  
464 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however,  
465 such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined  
466 by the Commission in the test periods under review in the utility's next review filed after July 1, 2014.

467           In connection with planning to meet forecasted demand for electric generation supply and assure  
468 the adequate and sufficient reliability of service, consistent with § 56-598, planning and development  
469 activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy  
470 derived from sunlight or from onshore or offshore wind are in the public interest.

471           Notwithstanding any provision of Chapter 296 of the Acts of Assembly of 2018, construction,  
472 purchasing, or leasing activities for a new utility-owned and utility-operated generating facility or facilities  
473 utilizing energy derived from sunlight or from onshore wind with an aggregate capacity of 16,100  
474 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an

475 aggregate capacity of 100 megawatts, together with a utility-owned and utility-operated generating facility  
476 or facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 3,000  
477 megawatts, are in the public interest. Additionally, energy storage facilities with an aggregate capacity of  
478 2,700 megawatts are in the public interest. To the extent that a utility elects to recover the costs of any  
479 such new generation or energy storage facility or facilities through its rates for generation and distribution  
480 services and does not petition and receive approval from the Commission for recovery of such costs  
481 through a rate adjustment clause described in clause (ii), the Commission shall, upon the request of the  
482 utility in a ~~triennial~~ review proceeding, provide for a customer credit reinvestment offset, as applicable,  
483 pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission  
484 in a proceeding pursuant to subsection D of § 56-580 or in a ~~triennial~~ review proceeding.

485 Electric distribution grid transformation projects are in the public interest. To the extent that a  
486 utility elects to recover the costs of such electric distribution grid transformation projects through its rates  
487 for generation and distribution services, and does not petition and receive approval from the Commission  
488 for recovery of such costs through a rate adjustment clause described in clause (vi), the Commission shall,  
489 upon the request of the utility in a ~~triennial~~ review proceeding, provide for a customer credit reinvestment  
490 offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent  
491 by the Commission in a proceeding for approval of a plan for electric distribution grid transformation  
492 projects pursuant to subdivision 6 or in a ~~triennial~~ review proceeding.

493 Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines  
494 nor new underground facilities shall receive an enhanced rate of return on common equity as described  
495 herein, but instead shall receive the utility's general rate of return during the construction phase of the  
496 facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new  
497 underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that are  
498 served within the large power service rate class for a Phase I Utility and the large general service rate  
499 classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary extensions or  
500 improvements in the usual course of business under the provisions of § 56-265.2.

501 As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the  
502 facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.2-1600,  
503 produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired  
504 by methane or other combustible gas produced by the anaerobic digestion or decomposition of  
505 biodegradable materials in a solid waste management facility licensed by the Waste Management Board.  
506 A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used in  
507 collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the  
508 solid waste management facility where it is collected to the generation facility where it is combusted.

509 For purposes of this subdivision, "general rate of return" means the fair combined rate of return on  
510 common equity as it is determined by the Commission for such utility pursuant to subdivision 2.

511 Notwithstanding any other provision of this subdivision, if the Commission finds during the  
512 triennial review conducted for a Phase II Utility in 2021 that such utility has not filed applications for all  
513 necessary federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled  
514 generation facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's  
515 generating resources as such resources existed on July 1, 2007, or that, if all such approvals have been  
516 received, that the utility has not made reasonable and good faith efforts to construct one or more such  
517 facilities that will provide such additional total capacity within a reasonable time after obtaining such  
518 approvals, then the Commission, if it finds it in the public interest, may reduce on a prospective basis any  
519 enhanced rate of return on common equity previously applied to any such facility to no less than the  
520 general rate of return for such utility and may apply no less than the utility's general rate of return to any  
521 such facility for which the utility seeks approval in the future under this subdivision.

522 Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from  
523 the Commission of a rate adjustment clause pursuant to subdivision 6 associated with a test or  
524 demonstration project involving a generation facility utilizing energy from offshore wind, and such utility  
525 has not, as of July 1, 2023, commenced construction as defined for federal income tax purposes of an  
526 offshore wind generation facility or facilities with a minimum aggregate capacity of 250 megawatts, then  
527 the Commission, if it finds it in the public interest, may direct that the costs associated with any such rate

528 adjustment clause involving said test or demonstration project shall thereafter no longer be recovered  
529 through a rate adjustment clause pursuant to subdivision 6 and shall instead be recovered through the  
530 utility's rates for generation and distribution services, with no change in such rates for generation and  
531 distribution services as a result of the combination of such costs with the other costs, revenues, and  
532 investments included in the utility's rates for generation and distribution services. Any such costs shall  
533 remain combined with the utility's other costs, revenues, and investments included in its rates for  
534 generation and distribution services until such costs are fully recovered.

535           7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on  
536 a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any  
537 costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the  
538 Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that  
539 are related to facilities and projects described in clause (i) of subdivision 6, or that are related to new  
540 underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records  
541 of the utility until the Commission's final order in the matter, or until the implementation of any applicable  
542 approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any  
543 costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during  
544 the consideration thereof by the Commission, that are proposed for recovery in such petition and that are  
545 related to facilities and projects described in clause (ii) or clause (iii) of subdivision 6 that utilize nuclear  
546 power, or coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled  
547 facilities will be built by a Phase I Utility, shall be deferred on the books and records of the utility until  
548 the Commission's final order in the matter, or until the implementation of any applicable approved rate  
549 adjustment clauses, whichever is later. Any costs prudently incurred after the expiration or termination of  
550 capped rates related to other matters described in subdivision 4, 5, or 6 shall be deferred beginning only  
551 upon the expiration or termination of capped rates, provided, however, that no provision of this act shall  
552 affect the rights of any parties with respect to the rulings of the Federal Energy Regulatory Commission  
553 in PJM Interconnection LLC and Virginia Electric and Power Company, 109 F.E.R.C. P 61,012 (2004).  
554 A utility shall establish a regulatory asset for regulatory accounting and ratemaking purposes under which

555 it shall defer its operation and maintenance costs incurred in connection with (i) the refueling of any  
556 nuclear-powered generating plant and (ii) other work at such plant normally performed during a refueling  
557 outage. The utility shall amortize such deferred costs over the refueling cycle, but in no case more than 18  
558 months, beginning with the month in which such plant resumes operation after such refueling. The  
559 refueling cycle shall be the applicable period of time between planned refueling outages for such plant.  
560 As of January 1, 2014, such amortized costs are a component of base rates, recoverable in base rates only  
561 ratably over the refueling cycle rather than when such outages occur, and are the only nuclear refueling  
562 costs recoverable in base rates. This provision shall apply to any nuclear-powered generating plant  
563 refueling outage commencing after December 31, 2013, and the Commission shall treat the deferred and  
564 amortized costs of such regulatory asset as part of the utility's costs for the purpose of proceedings  
565 conducted (a) with respect to ~~triennial~~ filings under subdivision 3 made on and after July 1, 2014, and (b)  
566 pursuant to § 56-245 or the Commission's rules governing utility rate increase applications as provided in  
567 subsection B. This provision shall not be deemed to change or reset base rates.

568         The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall  
569 be entered not more than three months, eight months, and nine months, respectively, after the date of filing  
570 of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment  
571 clause be applied to customers' bills not more than 60 days after the date of the order, or upon the  
572 expiration or termination of capped rates, whichever is later.

573         8. In any ~~triennial~~ review proceeding, for the purposes of reviewing earnings on the utility's rates  
574 for generation and distribution services, the following utility generation and distribution costs not  
575 proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility  
576 for financial reporting purposes and accrued against income, shall be attributed to the test periods under  
577 review and deemed fully recovered in the period recorded: costs associated with asset impairments related  
578 to early retirement determinations made by the utility for utility generation facilities fueled by coal, natural  
579 gas, or oil or for automated meter reading electric distribution service meters; costs associated with  
580 projects necessary to comply with state or federal environmental laws, regulations, or judicial or  
581 administrative orders relating to coal combustion by-product management that the utility does not petition

582 to recover through a rate adjustment clause pursuant to subdivision 5 e; costs associated with severe  
583 weather events; and costs associated with natural disasters. Such costs shall be deemed to have been  
584 recovered from customers through rates for generation and distribution services in effect during the test  
585 periods under review unless such costs, individually or in the aggregate, together with the utility's other  
586 costs, revenues, and investments to be recovered through rates for generation and distribution services,  
587 result in the utility's earned return on its generation and distribution services for the combined test periods  
588 under review to fall more than 50 basis points below the fair combined rate of return authorized under  
589 subdivision 2 for such periods or, for any test period commencing after December 31, 2012, for a Phase  
590 II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the  
591 fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the  
592 Commission shall, in such ~~triennial~~ review proceeding, authorize deferred recovery of such costs and  
593 allow the utility to amortize and recover such deferred costs over future periods as determined by the  
594 Commission. The aggregate amount of such deferred costs shall not exceed an amount that would, together  
595 with the utility's other costs, revenues, and investments to be recovered through rates for generation and  
596 distribution services, cause the utility's earned return on its generation and distribution services to exceed  
597 the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods  
598 under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after  
599 December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2  
600 less 70 basis points. Nothing in this section shall limit the Commission's authority, pursuant to the  
601 provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of  
602 combined test period earnings of the utility in a ~~triennial~~ review, for normalization of nonrecurring test  
603 period costs and annualized adjustments for future costs, in determining any appropriate increase or  
604 decrease in the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

605 If the Commission determines as a result of such ~~triennial~~ any review that:

606 a. Revenue reductions related to energy efficiency measures or programs approved and deployed  
607 since the utility's previous ~~triennial~~ review have caused the utility, as verified by the Commission, during  
608 the test period or periods under review, considered as a whole, to earn more than 50 basis points below a

609 fair combined rate of return on its generation and distribution services or, for any test period commencing  
610 after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more  
611 than 70 basis points below a fair combined rate of return on its generation and distribution services, as  
612 determined in subdivision 2, without regard to any return on common equity or other matters determined  
613 with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's  
614 rates for generation and distribution services necessary to recover such revenue reductions. If the  
615 Commission finds, for reasons other than revenue reductions related to energy efficiency measures, that  
616 the utility has, during the test period or periods under review, considered as a whole, earned more than 50  
617 basis points below a fair combined rate of return on its generation and distribution services or, for any test  
618 period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a  
619 Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and  
620 distribution services, as determined in subdivision 2, without regard to any return on common equity or  
621 other matters determined with respect to facilities described in subdivision 6, the Commission shall order  
622 increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing  
623 the utility's services and to earn not less than such fair combined rate of return, using the most recently  
624 ended 12-month test period as the basis for determining the amount of the rate increase necessary.  
625 However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility,  
626 the Commission may not order a rate increase, and in all ~~triennial~~ reviews of a Phase I or Phase II utility,  
627 the Commission may not order such rate increase unless it finds that the resulting rates are necessary to  
628 provide the utility with the opportunity to fully recover its costs of providing its services and to earn not  
629 less than a fair combined rate of return on both its generation and distribution services, as determined in  
630 subdivision 2, without regard to any return on common equity or other matters determined with respect to  
631 facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for  
632 determining the permissibility of any rate increase under the standards of this sentence, and the amount  
633 thereof; and provided that, solely in connection with making its determination concerning the necessity  
634 for such a rate increase or the amount thereof, the Commission shall, in any ~~triennial~~ review proceeding



635 conducted prior to July 1, 2028, exclude from this most recently ended 12-month test period any remaining  
636 investment levels associated with a prior customer credit reinvestment offset pursuant to subdivision d.

637           b. The utility has, during the test period or test periods under review, considered as a whole, earned  
638 more than 50 basis points above a fair combined rate of return on its generation and distribution services  
639 or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December  
640 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its  
641 generation and distribution services, as determined in subdivision 2, without regard to any return on  
642 common equity or other matters determined with respect to facilities described in subdivision 6, the  
643 Commission shall, subject to the provisions of subdivisions 8 d and 9, direct that 60 percent of the amount  
644 of such earnings that were more than 50 basis points, or, for any test period commencing after December  
645 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the  
646 amount of such earnings that were more than 70 basis points, above such fair combined rate of return for  
647 the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any  
648 such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the  
649 Commission, following the effective date of the Commission's order, and shall be allocated among  
650 customer classes such that the relationship between the specific customer class rates of return to the overall  
651 target rate of return will have the same relationship as the last approved allocation of revenues used to  
652 design base rates; or

653           c. ~~In any triennial review proceeding conducted after January 1, 2020, for a Phase I Utility or after~~  
654 ~~January 1, 2021, for a Phase II Utility in which the~~ The utility has, during the test period or test periods  
655 under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return  
656 on its generation and distribution services or, for any test period commencing after December 31, 2012,  
657 for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above  
658 a fair combined rate of return on its generation and distribution services, as determined in subdivision 2,  
659 without regard to any return on common equity or other matter determined with respect to facilities  
660 described in subdivision 6, and the combined aggregate level of capital investment that the Commission  
661 has approved other than those capital investments that the Commission has approved for recovery pursuant

662 to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test periods under  
663 review in that ~~triennial~~ review proceeding in new utility-owned generation facilities utilizing energy  
664 derived from sunlight, or from wind, and in electric distribution grid transformation projects, as  
665 determined pursuant to subdivision 8 d, does not equal or exceed 100 percent of the earnings that are more  
666 than 70 basis points above the utility's fair combined rate of return on its generation and distribution  
667 services for the combined test periods under review in that ~~triennial~~ review proceeding, the Commission  
668 shall, subject to the provisions of subdivision 9 and in addition to the actions authorized in subdivision b,  
669 also order reductions to the utility's rates it finds appropriate. However, in the first triennial review  
670 proceeding conducted after January 1, 2021, for a Phase II Utility, any reduction to the utility's rates  
671 ordered by the Commission pursuant to this subdivision shall not exceed \$50 million in annual revenues,  
672 with any reduction allocated to the utility's rates for generation services, and in each ~~triennial~~ review of a  
673 Phase I or Phase II Utility, the Commission may not order such rate reduction unless it finds that the  
674 resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services  
675 and to earn not less than a fair combined rate of return on its generation and distribution services, as  
676 determined in subdivision 2, without regard to any return on common equity or other matters determined  
677 with respect to facilities described in subdivision 6, using the most recently ended 12-month test period  
678 as the basis for determining the permissibility of any rate reduction under the standards of this sentence,  
679 and the amount thereof; and

680 d. (Expires July 1, 2028) In any ~~triennial~~ review proceeding conducted after December 31, 2017,  
681 upon the request of the utility, the Commission shall determine, prior to directing that 70 percent of  
682 earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation  
683 and distribution services for the test period or periods under review be credited to customer bills pursuant  
684 to subdivision 8 b, the aggregate level of prior capital investment that the Commission has approved other  
685 than those capital investments that the Commission has approved for recovery pursuant to a rate  
686 adjustment clause pursuant to subdivision 6 made by the utility during the test period or periods under  
687 review in both (i) new utility-owned generation facilities utilizing energy derived from sunlight, or from  
688 onshore or offshore wind, and (ii) electric distribution grid transformation projects, as determined by the

689 utility's plant in service and construction work in progress balances related to such investments as recorded  
690 per books by the utility for financial reporting purposes as of the end of the most recent test period under  
691 review. Any such combined capital investment amounts shall offset any customer bill credit amounts, on  
692 a dollar for dollar basis, up to the aggregate level of invested or committed capital under clauses (i) and  
693 (ii). The aggregate level of qualifying invested or committed capital under clauses (i) and (ii) is referred  
694 to in this subdivision as the customer credit reinvestment offset, which offsets the customer bill credit  
695 amount that the utility has invested or will invest in new solar or wind generation facilities or electric  
696 distribution grid transformation projects for the benefit of customers, in amounts up to 100 percent of  
697 earnings that are more than 70 basis points above the utility's fair rate of return on its generation and  
698 distribution services, and thereby reduce or eliminate otherwise incremental rate adjustment clause  
699 charges and increases to customer bills, which is deemed to be in the public interest. If 100 percent of the  
700 amount of earnings that are more than 70 basis points above the utility's fair combined rate of return on  
701 its generation and distribution services, as determined in subdivision 2, exceeds the aggregate level of  
702 invested capital in new utility-owned generation facilities utilizing energy derived from sunlight, or from  
703 wind, and electric distribution grid transformation projects, as provided in clauses (i) and (ii), during the  
704 test period or periods under review, then 70 percent of the amount of such excess shall be credited to  
705 customer bills as provided in subdivision 8 b in connection with the ~~triennial~~ review proceeding. The  
706 portion of any costs associated with new utility-owned generation facilities utilizing energy derived from  
707 sunlight, or from wind, or electric distribution grid transformation projects that is the subject of any  
708 customer credit reinvestment offset pursuant to this subdivision shall not thereafter be recovered through  
709 the utility's rates for generation and distribution services over the service life of such facilities and shall  
710 not thereafter be included in the utility's costs, revenues, and investments in future ~~triennial~~  
711 proceedings conducted pursuant to subdivision 2 and shall not be the subject of a rate adjustment clause  
712 petition pursuant to subdivision 6. The portion of any costs associated with new utility-owned generation  
713 facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation  
714 projects that is not the subject of any customer credit reinvestment offset pursuant to this subdivision may  
715 be recovered through the utility's rates for generation and distribution services over the service life of such

716 facilities and shall be included in the utility's costs, revenues, and investments in future ~~triennial~~ review  
717 proceedings conducted pursuant to subdivision 2 until such costs are fully recovered, and if such costs are  
718 recovered through the utility's rates for generation and distribution services, they shall not be the subject  
719 of a rate adjustment clause petition pursuant to subdivision 6. Only the portion of such costs of new utility-  
720 owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution  
721 grid transformation projects that has not been included in any customer credit reinvestment offset pursuant  
722 to this subdivision, and not otherwise recovered through the utility's rates for generation and distribution  
723 services, may be the subject of a rate adjustment clause petition by the utility pursuant to subdivision 6.

724 The Commission's final order regarding such ~~triennial~~ review shall be entered not more than eight  
725 months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more  
726 than 60 days after the date of the order. The fair combined rate of return on common equity determined  
727 pursuant to subdivision 2 in such ~~triennial~~ review shall apply, for purposes of reviewing the utility's  
728 earnings on its rates for generation and distribution services, to the entire two or three, as applicable,  
729 successive 12-month test periods ending December 31 immediately preceding the year of the utility's  
730 subsequent ~~triennial~~ review filing under subdivision 3 and shall apply to applicable rate adjustment clauses  
731 under subdivisions 5 and 6 prospectively from the date the Commission's final order in the ~~triennial~~ review  
732 proceeding, utilizing rate adjustment clause true-up protocols as the Commission in its discretion may  
733 determine.

734 9. If, as a result of a ~~triennial~~ review required under this subsection and conducted with respect to  
735 any test period or periods under review ending later than December 31, 2010 (or, if the Commission has  
736 elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later  
737 than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the  
738 Commission finds, with respect to such test period or periods considered as a whole, that (i) any utility  
739 has, during the test period or periods under review, considered as a whole, earned more than 50 basis  
740 points above a fair combined rate of return on its generation and distribution services or, for any test period  
741 commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I  
742 Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution

743 services, as determined in subdivision 2, without regard to any return on common equity or other matters  
744 determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates  
745 of such utility at the end of the most recently ended 12-month test period exceeded the annual increases  
746 in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as  
747 published by the Bureau of Labor Statistics of the United States Department of Labor, compounded  
748 annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to  
749 the review conducted for the base period, the Commission shall, unless it finds that such action is not in  
750 the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public  
751 interest, direct that any or all earnings for such test period or periods under review, considered as a whole  
752 that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a  
753 Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such  
754 fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions  
755 8 b and c, provided that no credits shall be provided pursuant to this subdivision in connection with any  
756 ~~triennial~~ review unless such bill credits would be payable pursuant to the provisions of subdivision 8 d,  
757 and any credits under this subdivision shall be calculated net of any customer credit reinvestment offset  
758 amounts under subdivision 8 d. Any such credits shall be amortized and allocated among customer classes  
759 in the manner provided by subdivision 8 b. For purposes of this subdivision:

760 "Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has  
761 elected to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending  
762 December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most  
763 recent test period with respect to which credits have been applied to customers' bills under the provisions  
764 of this subdivision, whichever is later.

765 "Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6,  
766 except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December  
767 31, 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses  
768 implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8  
769 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase

770 applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of  
771 July 1, 2009.

772 10. For purposes of this section, the Commission shall regulate the rates, terms and conditions of  
773 any utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital  
774 structure and cost of capital of such utility, excluding any debt associated with securitized bonds that are  
775 the obligation of non-Virginia jurisdictional customers, unless the Commission finds that the debt to equity  
776 ratio of such capital structure is unreasonable for such utility, in which case the Commission may utilize  
777 a debt to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment  
778 pursuant to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues,  
779 expenses or investments of any other entity with which such utility may be affiliated. In particular, and  
780 without limitation, the Commission shall determine the federal and state income tax costs for any such  
781 utility that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state  
782 income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed  
783 a consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated  
784 according to the applicable federal income tax rate and shall exclude any consolidated tax liability or  
785 benefit adjustments originating from any taxable income or loss of its affiliates.

786 B. Nothing in this section shall preclude an investor-owned incumbent electric utility from  
787 applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate  
788 increase applications; however, in any such filing, a fair rate of return on common equity shall be  
789 determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of  
790 fuel and purchased power costs as provided in § 56-249.6.

791 C. Except as otherwise provided in this section, the Commission shall exercise authority over the  
792 rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation,  
793 transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions  
794 of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

795 D. The Commission may determine, during any proceeding authorized or required by this section,  
796 the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection

797 with the subject of the proceeding. A determination of the Commission regarding the reasonableness or  
798 prudence of any such cost shall be consistent with the Commission's authority to determine the  
799 reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et  
800 seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its  
801 customers from renewable energy resources, the Commission shall consider the extent to which such  
802 renewable energy resources, whether utility-owned or by contract, further the objectives of the  
803 Commonwealth Clean Energy Policy set forth in § 45.2-1706.1, and shall also consider whether the costs  
804 of such resources is likely to result in unreasonable increases in rates paid by customers.

805 E. Notwithstanding any other provision of law, the Commission shall determine the amortization  
806 period for recovery of any appropriate costs due to the early retirement of any electric generation facilities  
807 owned or operated by any Phase I Utility or Phase II Utility. In making such determination, the  
808 Commission shall (i) perform an independent analysis of the remaining undepreciated capital costs; (ii)  
809 establish a recovery period that best serves ratepayers; and (iii) allow for the recovery of any carrying  
810 costs that the Commission deems appropriate.

811 F. Except for early retirement determinations identified by the utility in an integrated resource plan  
812 filed with the Commission pursuant to § 56-599 by July 1, 2023, an investor-owned incumbent electric  
813 utility shall not permanently retire an electric power generation facility from service after July 1, 2023,  
814 without first obtaining the approval of the Commission, upon petition from such investor-owned  
815 incumbent electric utility, and a finding by the Commission that the retirement determination, after  
816 consideration of the impact of the proposed retirement on reliability or security of electric service to  
817 customers, is reasonable and prudent. The Commission shall include in its report required by subsection  
818 B of § 56-596 any information concerning the impacts of generation unit retirement determinations by a  
819 Phase I or Phase II Utility, utilizing information from the respective utility's integrated resource plan.

820 G. The Commission shall promulgate such rules and regulations as may be necessary to implement  
821 the provisions of this section.

822 **§ 56-585.1:4. Development of solar and wind generation and energy storage capacity in the**  
823 **Commonwealth.**

824 A. Prior to January 1, 2024, (i) the construction or purchase by a public utility of one or more solar  
825 or wind generation facilities located in the Commonwealth or off the Commonwealth's Atlantic shoreline,  
826 each having a rated capacity of at least one megawatt and having in the aggregate a rated capacity that  
827 does not exceed 5,000 megawatts, or (ii) the purchase by a public utility of energy, capacity, and  
828 environmental attributes from solar facilities described in clause (i) owned by persons other than a public  
829 utility is in the public interest, and the Commission shall so find if required to make a finding regarding  
830 whether such construction or purchase is in the public interest.

831 B. Prior to January 1, 2024, (i) the construction or purchase by a public utility of one or more solar  
832 or wind generation facilities located in the Commonwealth or off the Commonwealth's Atlantic shoreline,  
833 each having a rated capacity of less than one megawatt, including rooftop solar installations with a  
834 capacity of not less than 50 kilowatts, and having in the aggregate a rated capacity that does not exceed  
835 500 megawatts, or (ii) the purchase by a public utility of energy, capacity, and environmental attributes  
836 from solar facilities described in clause (i) owned by persons other than a public utility is in the public  
837 interest, and the Commission shall so find if required to make a finding regarding whether such  
838 construction or purchase is in the public interest.

839 C. The aggregate cap of 5,000 megawatts of rated capacity described in clause (i) of subsection A,  
840 the aggregate cap of 500 megawatts of rated capacity described in clause (i) of subsection B, and the  
841 aggregate cap of 200 megawatts of rated capacity described in subsection I are separate and independent  
842 from each other. The capacity of facilities in subsection B shall not be counted in determining the capacity  
843 of facilities in subsection A or I; the capacity of facilities in subsection A shall not be counted in  
844 determining the capacity of facilities in subsection B or I; and the capacity of facilities in subsection I  
845 shall not be counted in determining the capacity of facilities in subsection A or B.

846 D. Twenty-five percent of the solar generation capacity placed in service on or after July 1, 2018,  
847 located in the Commonwealth, and found to be in the public interest pursuant to subsection A or B shall  
848 be from the purchase by a public utility of energy, capacity, and environmental attributes from solar  
849 facilities owned by persons other than a public utility. The remainder shall be construction or purchase by  
850 a public utility of one or more solar generation facilities located in the Commonwealth. All of the solar



851 generation capacity located in the Commonwealth and found to be in the public interest pursuant to  
852 subsection A or B shall be subject to competitive procurement, provided that a public utility may select  
853 solar generation capacity without regard to whether such selection satisfies price criteria if the selection  
854 of the solar generating capacity materially advances non-price criteria, including favoring geographic  
855 distribution of generating capacity, areas of higher employment, or regional economic development, if  
856 such non-price solar generating capacity selected does not exceed 25 percent of the utility's solar  
857 generating capacity.

858 E. Construction, purchasing, or leasing activities for a test or demonstration project for a new  
859 utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore  
860 wind with an aggregate capacity of not more than 16 megawatts are in the public interest.

861 F. Prior to January 1, 2035, (i) the construction by a public utility of one or more energy storage  
862 facilities located in the Commonwealth, having in the aggregate a rated capacity that does not exceed  
863 2,700 megawatts, or (ii) the purchase by a public utility of energy storage facilities described in clause (i)  
864 owned by persons other than a public utility or the capacity from such facilities is in the public interest,  
865 and the Commission shall so find if required to make a finding regarding whether such construction or  
866 purchase is in the public interest.

867 G. At least 35 percent of the energy storage capacity placed in service on or after July 1, 2020,  
868 located in the Commonwealth and found to be in the public interest pursuant to subsection F shall be from  
869 the purchase by a public utility of energy storage facilities owned by persons other than a public utility or  
870 the capacity from such facilities. All of the energy storage facilities located in the Commonwealth and  
871 found to be in the public interest pursuant to subsection F shall be subject to competitive procurement,  
872 provided that a public utility may select energy storage facilities without regard to whether such selection  
873 satisfies price criteria if the selection of the energy storage facilities materially advances non-price criteria,  
874 including favoring geographic distribution of generating facilities, areas of higher employment, or  
875 regional economic development, if such energy storage facilities selected for the advancement of non-  
876 price criteria do not exceed 25 percent of the utility's energy storage capacity.

877 H. A utility may elect to petition the Commission, outside of a ~~triennial~~ review proceeding  
878 conducted pursuant to § 56-585.1, at any time for a prudency determination with respect to the  
879 construction or purchase by the utility of one or more solar or wind generation facilities located in the  
880 Commonwealth or off the Commonwealth's Atlantic Shoreline or the purchase by the utility of energy,  
881 capacity, and environmental attributes from solar or wind facilities owned by persons other than the utility.  
882 The Commission's final order regarding any such petition shall be entered by the Commission not more  
883 than three months after the date of the filing of such petition.

884 I. Prior to January 1, 2024, (i) the construction or purchase by a public utility of one or more solar  
885 or wind generation facilities located on a previously developed project site in the Commonwealth having  
886 in the aggregate a rated capacity that does not exceed 200 megawatts or (ii) the purchase by a public utility  
887 of energy, capacity, and environmental attributes from solar facilities described in clause (i) owned by  
888 persons other than a public utility, is in the public interest.

889 **§ 56-599. Integrated resource plan required.**

890 A. Each electric utility shall file an updated integrated resource plan by July 1, 2015. Thereafter,  
891 each electric utility shall file an updated integrated resource plan by May 1, in each year immediately  
892 preceding the year the utility is subject to a ~~triennial~~ review filing. A copy of each integrated resource plan  
893 shall be provided to the Chairman of the House Committee on Labor and Commerce, the Chairman of the  
894 Senate Committee on Commerce and Labor, and to the Chairman of the Commission on Electric Utility  
895 Regulation. All updated integrated resource plans shall comply with the provisions of any relevant order  
896 of the Commission establishing guidelines for the format and contents of updated and revised integrated  
897 resource plans. Each integrated resource plan shall consider options for maintaining and enhancing rate  
898 stability, energy independence, economic development including retention and expansion of energy-  
899 intensive industries, and service reliability.

900 B. In preparing an integrated resource plan, each electric utility shall systematically evaluate and  
901 may propose:

- 902 1. Entering into short-term and long-term electric power purchase contracts;
- 903 2. Owning and operating electric power generation facilities;

- 904 3. Building new generation facilities;
  - 905 4. Relying on purchases from the short term or spot markets;
  - 906 5. Making investments in demand-side resources, including energy efficiency and demand-side  
907 management services;
  - 908 6. Taking such other actions, as the Commission may approve, to diversify its generation supply  
909 portfolio and ensure that the electric utility is able to implement an approved plan;
  - 910 7. The methods by which the electric utility proposes to acquire the supply and demand resources  
911 identified in its proposed integrated resource plan;
  - 912 8. The effect of current and pending state and federal environmental regulations upon the continued  
913 operation of existing electric generation facilities or options for construction of new electric generation  
914 facilities;
  - 915 9. The most cost effective means of complying with current and pending state and federal  
916 environmental regulations, including compliance options to minimize effects on customer rates of such  
917 regulations;
  - 918 10. Long-term electric distribution grid planning and proposed electric distribution grid  
919 transformation projects;
  - 920 11. Developing a long-term plan for energy efficiency measures to accomplish policy goals of  
921 reduction in customer bills, particularly for low-income, elderly, and disabled customers; reduction in  
922 emissions; and reduction in carbon intensity; and
  - 923 12. Developing a long-term plan to integrate new energy storage facilities into existing generation  
924 and distribution assets to assist with grid transformation.
- 925 C. As part of preparing any integrated resource plan pursuant to this section, each utility shall  
926 conduct a facility retirement study for owned facilities located in the Commonwealth that emit carbon  
927 dioxide as a byproduct of combusting fuel and shall include the study results in its integrated resource  
928 plan. Upon filing the integrated resource plan with the Commission, the utility shall contemporaneously  
929 disclose the study results to each planning district commission, county board of supervisors, and city and  
930 town council where such electric generation unit is located, the Department of Energy, the Department of

**931** Housing and Community Development, the Virginia Employment Commission, and the Virginia Council  
**932** on Environmental Justice. The disclosure shall include (i) the driving factors of the decision to retire and  
**933** (ii) the anticipated retirement year of any electric generation unit included in the plan. Any electric  
**934** generating facility with an anticipated retirement date that meets the criteria of § 45.2-1701.1 shall comply  
**935** with the public disclosure requirements therein.

**936** D. The Commission shall analyze and review an integrated resource plan and, after giving notice  
**937** and opportunity to be heard, the Commission shall make a determination within nine months after the date  
**938** of filing as to whether such an integrated resource plan is reasonable and is in the public interest.

**939** #  
**940**