

HOUSE BILL NO. 117

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Labor and Commerce

on _____)

(Patron Prior to Substitute--Delegate Sullivan)

A BILL to amend and reenact §§ 56-585.1 and 56-594 of the Code of Virginia, relating to net energy metering; solar interconnection; cost recovery.

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-585.1 and 56-594 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 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate

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

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

54 II Utility in 2021, utilizing the four successive 12-month test periods beginning January 1, 2017, and
55 ending December 31, 2020, with subsequent reviews on a biennial basis commencing in 2023, with such
56 proceedings utilizing the two successive 12-month test periods ending December 31 immediately
57 preceding the year in which such review proceeding is conducted. For purposes of this section, a Phase I
58 Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate
59 case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and
60 a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

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

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

74 b. For a Phase I Utility, in selecting such majority of peer group investor-owned electric utilities
75 for applications received by the Commission on or after January 1, 2020, the Commission shall first
76 remove from such group the two utilities within such group that have the lowest reported or authorized,
77 as applicable, returns of the group, as well as the two utilities within such group that have the highest
78 reported or authorized, as applicable, returns of the group, and the Commission shall then select a majority
79 of the utilities remaining in such peer group. In its final order regarding such triennial review, the
80 Commission shall identify the utilities in such peer group it selected for the calculation of such limitation.

81 With respect to a Phase I Utility, for purposes of this subdivision 2, an investor-owned electric utility shall
82 be deemed part of such peer group if (i) its principal operations are conducted in the southeastern United
83 States east of the Mississippi River in either the states of West Virginia or Kentucky or in those states
84 south of Virginia, excluding the state of Tennessee, (ii) it is a vertically-integrated electric utility providing
85 generation, transmission, and distribution services whose facilities and operations are subject to state
86 public utility regulation in the state where its principal operations are conducted, (iii) it had a long-term
87 bond rating assigned by Moody's Investors Service of at least Baa at the end of the most recent test period
88 subject to such review, and (iv) it is not an affiliate of the utility subject to such review or a utility whose
89 fair rate of return on common equity is determined by the Commission.

90 c. The Commission may increase or decrease the utility's combined rate of return for generation
91 and distribution services by up to 50 basis points based on factors that may include reliability, generating
92 plant performance, customer service, and operating efficiency of a utility. Any such adjustment to the
93 combined rate of return for generation and distribution services shall include consideration of nationally
94 recognized standards determined by the Commission to be appropriate for such purposes.

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

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

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

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

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

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

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

131 g. If the combined rate of return on common equity earned by the generation and distribution
132 services is no more than 50 basis points above or below the return as so determined or, for any test period
133 commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I
134 Utility, such return is no more than 70 basis points above or below the return as so determined, such

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

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

146 3. Each such utility shall make a triennial filing by March 31 of every third year, with such filings
147 commencing for a Phase I Utility in 2020, and such filings commencing for a Phase II Utility in 2021 and
148 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 10, 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 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 review proceedings.

168 As of July 1, 2023, a Phase II Utility shall select a subset of rate adjustment clauses previously
169 implemented pursuant to subdivision 5 or 6 having a combined annual revenue requirement, as of July 1,
170 2023, of at least \$350 million and combine such rate adjustment clauses with the utility's costs, revenues,
171 and investments for generation and distribution services. After such rate adjustment clauses are combined
172 as specified in this paragraph, such rate adjustment clauses shall be considered part of the utility's costs,
173 revenues, and investments for the purposes of future biennial review proceedings, and the combination of
174 such rate adjustment clauses shall be specifically subject to audit by the Commission in the utility's 2023
175 biennial review filing. Notwithstanding the provisions of subsection C of § 56-581, such combination
176 shall not serve as the basis for an increase in a Phase II Utility's rates for generation and distribution
177 services in its 2023 biennial proceeding.

178 4. The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for
179 transmission services provided to the utility by the regional transmission entity of which the utility is a
180 member, as determined under applicable rates, terms and conditions approved by the Federal Energy
181 Regulatory Commission; (ii) costs charged to the utility that are associated with demand response
182 programs approved by the Federal Energy Regulatory Commission and administered by the regional
183 transmission entity of which the utility is a member; and (iii) costs incurred by the utility to construct,
184 operate, and maintain transmission lines and substations installed in order to provide service to a business
185 park. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more
186 than once in any 12-month period, the Commission shall approve a rate adjustment clause under which
187 such costs, including, without limitation, costs for transmission service; charges for new and existing
188 transmission facilities, including costs incurred by the utility to construct, operate, and maintain

189 transmission lines and substations installed in order to provide service to a business park; administrative
190 charges; and ancillary service charges designed to recover transmission costs, shall be recovered on a
191 timely and current basis from customers. Retail rates to recover these costs shall be designed using the
192 appropriate billing determinants in the retail rate schedules.

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

196 a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1,
197 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such
198 costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582.
199 The Commission shall approve such a petition allowing the recovery of such costs that comply with the
200 requirements of clause (vi) of subsection B of § 56-582;

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

205 c. Projected and actual costs for the utility to design, implement, and operate energy efficiency
206 programs or pilot programs. Any such petition shall include a proposed budget for the design,
207 implementation, and operation of the energy efficiency program, including anticipated savings from and
208 spending on each program, and the Commission shall grant a final order on such petitions within eight
209 months of initial filing. The Commission shall only approve such a petition if it finds that the program is
210 in the public interest. If the Commission determines that an energy efficiency program or portfolio of
211 programs is not in the public interest, its final order shall include all work product and analysis conducted
212 by the Commission's staff in relation to that program that has bearing upon the Commission's
213 determination. Such order shall adhere to existing protocols for extraordinarily sensitive information.

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

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

235 The Commission shall annually monitor and report to the General Assembly the performance of
236 all programs approved pursuant to this subdivision, including each utility's compliance with the total
237 annual savings required by § 56-596.2, as well as the annual and lifecycle net and gross energy and
238 capacity savings, related emissions reductions, and other quantifiable benefits of each program; total
239 customer bill savings that the programs produce; utility spending on each program, including any
240 associated administrative costs; and each utility's avoided costs and cost-effectiveness results.

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

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

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

266 The notice of nonparticipation by a large general service customer shall be for the duration of the
267 service life of the customer's energy efficiency measures. The Commission may on its own motion initiate

268 steps necessary to verify such nonparticipant's achievement of energy efficiency if the Commission has a
269 body of evidence that the nonparticipant has knowingly misrepresented its energy efficiency achievement.

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

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

280 e. Projected and actual costs of projects that the Commission finds to be necessary to mitigate
281 impacts to marine life caused by construction of offshore wind generating facilities, as described in § 56-
282 585.1:11, or to comply with state or federal environmental laws or regulations applicable to generation
283 facilities used to serve the utility's native load obligations, including the costs of allowances purchased
284 through a market-based trading program for carbon dioxide emissions. The Commission shall approve
285 such a petition if it finds that such costs are necessary to comply with such environmental laws or
286 regulations;

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

293 g. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate
294 programs approved by the Commission to provide incentives to (i) low-income, elderly, and disabled

295 individuals or (ii) organizations providing residential services to low-income, elderly, and disabled
296 individuals for the installation of, or access to, equipment to generate electric energy derived from
297 sunlight, provided the low-income, elderly, and disabled individuals, or organizations providing
298 residential services to low-income, elderly, and disabled individuals, first participate in incentive programs
299 for the installation of measures that reduce heating or cooling costs.

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

304 6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet
305 the utility's projected native load obligations and to promote economic development, a utility may at any
306 time, after the expiration or termination of capped rates, petition the Commission for approval of a rate
307 adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a coal-
308 fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the
309 Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or
310 without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major
311 unit modifications of generation facilities, including the costs of any system or equipment upgrade, system
312 or equipment replacement, or other cost reasonably appropriate to extend the combined operating license
313 for or the operating life of one or more generation facilities utilizing nuclear power, (iv) one or more new
314 underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or
315 less located within the Commonwealth, (v) one or more pumped hydroelectricity generation and storage
316 facilities that utilize on-site or off-site renewable energy resources as all or a portion of their power source
317 and such facilities and associated resources are located in the coalfield region of the Commonwealth as
318 described in § 15.2-6002, regardless of whether such facility is located within or without the utility's
319 service territory, or (vi) one or more electric distribution grid transformation projects; however, subject to
320 the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often
321 than annually and, in such petition, shall not seek any annual incremental increase in the level of

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

349 A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt
350 of generating capacity using energy derived from sunlight and located in the Commonwealth and that
351 utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may propose
352 a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A
353 utility seeking approval to construct or purchase a generating facility that emits carbon dioxide shall
354 demonstrate that it has already met the energy savings goals identified in § 56-596.2 and that the identified
355 need cannot be met more affordably through the deployment or utilization of demand-side resources or
356 energy storage resources and that it has considered and weighed alternative options, including third-party
357 market alternatives, in its selection process.

358 The costs of the facility, other than return on projected construction work in progress and
359 allowance for funds used during construction, shall not be recovered prior to the date a facility constructed
360 by the utility and described in clause (i), (ii), (iii), or (v) begins commercial operation, the date the utility
361 becomes the owner of a purchased generation facility consisting of at least one megawatt of generating
362 capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or
363 services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground
364 facilities are classified by the utility as plant in service. In any application to construct a new generating
365 facility, the utility shall include, and the Commission shall consider, the social cost of carbon, as
366 determined by the Commission, as a benefit or cost, whichever is appropriate. The Commission shall
367 ensure that the development of new, or expansion of existing, energy resources or facilities does not have
368 a disproportionate adverse impact on historically economically disadvantaged communities. The
369 Commission may adopt any rules it deems necessary to determine the social cost of carbon and shall use
370 the best available science and technology, including the Technical Support Document: Technical Update
371 of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866, published by
372 the Interagency Working Group on Social Cost of Greenhouse Gases from the United States Government
373 in August 2016, as guidance. The Commission shall include a system to adjust the costs established in this
374 section with inflation.

375 Such enhanced rate of return on common equity shall be applied to allowance for funds used during
376 construction and to construction work in progress during the construction phase of the facility and shall
377 thereafter be applied to the entire facility during the first portion of the service life of the facility. The first
378 portion of the service life shall be as specified in the table below; however, the Commission shall
379 determine the duration of the first portion of the service life of any facility, within the range specified in
380 the table below, which determination shall be consistent with the public interest and shall reflect the
381 Commission's determinations regarding how critical the facility may be in meeting the energy needs of
382 the citizens of the Commonwealth and the risks involved in the development of the facility. After the first
383 portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to
384 such facility for the remainder of its service life. As used herein, the service life of the facility shall be
385 deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), (iii), or (v)
386 begins commercial operation, the date the utility becomes the owner of a purchased generation facility
387 consisting of at least one megawatt of generating capacity using energy derived from sunlight and located
388 in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more
389 Virginia businesses, or the date new underground facilities or new electric distribution grid transformation
390 projects are classified by the utility as plant in service, and such service life shall be deemed equal in years
391 to the life of that facility as used to calculate the utility's depreciation expense. Such enhanced rate of
392 return on common equity shall be calculated by adding the basis points specified in the table below to the
393 utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the
394 subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated
395 for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an
396 enhanced rate of return on common equity as determined pursuant to this subdivision, until such
397 construction work in progress is included in rates. The construction of any facility described in clause (i)
398 or (v) is in the public interest, and in determining whether to approve such facility, the Commission shall
399 liberally construe the provisions of this title. The construction or purchase by a utility of one or more
400 generation facilities with at least one megawatt of generating capacity, and with an aggregate rated
401 capacity that does not exceed 16,100 megawatts, including rooftop solar installations with a capacity of

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

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

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

442 Only those facilities as to which a rate adjustment clause under this subdivision has been
 443 previously approved by the Commission, or as to which a petition for approval of such rate adjustment
 444 clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate

445 of return on common equity as specified in the above table during the construction phase of the facility
446 and the approved first portion of its service life.

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

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

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

472 or facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 3,000
473 megawatts, are in the public interest. Additionally, energy storage facilities with an aggregate capacity of
474 2,700 megawatts are in the public interest. To the extent that a utility elects to recover the costs of any
475 such new generation or energy storage facility or facilities through its rates for generation and distribution
476 services and does not petition and receive approval from the Commission for recovery of such costs
477 through a rate adjustment clause described in clause (ii), the Commission shall, upon the request of the
478 utility in a review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant
479 to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a
480 proceeding pursuant to subsection D of § 56-580 or in a review proceeding.

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

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

497 As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the
498 facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.2-1600,

499 produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired
500 by methane or other combustible gas produced by the anaerobic digestion or decomposition of
501 biodegradable materials in a solid waste management facility licensed by the Waste Management Board.
502 A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used in
503 collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the
504 solid waste management facility where it is collected to the generation facility where it is combusted.

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

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

518 Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from
519 the Commission of a rate adjustment clause pursuant to subdivision 6 associated with a test or
520 demonstration project involving a generation facility utilizing energy from offshore wind, and such utility
521 has not, as of July 1, 2023, commenced construction as defined for federal income tax purposes of an
522 offshore wind generation facility or facilities with a minimum aggregate capacity of 250 megawatts, then
523 the Commission, if it finds it in the public interest, may direct that the costs associated with any such rate
524 adjustment clause involving said test or demonstration project shall thereafter no longer be recovered
525 through a rate adjustment clause pursuant to subdivision 6 and shall instead be recovered through the

526 utility's rates for generation and distribution services, with no change in such rates for generation and
527 distribution services as a result of the combination of such costs with the other costs, revenues, and
528 investments included in the utility's rates for generation and distribution services. Any such costs shall
529 remain combined with the utility's other costs, revenues, and investments included in its rates for
530 generation and distribution services until such costs are fully recovered.

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

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

564 The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall
565 be entered not more than three months, eight months, and nine months, respectively, after the date of filing
566 of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment
567 clause be applied to customers' bills not more than 60 days after the date of the order, or upon the
568 expiration or termination of capped rates, whichever is later. At any time, the Commission may, in its
569 discretion, for a Phase I Utility, upon petition by such a utility or upon its own initiated proceeding, direct
570 the consolidation of any one or more subsets of rate adjustment clauses previously implemented pursuant
571 to subdivision 5 or 6 in the interest of judicial economy, customer transparency, or other factors the
572 Commission determines to be appropriate. Any subset of rate adjustment clauses so consolidated shall
573 continue to be considered by the Commission without regard to the other costs, revenues, investments, or
574 earnings of the utility and remain as a cost recovery mechanism independent from the utility's rates for
575 generation and distribution services pursuant to § 56-585.8 and subdivisions 5 and 6, but will be combined
576 as a single rate adjustment clause for cost recovery and review purposes. Any rate adjustment clause or
577 subset of rate adjustment clauses so consolidated shall be named in a manner, as determined by the
578 Commission, that reasonably informs customers as to the nature of the costs recovered by the consolidated
579 rate adjustment clause. At any time, the Commission may, in its discretion, for a Phase II Utility, upon

580 petition by such a utility or upon its own initiated proceeding, direct the consolidation of any one or more
581 subsets of rate adjustment clauses previously implemented pursuant to subdivision 5 or 6 in the interest
582 of judicial economy, customer transparency, or other factors the Commission determines to be
583 appropriate. Any subset of rate adjustment clauses so consolidated shall continue to be considered by the
584 Commission without regard to the other costs, revenues, investments, or earnings of the utility and remain
585 as a cost recovery mechanism independent from the utility's rates for generation and distribution services
586 pursuant to this subdivision and subdivisions 5 and 6, but will be combined as a single rate adjustment
587 clause for cost recovery and review purposes. Any rate adjustment clause or subset of rate adjustment
588 clauses so consolidated shall be named in a manner, as determined by the Commission, that reasonably
589 informs customers as to the nature of the costs recovered by the consolidated rate adjustment clause.

590 8. For a Phase I Utility in any triennial review proceeding filed on or before June 30, 2023 or for
591 a Phase II Utility in any biennial review proceeding, for the purposes of reviewing earnings on the utility's
592 rates for generation and distribution services, the following utility generation and distribution costs not
593 proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility
594 for financial reporting purposes and accrued against income, shall be attributed to the test periods under
595 review and deemed fully recovered in the period recorded: costs associated with asset impairments related
596 to early retirement determinations made by the utility for utility generation facilities fueled by coal, natural
597 gas, or oil or for automated meter reading electric distribution service meters; costs associated with
598 projects necessary to comply with state or federal environmental laws, regulations, or judicial or
599 administrative orders relating to coal combustion by-product management that the utility does not petition
600 to recover through a rate adjustment clause pursuant to subdivision 5 e; costs associated with severe
601 weather events; and costs associated with natural disasters. Such costs shall be deemed to have been
602 recovered from customers through rates for generation and distribution services in effect during the test
603 periods under review unless such costs, individually or in the aggregate, together with the utility's other
604 costs, revenues, and investments to be recovered through rates for generation and distribution services,
605 result in the utility's earned return on its generation and distribution services for the combined test periods
606 under review to fall more than 50 basis points below the fair combined rate of return authorized under

607 subdivision 2 for such periods or, for any test period commencing after December 31, 2012, for a Phase
608 II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the
609 fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the
610 Commission shall, in such review proceeding, authorize deferred recovery of such costs and allow the
611 utility to amortize and recover such deferred costs over future periods as determined by the Commission.
612 The aggregate amount of such deferred costs shall not exceed an amount that would, together with the
613 utility's other costs, revenues, and investments to be recovered through rates for generation and
614 distribution services, cause the utility's earned return on its generation and distribution services to exceed
615 the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods
616 under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after
617 December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2
618 less 70 basis points. Notwithstanding the prior sentence, the aggregate amount of actual and reasonable
619 costs associated with severe weather events eligible for such deferral shall not exceed an amount that
620 would, together with the utility's other costs, revenues, and investments to be recovered through rates for
621 generation and distribution services, cause the utility's earned return on its generation and distribution
622 services to exceed the fair rate of return authorized for the combined test periods under review. For the
623 purposes of determining any amount of costs that are associated with severe weather events, the
624 Commission shall consider nationally recognized standards such as those published by the Institute of
625 Electrical and Electronics Engineers (IEEE). Nothing in this section shall limit the Commission's
626 authority, pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2,
627 following the review of combined test period earnings of the utility in a review, for normalization of
628 nonrecurring test period costs and annualized adjustments for future costs, in determining any appropriate
629 increase or decrease in the utility's rates for generation and distribution services pursuant to subdivision 8
630 a or 8 c.

631 If the Commission determines as a result of any triennial review initiated prior to July 1, 2023 that:
632 a. Revenue reductions related to energy efficiency measures or programs approved and deployed
633 since the utility's previous triennial review have caused the utility, as verified by the Commission, during

634 the test period or periods under review, considered as a whole, to earn more than 50 basis points below a
635 fair combined rate of return on its generation and distribution services or, for any test period commencing
636 after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more
637 than 70 basis points below a fair combined rate of return on its generation and distribution services, as
638 determined in subdivision 2, without regard to any return on common equity or other matters determined
639 with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's
640 rates for generation and distribution services necessary to recover such revenue reductions. If the
641 Commission finds, for reasons other than revenue reductions related to energy efficiency measures, that
642 the utility has, during the test period or periods under review, considered as a whole, earned more than 50
643 basis points below a fair combined rate of return on its generation and distribution services or, for any test
644 period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a
645 Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and
646 distribution services, as determined in subdivision 2, without regard to any return on common equity or
647 other matters determined with respect to facilities described in subdivision 6, the Commission shall order
648 increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing
649 the utility's services and to earn not less than such fair combined rate of return, using the most recently
650 ended 12-month test period as the basis for determining the amount of the rate increase necessary.
651 However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility,
652 the Commission may not order a rate increase, and in all triennial reviews of a Phase I or Phase II utility,
653 the Commission may not order such rate increase unless it finds that the resulting rates are necessary to
654 provide the utility with the opportunity to fully recover its costs of providing its services and to earn not
655 less than a fair combined rate of return on both its generation and distribution services, as determined in
656 subdivision 2, without regard to any return on common equity or other matters determined with respect to
657 facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for
658 determining the permissibility of any rate increase under the standards of this sentence, and the amount
659 thereof; and provided that, solely in connection with making its determination concerning the necessity
660 for such a rate increase or the amount thereof, the Commission shall, in any triennial review proceeding

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

663 b. The utility has, during the test period or test periods under review, considered as a whole, earned
664 more than 50 basis points above a fair combined rate of return on its generation and distribution services
665 or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December
666 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its
667 generation and distribution services, as determined in subdivision 2, without regard to any return on
668 common equity or other matters determined with respect to facilities described in subdivision 6, the
669 Commission shall, subject to the provisions of subdivisions 8 d and 9, direct that 60 percent of the amount
670 of such earnings that were more than 50 basis points, or, for any test period commencing after December
671 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the
672 amount of such earnings that were more than 70 basis points, above such fair combined rate of return for
673 the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any
674 such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the
675 Commission, following the effective date of the Commission's order, and shall be allocated among
676 customer classes such that the relationship between the specific customer class rates of return to the overall
677 target rate of return will have the same relationship as the last approved allocation of revenues used to
678 design base rates; or

679 c. The utility has, during the test period or test periods under review, considered as a whole, earned
680 more than 50 basis points above a fair combined rate of return on its generation and distribution services
681 or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December
682 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its
683 generation and distribution services, as determined in subdivision 2, without regard to any return on
684 common equity or other matter determined with respect to facilities described in subdivision 6, and the
685 combined aggregate level of capital investment that the Commission has approved other than those capital
686 investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant
687 to subdivision 6 made by the utility during the test periods under review in that triennial review proceeding

688 in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and in
689 electric distribution grid transformation projects, as determined pursuant to subdivision 8 d, does not equal
690 or exceed 100 percent of the earnings that are more than 70 basis points above the utility's fair combined
691 rate of return on its generation and distribution services for the combined test periods under review in that
692 triennial review proceeding, the Commission shall, subject to the provisions of subdivision 10 and in
693 addition to the actions authorized in subdivision b, also order reductions to the utility's rates it finds
694 appropriate. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase
695 II Utility, any reduction to the utility's rates ordered by the Commission pursuant to this subdivision shall
696 not exceed \$50 million in annual revenues, with any reduction allocated to the utility's rates for generation
697 services, and in each triennial review of a Phase I or Phase II Utility, the Commission may not order such
698 rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully
699 recover its costs of providing its services and to earn not less than a fair combined rate of return on its
700 generation and distribution services, as determined in subdivision 2, without regard to any return on
701 common equity or other matters determined with respect to facilities described in subdivision 6, using the
702 most recently ended 12-month test period as the basis for determining the permissibility of any rate
703 reduction under the standards of this sentence, and the amount thereof; and

704 d. (Expires July 1, 2028) In any review proceeding conducted after December 31, 2017, upon the
705 request of the utility, the Commission shall determine, prior to directing that 70 percent of earnings that
706 are more than 70 basis points above the utility's fair combined rate of return on its generation and
707 distribution services for the test period or periods under review be credited to customer bills pursuant to
708 subdivision 8 b, the aggregate level of prior capital investment that the Commission has approved other
709 than those capital investments that the Commission has approved for recovery pursuant to a rate
710 adjustment clause pursuant to subdivision 6 made by the utility during the test period or periods under
711 review in both (i) new utility-owned generation facilities utilizing energy derived from sunlight, or from
712 onshore or offshore wind, and (ii) electric distribution grid transformation projects, as determined by the
713 utility's plant in service and construction work in progress balances related to such investments as recorded
714 per books by the utility for financial reporting purposes as of the end of the most recent test period under

715 review. Any such combined capital investment amounts shall offset any customer bill credit amounts, on
716 a dollar for dollar basis, up to the aggregate level of invested or committed capital under clauses (i) and
717 (ii). The aggregate level of qualifying invested or committed capital under clauses (i) and (ii) is referred
718 to in this subdivision as the customer credit reinvestment offset, which offsets the customer bill credit
719 amount that the utility has invested or will invest in new solar or wind generation facilities or electric
720 distribution grid transformation projects for the benefit of customers, in amounts up to 100 percent of
721 earnings that are more than 70 basis points above the utility's fair rate of return on its generation and
722 distribution services, and thereby reduce or eliminate otherwise incremental rate adjustment clause
723 charges and increases to customer bills, which is deemed to be in the public interest. If 100 percent of the
724 amount of earnings that are more than 70 basis points above the utility's fair combined rate of return on
725 its generation and distribution services, as determined in subdivision 2, exceeds the aggregate level of
726 invested capital in new utility-owned generation facilities utilizing energy derived from sunlight, or from
727 wind, and electric distribution grid transformation projects, as provided in clauses (i) and (ii), during the
728 test period or periods under review, then 70 percent of the amount of such excess shall be credited to
729 customer bills as provided in subdivision 8 b in connection with the review proceeding. The portion of
730 any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight,
731 or from wind, or electric distribution grid transformation projects that is the subject of any customer credit
732 reinvestment offset pursuant to this subdivision shall not thereafter be recovered through the utility's rates
733 for generation and distribution services over the service life of such facilities and shall not thereafter be
734 included in the utility's costs, revenues, and investments in future review proceedings conducted pursuant
735 to subdivision 2 and shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6.
736 The portion of any costs associated with new utility-owned generation facilities utilizing energy derived
737 from sunlight, or from wind, or electric distribution grid transformation projects that is not the subject of
738 any customer credit reinvestment offset pursuant to this subdivision may be recovered through the utility's
739 rates for generation and distribution services over the service life of such facilities and shall be included
740 in the utility's costs, revenues, and investments in future review proceedings conducted pursuant to
741 subdivision 2 until such costs are fully recovered, and if such costs are recovered through the utility's rates

742 for generation and distribution services, they shall not be the subject of a rate adjustment clause petition
743 pursuant to subdivision 6. Only the portion of such costs of new utility-owned generation facilities
744 utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects
745 that has not been included in any customer credit reinvestment offset pursuant to this subdivision, and not
746 otherwise recovered through the utility's rates for generation and distribution services, may be the subject
747 of a rate adjustment clause petition by the utility pursuant to subdivision 6.

748 e. In any biennial review of a Phase II Utility, the Commission's final order regarding such review
749 shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so
750 ordered shall take effect not more than 60 days after the date of the order. The fair combined rate of return
751 on common equity determined pursuant to subdivision 2 in such review shall apply, for purposes of
752 reviewing the utility's earnings on its rates for generation and distribution services, to the entire two or
753 three, as applicable, successive 12-month test periods ending December 31 immediately preceding the
754 year of the utility's subsequent review filing under subdivision 3 and shall apply to applicable rate
755 adjustment clauses under subdivisions 5 and 6 prospectively from the date the Commission's final order
756 in the review proceeding, utilizing rate adjustment clause true-up protocols as the Commission in its
757 discretion may determine.

758 9. a. In any biennial review for a Phase II Utility filed on or prior to December 31, 2023, if the
759 Commission determines that the utility has during the test period or test periods under review, considered
760 as a whole, earned more than 70 basis points above a fair combined rate of return on its generation and
761 distribution services previously authorized by the Commission, as determined in subdivision 2, without
762 regard to any return on common equity or other matters determined with respect to facilities described in
763 subdivision 6, which have not been combined with the utility's costs, revenues, and investments for
764 generation and distribution services, the Commission shall direct that 85 percent of the amount of such
765 earnings that were more than 70 basis points above such fair combined rate of return for the test period or
766 periods under review, considered as a whole, be credited to customers' bills. Any such credits shall be
767 amortized over a period of six to 12 months, as determined at the discretion of the Commission, following
768 the effective date of the Commission's order, and shall be allocated among customer classes such that the

769 relationship between the specific customer class rates of return to the overall target rate of return will have
770 the same relationship as the last approved allocation of revenues used to design base rates.

771 b. In any biennial review for a Phase II Utility filed on or after January 1, 2024, if the Commission
772 determines that the utility has during the test period or test periods under review, considered as a whole,
773 earned above its fair combined rate of return on its generation and distribution services previously
774 authorized by the Commission, as determined in subdivision 2, without regard to any return on common
775 equity or other matters determined with respect to facilities described in subdivision 6, which have not
776 been combined with the utility's costs, revenues, and investments for generation and distribution services,
777 the Commission shall direct that 85 percent of the amount of such earnings above such fair combined rate
778 of return for the test period or periods under review, considered as a whole, be credited to customers' bills.
779 Further, if the Commission determines that during the test period or test periods under review, considered
780 as a whole, a Phase II Utility earned more than 150 basis points above a fair combined rate of return on
781 its generation and distribution services previously authorized by the Commission, without regard to any
782 return on common equity or other matters determined with respect to facilities described in subdivision 6,
783 which have not been combined with the utility's costs, revenues, and investments for generation and
784 distribution services, the Commission shall direct that all such earnings that were more than 150 basis
785 points above such fair combined rate of return for the test period or periods under review, considered as a
786 whole, be credited to customers' bills. Any such credits shall be amortized over a period of six to 12
787 months, as determined at the discretion of the Commission, following the effective date of the
788 Commission's order, and shall be allocated among customer classes such that the relationship between the
789 specific customer class rates of return to the overall target rate of return will have the same relationship as
790 the last approved allocation of revenues used to design base rates.

791 10. If, as a result of a triennial review required under this subsection and conducted with respect
792 to any test period or periods under review ending later than December 31, 2010 (or, if the Commission
793 has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending
794 later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the
795 Commission finds, with respect to such test period or periods considered as a whole, that (i) any utility

796 has, during the test period or periods under review, considered as a whole, earned more than 50 basis
797 points above a fair combined rate of return on its generation and distribution services or, for any test period
798 commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I
799 Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution
800 services, as determined in subdivision 2, without regard to any return on common equity or other matters
801 determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates
802 of such utility at the end of the most recently ended 12-month test period exceeded the annual increases
803 in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as
804 published by the Bureau of Labor Statistics of the United States Department of Labor, compounded
805 annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to
806 the review conducted for the base period, the Commission shall, unless it finds that such action is not in
807 the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public
808 interest, direct that any or all earnings for such test period or periods under review, considered as a whole
809 that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a
810 Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such
811 fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions
812 8 b and c, provided that no credits shall be provided pursuant to this subdivision in connection with any
813 triennial review unless such bill credits would be payable pursuant to the provisions of subdivision 8 d,
814 and any credits under this subdivision shall be calculated net of any customer credit reinvestment offset
815 amounts under subdivision 8 d. Any such credits shall be amortized and allocated among customer classes
816 in the manner provided by subdivision 8 b. For purposes of this subdivision:

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

822 "Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6,
823 except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December
824 31, 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses
825 implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8
826 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase
827 applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of
828 July 1, 2009.

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

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

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

852 D. The Commission may determine, during any proceeding authorized or required by this section,
853 the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection
854 with the subject of the proceeding. A determination of the Commission regarding the reasonableness or
855 prudence of any such cost shall be consistent with the Commission's authority to determine the
856 reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et
857 seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its
858 customers from renewable energy resources, the Commission shall consider the extent to which such
859 renewable energy resources, whether utility-owned or by contract, further the objectives of the
860 Commonwealth Clean Energy Policy set forth in § 45.2-1706.1, and shall also consider whether the costs
861 of such resources is likely to result in unreasonable increases in rates paid by customers.

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

868 F. The Commission shall include in its report required by subsection B of § 56-596 any information
869 concerning the reliability impacts of generation unit additions and retirement determinations by a Phase I
870 or Phase II Utility along with the potential impact on the purchase of power from generation assets outside
871 the Virginia jurisdiction used to serve the utility's native load, utilizing information from the respective
872 utility's integrated resource plan or information from the respective utility's plan filed pursuant to
873 subsection D of § 56-585.5.

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

876 H. Notwithstanding any other provision of this chapter, any Phase I or Phase II Utility is authorized
877 to earn a rate of return on common equity invested by the utility, equal to the utility's general rate of return
878 for projects that are necessary to safely interconnect eligible customer-generators and eligible agricultural
879 customer-generators, as those terms are defined in subsection B of § 56-594, subject to the Commission
880 finding those costs to be reasonable and prudent in accordance with subdivision A 6.

881 **§ 56-594. Net energy metering provisions.**

882 A. The Commission shall establish by regulation a program that affords eligible customer-
883 generators the opportunity to participate in net energy metering, and a program, to begin no later than July
884 1, 2014, for customers of investor-owned utilities and to begin no later than July 1, 2015, and to end July
885 1, 2019, for customers of electric cooperatives as provided in subsection G, to afford eligible agricultural
886 customer-generators the opportunity to participate in net energy metering. The regulations may include,
887 but need not be limited to, requirements for (i) retail sellers; (ii) owners or operators of distribution or
888 transmission facilities; (iii) providers of default service; (iv) eligible customer-generators; (v) eligible
889 agricultural customer-generators; or (vi) any combination of the foregoing, as the Commission determines
890 will facilitate the provision of net energy metering, provided that the Commission determines that such
891 requirements do not adversely affect the public interest. On and after July 1, 2017, small agricultural
892 generators or eligible agricultural customer-generators may elect to interconnect pursuant to the provisions
893 of this section or as small agricultural generators pursuant to § 56-594.2, but not both. Existing eligible
894 agricultural customer-generators may elect to become small agricultural generators, but may not revert to
895 being eligible agricultural customer-generators after such election. On and after July 1, 2019,
896 interconnection of eligible agricultural customer-generators shall cease for electric cooperatives only, and
897 such facilities shall interconnect solely as small agricultural generators. For electric cooperatives, eligible
898 agricultural customer-generators whose renewable energy generating facilities were interconnected before
899 July 1, 2019, may continue to participate in net energy metering pursuant to this section for a period not
900 to exceed 25 years from the date of their renewable energy generating facility's original interconnection.

901 B. For the purpose of this section:

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

914 "Eligible customer-generator" means a customer that owns and operates, or contracts with other
915 persons to own, operate, or both, an electrical generating facility that (i) has a capacity of not more than
916 25 kilowatts for residential customers and not more than three megawatts for nonresidential customers;
917 (ii) uses as its total source of fuel renewable energy, as defined in § 56-576; (iii) is located on land owned
918 or leased by the customer and is connected to the customer's wiring on the customer's side of its
919 interconnection with the distributor; (iv) is interconnected and operated in parallel with an electric
920 company's transmission and distribution facilities; and (v) is intended primarily to offset all or part of the
921 customer's own electricity requirements. In addition to the electrical generating facility size limitations in
922 clause (i), the capacity of any generating facility installed under this section between July 1, 2015, and
923 July 1, 2020, shall not exceed the expected annual energy consumption based on the previous 12 months
924 of billing history or an annualized calculation of billing history if 12 months of billing history is not
925 available. In addition to the electrical generating facility size limitation in clause (i), in the certificated
926 service territory of a Phase I Utility, the capacity of any generating facility installed under this section
927 after July 1, 2020, shall not exceed 100 percent of the expected annual energy consumption based on the

928 previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing
929 history is not available, and in the certificated service territory of a Phase II Utility, the capacity of any
930 generating facility installed under this section after July 1, 2020, shall not exceed 150 percent of the
931 expected annual energy consumption based on the previous 12 months of billing history or an annualized
932 calculation of billing history if 12 months of billing history is not available.

933 "Net energy metering" means measuring the difference, over the net metering period, between (i)
934 electricity supplied to an eligible customer-generator or eligible agricultural customer-generator from the
935 electric grid and (ii) the electricity generated ~~and fed back~~, which is either consumed or, as applicable,
936 exported to the electric grid by the eligible customer-generator or eligible agricultural customer-generator.

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

940 "Non-exporting electric generating facility" means an electric generating facility that does not
941 export electricity to the electric distribution system.

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

943 C. 1. The Commission's regulations shall ensure that (i) the metering equipment installed for net
944 metering shall be capable of measuring the flow of electricity in two directions, except in the case of a
945 non-exporting electric generating facility, and (ii) any eligible customer-generator seeking to participate
946 in net energy metering shall notify its supplier and receive approval to interconnect prior to installation of
947 an electrical generating facility. The electric distribution company shall have 30 days from the date of
948 notification for residential facilities, and 60 days from the date of notification for nonresidential facilities,
949 to determine whether the interconnection requirements have been met. Such regulations shall allocate
950 fairly the cost of such equipment and any necessary interconnection. An eligible customer-generator's
951 electrical generating system, and each electrical generating system of an eligible agricultural customer-
952 generator, shall meet all applicable safety and performance standards established by the National
953 Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories
954 such as Underwriters Laboratories. Beyond the requirements set forth in this section and to ensure public

955 safety, power quality, and reliability of the supplier's electric distribution system, an eligible customer-
956 generator or eligible agricultural customer-generator whose electrical generating system meets those
957 standards and rules shall, subject to subdivision 2, bear all reasonable costs of equipment required for the
958 interconnection to the supplier's electric distribution system, including costs, if any, to (a) install additional
959 controls, (b) perform or pay for additional tests, and (c) purchase additional liability insurance.

960 2. An eligible customer-generator or eligible agricultural customer-generator seeking to
961 interconnect an electric generating facility with a capacity of 750 kilowatts or less shall have the option to
962 interconnect the electric generating facility at no cost to the eligible customer-generator or eligible
963 agricultural customer-generator. An eligible customer-generator or eligible agricultural customer-
964 generator seeking to interconnect an electric generating facility with a capacity greater than 750 kilowatts
965 shall have the option to interconnect a non-exporting electric generating facility and, if interconnected,
966 shall not incur any interconnection costs. However, for an electric generating facility seeking to
967 interconnect pursuant to this section with a capacity greater than 750 kilowatts, any such costs of
968 equipment or studies required for the interconnection to the supplier's electric distribution system shall be
969 allocated equally between (i) the eligible customer-generator or eligible agricultural customer-generator
970 and (ii) the electric distribution company pursuant to subsection H of § 56-585.1. The Commission shall
971 allow recovery of prudently incurred study costs and payments required by this subdivision through the
972 utility's rates for generation and distribution services.

973 D. The Commission shall establish minimum requirements for contracts to be entered into by the
974 parties to net metering arrangements. Such requirements shall protect the eligible customer-generator or
975 eligible agricultural customer-generator against discrimination by virtue of its status as an eligible
976 customer-generator or eligible agricultural customer-generator, and permit customers that are served on
977 time-of-use tariffs that have electricity supply demand charges contained within the electricity supply
978 portion of the time-of-use tariffs to participate as an eligible customer-generator or eligible agricultural
979 customer-generator. Notwithstanding the cost allocation provisions of subsection C, eligible customer-
980 generators or eligible agricultural customer-generators served on demand charge-based time-of-use tariffs
981 shall bear the incremental metering costs required to net meter such customers.

982 E. If electricity generated by an eligible customer-generator or eligible agricultural customer-
983 generator over the net metering period exceeds the electricity consumed by the eligible customer-generator
984 or eligible agricultural customer-generator, the customer-generator or eligible agricultural customer-
985 generator shall be compensated for the excess electricity if the entity contracting to receive such electric
986 energy and the eligible customer-generator or eligible agricultural customer-generator enter into a power
987 purchase agreement for such excess electricity. Upon the written request of the eligible customer-
988 generator or eligible agricultural customer-generator, the supplier that serves the eligible customer-
989 generator or eligible agricultural customer-generator shall enter into a power purchase agreement with the
990 requesting eligible customer-generator or eligible agricultural customer-generator that is consistent with
991 the minimum requirements for contracts established by the Commission pursuant to subsection D. The
992 power purchase agreement shall obligate the supplier to purchase such excess electricity at the rate that is
993 provided for such purchases in a net metering standard contract or tariff approved by the Commission,
994 unless the parties agree to a higher rate. The eligible customer-generator or eligible agricultural customer-
995 generator owns any renewable energy certificates associated with its electrical generating facility;
996 however, at the time that the eligible customer-generator or eligible agricultural customer-generator enters
997 into a power purchase agreement with its supplier, the eligible customer-generator or eligible agricultural
998 customer-generator shall have a one-time option to sell the renewable energy certificates associated with
999 such electrical generating facility to its supplier and be compensated at an amount that is established by
1000 the Commission to reflect the value of such renewable energy certificates. Nothing in this section shall
1001 prevent the eligible customer-generator or eligible agricultural customer-generator and the supplier from
1002 voluntarily entering into an agreement for the sale and purchase of excess electricity or renewable energy
1003 certificates at mutually-agreed upon prices if the eligible customer-generator or eligible agricultural
1004 customer-generator does not exercise its option to sell its renewable energy certificates to its supplier at
1005 Commission-approved prices at the time that the eligible customer-generator or eligible agricultural
1006 customer-generator enters into a power purchase agreement with its supplier. All costs incurred by the
1007 supplier to purchase excess electricity and renewable energy certificates from eligible customer-generators
1008 or eligible agricultural customer-generators shall be recoverable through its Renewable Energy Portfolio

1009 Standard (RPS) rate adjustment clause, if the supplier has a Commission-approved RPS plan. If not, then
1010 all costs shall be recoverable through the supplier's fuel adjustment clause. For purposes of this section,
1011 "all costs" shall be defined as the rates paid to the eligible customer-generator or eligible agricultural
1012 customer-generator for the purchase of excess electricity and renewable energy certificates and any
1013 administrative costs incurred to manage the eligible customer-generator's or eligible agricultural
1014 customer-generator's power purchase arrangements. The net metering standard contract or tariff shall be
1015 available to eligible customer-generators or eligible agricultural customer-generators on a first-come, first-
1016 served basis in each electric distribution company's Virginia service area until the rated generating
1017 capacity owned and operated by eligible customer-generators, eligible agricultural customer-generators,
1018 and small agricultural generators in the Commonwealth reaches six percent, in the aggregate, five percent
1019 of which is available to all customers and one percent of which is available only to low-income utility
1020 customers of each electric distribution company's adjusted Virginia peak-load forecast for the previous
1021 year, and shall require the supplier to pay the eligible customer-generator or eligible agricultural customer-
1022 generator for such excess electricity in a timely manner at a rate to be established by the Commission.

1023 On and after the earlier of (i) 2024 for a Phase I Utility or 2025 for a Phase II Utility or (ii) when
1024 the aggregate rated generating capacity owned and operated by eligible customer-generators, eligible
1025 agricultural customer-generators, and small agricultural generators in the Commonwealth reaches three
1026 percent of a Phase I or Phase II Utility's adjusted Virginia peak-load forecast for the previous year, the
1027 Commission shall conduct a net energy metering proceeding, provided that the final order for the net
1028 energy metering proceeding for a Phase I or Phase II Utility shall be issued no later than July 1, 2025.

1029 In any net energy metering proceeding, the Commission shall, after notice and opportunity for
1030 hearing, evaluate and establish (a) an amount customers shall pay on their utility bills each month for the
1031 costs of using the utility's infrastructure; (b) an amount the utility shall pay to appropriately compensate
1032 the customer, as determined by the Commission, for the total benefits such facilities provide; (c) the direct
1033 and indirect economic impact of net metering to the Commonwealth; and (d) any other information the
1034 Commission deems relevant. The Commission shall establish an appropriate rate structure related thereto,
1035 which shall govern compensation related to all eligible customer-generators, eligible agricultural

1036 customer-generators, and small agricultural generators, except low-income utility customers, that
1037 interconnect after the effective date established in the Commission's final order. Nothing in the
1038 Commission's final order shall affect any eligible customer-generators, eligible agricultural customer-
1039 generators, and small agricultural generators who interconnect before the effective date of such final order.
1040 As part of the net energy metering proceeding, the Commission shall evaluate the six percent aggregate
1041 net metering cap and may, if appropriate, raise or remove such cap. The Commission shall enter its final
1042 order in such a proceeding no later than 12 months after it commences such proceeding, and such final
1043 order shall establish a date by which the new terms and conditions shall apply for interconnection and
1044 shall also provide that, if the terms and conditions of compensation in the final order differ from the terms
1045 and conditions available to customers before the proceeding, low-income utility customers may
1046 interconnect under whichever terms are most favorable to them.

1047 F. Any residential eligible customer-generator or eligible agricultural customer-generator, in the
1048 service territory of a Phase II Utility who owns and operates, or contracts with other persons to own,
1049 operate, or both, an electrical generating facility with a capacity that exceeds 15 kilowatts shall pay to its
1050 supplier, in addition to any other charges authorized by law, a monthly standby charge. The amount of the
1051 standby charge and the terms and conditions under which it is assessed shall be in accordance with a
1052 methodology developed by the supplier and approved by the Commission. The Commission shall approve
1053 a supplier's proposed standby charge methodology if it finds that the standby charges collected from all
1054 such eligible customer-generators and eligible agricultural customer-generators allow the supplier to
1055 recover only the portion of the supplier's infrastructure costs that are properly associated with serving such
1056 eligible customer-generators or eligible agricultural customer-generators. Such an eligible customer-
1057 generator or eligible agricultural customer-generator shall not be liable for a standby charge until the date
1058 specified in an order of the Commission approving its supplier's methodology. For customers of all other
1059 investor-owned utilities, on and after July 1, 2020, standby charges are prohibited for any residential
1060 eligible customer-generator or agricultural customer-generator.

1061 G. On and after the later of July 1, 2019, or the effective date of regulations that the Commission
1062 is required to adopt pursuant to § 56-594.01, (i) net energy metering in the service territory of each electric

1063 cooperative shall be conducted as provided in a program implemented pursuant to § 56-594.01 and (ii)
1064 the provisions of this section shall not apply to net energy metering in the service territory of an electric
1065 cooperative except as provided in § 56-594.01.

1066 H. The Commission may adopt such rules or establish such guidelines as may be necessary for its
1067 general administration of this section.

1068 I. When the Commission conducts a net energy metering proceeding, it shall:

1069 1. Investigate and determine the costs and benefits of the current net energy metering program;

1070 2. Establish an appropriate netting measurement interval for a successor tariff that is just and
1071 reasonable in light of the costs and benefits of the net metering program in aggregate, and applicable to
1072 new requests for net energy metering service; and

1073 3. Determine a specific avoided cost for customer-generators, the different type of customer-
1074 generator technologies where the Commission deems it appropriate, and establish the methodology for
1075 determining the compensation rate for any net excess generation determined according to the applicable
1076 net measurement interval for any new tariff.

1077 J. In evaluating the costs and benefits of the net energy metering program, the Commission shall
1078 consider:

1079 1. The aggregate impact of customer-generators on the electric utility's long-run marginal costs of
1080 generation, distribution, and transmission;

1081 2. The cost of service implications of customer-generators on other customers within the same
1082 class, including an evaluation of whether customer-generators provide an adequate rate of return to the
1083 electrical utility compared to the otherwise applicable rate class when, for analytical purposes only,
1084 examined as a separate class within a cost of service study;

1085 3. The direct and indirect economic impact of the net energy metering program to the
1086 Commonwealth; and

1087 4. Any other information it deems relevant, including environmental and resilience benefits of
1088 customer-generator facilities.

1089 K. Notwithstanding the provisions of this section, § 56-585.1:8, or any other provision of law to
1090 the contrary, any locality that is a nonjurisdictional customer of a Phase II Utility, as defined in § 56-
1091 585.1:3, and is in Planning District Eight with a population greater than 1 million may (i) install solar-
1092 powered or wind-powered electric generation facilities with a rated capacity not exceeding five
1093 megawatts, whether the facilities are owned by the locality or owned and operated by a third party pursuant
1094 to a contract with the locality, on any locality-owned site within the locality and (ii) credit the electricity
1095 generated at any such facility as directed by the governing body of the locality to any one or more of the
1096 metered accounts of buildings or other facilities of the locality or the locality's public school division that
1097 are located within the locality, without regard to whether the buildings and facilities are located at the
1098 same site where the electric generation facility is located or at a site contiguous thereto. The amount of
1099 the credit for such electricity to the metered accounts of the locality or its public school division shall be
1100 identical, with respect to the rate structure, all retail rate components, and monthly charges, to the amount
1101 the locality or public school division would otherwise be charged for such amount of electricity under its
1102 contract with the public utility, without the assessment by the public utility of any distribution charges,
1103 service charges, or fees in connection with or arising out of such crediting.

1104 **2. That the provisions of § 56-594 of the Code of Virginia, as amended by this act, shall apply to all**
1105 **eligible customer-generators or eligible agricultural customer-generators, as those terms are**
1106 **defined in § 56-594 of the Code of Virginia, as amended by this act, that have, no later than July 1,**
1107 **2025, submitted to a utility an interconnection notification on the form prescribed by the State**
1108 **Corporation Commission.**

1109 **3. That the provisions of this act may be modified in terms of application to a Phase I Utility, as**
1110 **defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, as amended by this act, following**
1111 **the net energy metering proceeding for such Phase I Utility on the date as designated by the final**
1112 **order by which the new terms and conditions shall apply for interconnection.**

1113 **4. That the provisions of this act may be modified in terms of application to a Phase II Utility, as**
1114 **defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, as amended by this act, following**

1115 the net energy metering proceeding for such Phase II Utility on the date as designated by the final
1116 order by which the new terms and conditions shall apply for interconnection.

1117 #