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HOUSE BILL NO. 396

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Energy
on February 8, 2022)

(Patron Prior to Substitute—Delegate Sullivan)

A BILL to amend and reenact § 56-585.1:8 of the Code of Virginia, relating to electric utilities; municipal net energy metering.

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.1:8 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.1:8. Pilot program for municipal net energy metering.

A. As used in this section:

"Host account" means the premises on which a municipal customer-generator's electrical generating facility is located.

"Municipal customer-generator" means a single municipality metered account that owns and or operates, or that contracts with other persons to own or operate, an electrical generating facility that (i) uses as its total source of fuel renewable energy as defined in § 56-576, (ii) has a generating capacity of not more than two three megawatts, (iii) is located on land owned or leased by the municipality's premises municipality within the municipality and is connected to the municipality's wiring on the municipality's side of its interconnection with the utility, (iv) is interconnected and operated in parallel with the utility's transmission and distribution facilities, and (v) is intended primarily to offset all or part of the customer account's municipal customer-generator's own electricity requirements. The capacity of any generating facility installed under this section, other than a generating facility located on airports, landfills, parking lots and garages, wastewater treatment sites, parks, post-mine land, or a reservoir that is owned, operated, or leased by the municipality, shall not exceed the same limitation established with respect to an eligible customer-generator as set forth in the definition of such term in subsection B of § 56-594.

"Municipality" means any county, city, or town in the Commonwealth, other than a municipality that owns and operates its own electric utility, or any authority created pursuant to the Park Authorities Act (§ 15.2-5700 et seq.).

"Net energy metering" means measuring the difference, over the net metering period, between (i) electricity supplied to a municipal customer-generator from the electric grid and (ii) the electricity generated and fed back to the electric grid by the municipal customer-generator.

"Net metering period" means the 12-month period following the date of final interconnection of the municipal customer-generator's system with its utility and each 12-month period thereafter.

"Phase I Utility" and "Phase II Utility" have the same meaning as defined in § 56-585.1:3.

"Utility" means a Phase I Utility or Phase II Utility, as such terms are defined in § 56-585.1:3.

B. The Commission shall require each utility Phase I Utility to submit a proposal to the Commission to conduct a pilot program for municipal net energy metering in accordance with the following terms, conditions, and restrictions:

1. A pilot program shall be conducted within the service territory of each utility Phase I Utility. The pilot program shall allow any municipal customer-generator that generates electricity from a renewable energy generation facility in amounts that exceed the amount of the utility's electricity consumed by the host municipal customer-generator account to credit one or more of the municipality's target metered accounts or, if the pilot program is conducted by a Phase I Utility, also to metered accounts of the public school division of the municipality. In each utility's Phase I Utility's pilot program, the target accounts may be at one or more other separately utility-metered public buildings or facilities at contiguous or noncontiguous sites owned by the municipality and used for a public purpose; however, if the pilot program is conducted by a Phase I Utility, target accounts may also be at one or more other separately utility-metered buildings or facilities of the public school division of the municipality. In each utility's Phase I Utility's pilot program, excess electricity beyond that used by the host account shall be credited to the metered account of the target municipal customer in the same municipality, such that the generation energy charges on the electric bills of such target's metered accounts shall be reduced by the amount of the excess generation kilowatt-hours apportioned to the metered accounts multiplied by the applicable generation energy rate of the target's accounts. The generation energy rate of the target's accounts includes all applicable kilowatt-hour-based rate adjustment clauses with the exception of any non-fuel-related or non-generation-related kilowatt-hour-based rate adjustment clauses. The netting of the amount of electricity generated and the amount of electricity consumed, and the crediting for the amount of any excess generation determined as a result of such netting, shall occur in the twelfth month following the commencement of the host municipal customer-generator's generation of electricity under a

60 pilot program and annually thereafter, regardless of the municipal customer-generator's regular billing
61 period.

62 2. The pilot program shall not limit the current authority of any municipality to participate in any
63 other net energy metering program.

64 3. The amount of generating capacity of the generating facilities that are the subject of a pilot
65 program under this ~~section~~ subsection shall not exceed:

66 a. If the pilot program is conducted by a Phase I Utility, five megawatts, although the Phase I Utility
67 may, in its discretion, increase the generating capacity that is part of the program up to 10 megawatts;
68 or

69 b. If the pilot program is conducted by a Phase II Utility, 25 megawatts.

70 4. The aggregated capacity of all generation facilities that are the subject of each utility's Phase I
71 Utility's pilot program under this ~~section~~ subsection shall constitute a portion of the existing limit of the
72 utility's adjusted Virginia peak-load forecast of the previous year that is available to (i) municipal
73 customer-generators under this section, (ii) eligible customer-generators and eligible agricultural
74 customer-generators under § 56-594, and (iii) small agricultural generators under § 56-594.2 in the
75 utility's service area. Municipal customer-generators shall be eligible to participate in a utility's Phase I
76 Utility's pilot program implemented under this ~~section~~ subsection on a first-come, first-served basis in
77 each utility's Virginia service area until the limits set forth in subdivision 3 are met.

78 C. The Commission shall require each Phase II Utility to submit a proposal to the Commission to
79 conduct a pilot program for municipal net energy metering in accordance with the following terms,
80 conditions, and restrictions:

81 1. A pilot program shall be conducted within the service territory of each Phase II Utility. The pilot
82 program shall allow any municipal customer-generator that generates electricity from a renewable
83 energy generation facility in amounts that exceed the amount of the utility's electricity consumed by the
84 municipal customer-generator host account to credit one or more of the municipality's target metered
85 accounts (target accounts or beneficial accounts). In each Phase II Utility's pilot program, the target
86 accounts may be at one or more other separately utility-metered public buildings or facilities at
87 contiguous or noncontiguous sites owned or leased by the municipality within the municipality. In each
88 Phase II Utility's pilot program, excess electricity beyond that used by the host account shall be credited
89 to the beneficial accounts selected by the municipal customer in the same municipality. The generation
90 energy rate of each selected beneficial account shall include all applicable rate adjustment clauses and
91 riders, including fuel riders, with the exception of any non-fuel-related or non-generation-related riders.
92 Non-bypassable charges shall be excluded from reductions on beneficial accounts. The netting of the
93 amount of electricity generated and the amount of electricity consumed, and the crediting for the amount
94 of any excess electricity determined as a result of such netting, shall occur in the twelfth month
95 following the commencement of the host municipal customer-generator's generation of electricity under a
96 pilot program and annually thereafter, regardless of the municipal customer-generator's regular billing
97 period.

98 2. The pilot program shall not limit the current authority of any municipality to participate in any
99 other net energy metering program.

100 3. The amount of generating capacity of the generating facilities that are the subject of a pilot
101 program under this subsection shall not exceed 25 megawatts.

102 4. The aggregated capacity of all generation facilities that are the subject of each utility's pilot
103 program under this subsection shall constitute a portion of the existing limit of the utility's adjusted
104 Virginia peak-load forecast of the previous year that is available to (i) municipal customer-generators
105 under this section and (ii) small agricultural generators under § 56-594.2 in the utility's service area.
106 Municipal customer-generators shall be eligible to participate in a Phase II Utility's pilot program
107 implemented under this subsection on a first-come, first-served basis in each utility's Virginia service
108 area until the limits set forth in subdivision 3 are met.

109 5. D. Any pilot program conducted under this section shall require that:

110 a. 1. If conducted by a Phase I Utility or Phase II Utility, each participating municipality shall be
111 responsible for all *demonstrated* administrative costs associated with implementing the pilot program,
112 including *demonstrated* administrative costs associated with crediting excess ~~generation~~ electricity to
113 target accounts; and

114 b. 2. If conducted by a Phase I Utility, the credit for excess ~~energy~~ electricity, to the extent possible,
115 shall be prioritized to be directed to accounts at buildings or facilities of the public school division of
116 the municipality before the credit is directed to any of the municipality's target accounts.

117 6. Any pilot program conducted pursuant to this section shall not limit the current authority of any
118 municipality to participate in any other net energy metering program.

119 7. Neither jurisdictional customers nor non-jurisdictional customers, including those that are members
120 of a joint powers association representing member units of a political subdivision of the Commonwealth,
121 that do not participate in a pilot program under this section shall bear any costs associated with

122 participation in such pilot program by a participating host municipal customer-generator and participating
123 target municipal customer.

124 ~~C.~~ *E.* The duration of any pilot program approved by the Commission pursuant to ~~this section~~
125 *subsection B* shall be six years. *The duration of any pilot program approved by the Commission*
126 *pursuant to subsection C shall be until July 1, 2028.* If ~~the~~ *a* pilot program is not extended beyond such
127 initial term, host and target accounts participating at the end of the initial term shall be permitted to
128 continue to participate under the terms of the pilot program that existed during the initial term. The
129 terms of the pilot program shall be included in future contracts for each municipality that elects to
130 continue its program.

131 ~~D.~~ *F.* The Commission shall review the pilot ~~programs~~ *program* established pursuant to ~~this section~~
132 *subsection B* in 2021 and every two years thereafter for the duration of the pilot program. *The*
133 *Commission shall review the pilot program established pursuant to subsection C in 2024 and every two*
134 *years thereafter for the duration of the pilot program.*

135 *G.* The aggregated capacity of all generation facilities that are the subject of a utility's pilot program
136 pursuant to this section shall not constitute any portion of the existing aggregate net metering cap
137 established in § 56-594 and evaluated by the Commission as part of a net energy metering proceeding.