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SENATE BILL NO. 347

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact § 56-596.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-596.2:01, relating to electric utilities; energy efficiency programs.

Patron—Bell

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 56-596.2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 56-596.2:01 as follows:

§ 56-596.2. Energy efficiency programs.

A. Notwithstanding subsection G of § 56-580, or any other provision of law, each incumbent investor-owned electric utility shall develop proposed energy efficiency programs. Any program shall provide for the submission of a petition or petitions for approval to design, implement, and operate energy efficiency programs pursuant to subdivision A 5 c of § 56-585.1. *In proposing such efficiency programs, an electric utility shall not include, nor shall the Commission require, budget limits on energy efficiency programs that the Commission reasonably determines substantially limit that electric utility's ability to acquire all feasible cost-effective energy savings available through such programs.* At least 15 percent of such proposed costs of energy efficiency programs shall be allocated to programs designed to benefit low-income, elderly, or disabled individuals or veterans.

B. Notwithstanding any other provision of law, each investor-owned incumbent electric utility shall implement energy efficiency programs and measures to achieve the following total annual energy savings*, net of (i) freerider savings from customers who would have implemented a measure in absence of utility-delivered energy efficiency programs and (ii) spillover savings from customers who implement an efficiency measure not directly targeted by utility-delivered energy efficiency programs*:

1. For Phase I electric utilities:

a. In calendar year 2022, at least 0.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

b. In calendar year 2023, at least 1.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

c. In calendar year 2024, at least 1.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019; ~~and~~

d. In calendar year 2025, at least 2.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

e. In calendar year 2026, at least 4.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

f. In calendar year 2027, at least 6.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

g. In calendar year 2028, at least 7.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

h. In calendar year 2029, at least 9.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019; and

i. In calendar year 2030 and every year thereafter, at least 11 percent of the average annual energy jurisdictional retail sales by that utility in 2019; and

2. For Phase II electric utilities:

a. In calendar year 2022, at least 1.25 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

b. In calendar year 2023, at least 2.5 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

c. In calendar year 2024, at least 3.75 percent of the average annual energy jurisdictional retail sales by that utility in 2019; ~~and~~

d. In calendar year 2025, at least 5.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019; ~~and~~

e. In calendar year 2026, at least 7.0 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

f. In calendar year 2027, at least 8.5 percent of the average annual energy jurisdictional retail sales

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by that utility in 2019;

g. In calendar year 2028, at least 10 percent of the average annual energy jurisdictional retail sales by that utility in 2019;

h. In calendar year 2029, at least 12 percent of the average annual energy jurisdictional retail sales by that utility in 2019; and

i. In calendar year 2030 and every year thereafter, at least 15 percent of the average annual energy jurisdictional retail sales by that utility in 2019.

~~3. For the time period 2026 through 2028, and for every successive three-year period thereafter, the Commission shall establish new energy efficiency savings targets. In advance of the effective date of such targets, the Commission shall, after notice and opportunity for hearing, initiate proceedings to establish such targets. As part of such proceeding, the Commission shall consider the feasibility of achieving energy efficiency goals and future energy efficiency savings through cost-effective programs and measures.~~ The Commission shall ~~annually~~ *biennially* review the feasibility of the energy efficiency program savings *requirements* in this section, *taking into account the level of savings achieved by utilities in other states and required by other states, and any other factors the Commission deems appropriate to consider,* and report to the Chairs of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor and the Secretary of Natural and Historic Resources and the Secretary of Commerce and Trade on such feasibility by October 1, ~~2022~~ *2023*, and ~~each year~~ *biennially* thereafter.

C. The projected costs for the utility to design, implement, and operate such energy efficiency programs and portfolios of programs shall be no less than an aggregate amount of $140 million for a Phase I Utility and $870 million for a Phase II Utility for the period beginning July 1, 2018, and ending July 1, 2028, including any existing approved energy efficiency programs. In developing such portfolio of energy efficiency programs and portfolios of programs, each utility shall utilize a stakeholder process, to be facilitated by an independent monitor compensated under the funding provided pursuant to subsection E of § 56-592.1, to provide input and feedback on (i) the development of such energy efficiency programs and portfolios of programs; (ii) compliance with the total annual energy savings set forth in this subsection and how such savings affect utility integrated resource plans; (iii) recommended policy reforms by which the General Assembly or the Commission can ensure maximum and cost-effective deployment of energy efficiency technology across the Commonwealth; and (iv) best practices for evaluation, measurement, and verification for the purposes of assessing compliance with the total annual energy savings set forth in subsection B. Utilities shall utilize the services of a third party to perform evaluation, measurement, and verification services to determine a utility's total annual savings as required by this subsection, as well as the annual and lifecycle net and gross energy and capacity savings, related emissions reductions, and other quantifiable benefits of each program; total customer bill savings that the programs and portfolios produce; and utility spending on each program, including any associated administrative costs. The third-party evaluator shall include and review each utility's avoided costs and cost-benefit analyses. The findings and reports of such third parties shall be concurrently provided to both the Commission and the utility, and the Commission shall make each such final annual report easily and publicly accessible online. Such stakeholder process shall include the participation of representatives from each utility, relevant directors, deputy directors, and staff members of the Commission who participate in approval and oversight of utility energy efficiency savings programs, the office of Consumer Counsel of the Attorney General, the Department of Energy, energy efficiency program implementers, energy efficiency providers, residential and small business customers, and any other interested stakeholder whom the independent monitor deems appropriate for inclusion in such process. The independent monitor shall convene meetings of the participants in the stakeholder process not less frequently than twice in each calendar year during the period beginning July 1, 2019, and ending July 1, 2028. The independent monitor shall report on the status of the energy efficiency stakeholder process, including (a) the objectives established by the stakeholder group during this process related to programs to be proposed, (b) recommendations related to programs to be proposed that result from the stakeholder process, and (c) the status of those recommendations, in addition to the petitions filed and the determination thereon, to the Governor, the Commission, and the Chairmen of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor on July 1, 2019, and annually thereafter through July 1, 2028.

D. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et seq.).

§ 56-596.2:01. Low-income, elderly, disabled, and veteran energy efficiency savings programs.

For the time period 2024 through 2026, and for every successive three-year period thereafter, the Commission shall establish for Phase I and Phase II utilities low-income, elderly, disabled, and veteran energy efficiency savings targets in each year, to be achieved through energy efficiency programs designed to benefit low-income, elderly, disabled, or veteran customers, provided that each year's total annual savings targets for such programs shall be at least 1.25 percent of the average annual energy *retail sales by that utility to those customer classes.*

In advance of the effective date of such energy efficiency targets achieved through energy efficiency programs designed to benefit low-income, elderly, disabled, or veteran customers, the Commission shall, after notice and opportunity for hearing, initiate proceedings to establish such incremental targets in each year and the appropriate retail sales against which those energy efficiency savings targets for these programs will be measured. In setting such targets, the Commission shall consider the impact and savings of energy efficiency programs authorized by subdivision C 2 of § 10.1-1330.

The Commission may provide for performance incentives and penalties for these low-income, elderly, disabled, and veteran savings targets, as deemed appropriate.

All savings from low-income energy efficiency programs may be applied to the energy efficiency savings set forth in subdivisions B 1 and 2 of § 56-596.2.

In providing such energy efficiency programs, Phase I and Phase II Utilities shall make reasonable efforts to collect anonymized demographic data of such low-income, elderly, disabled, and veteran customers and, beginning in 2024, report such findings annually in the third-party-provided evaluation, measurement, and verification reports required by subsection C of § 56-596.2.

In providing such energy efficiency programs, Phase I and Phase II Utilities shall make best efforts to coordinate such energy efficiency programs with any health and safety upgrades provided through energy efficiency programs authorized by subdivision C 2 of § 10.1-1330, when reasonably feasible to do so and at the utility's sole discretion.