

18106692D

1 SENATE BILL NO. 966

2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
3 (Proposed by the Senate Committee on Commerce and Labor
4 on February 5, 2018)5 (Patrons Prior to Substitute—Senators Wagner, Sturtevant [SB 855 and SB 901], and Saslaw [SB 967])
6 A *BILL to amend and reenact §§ 56-234, 56-265.1, 56-466.2, 56-576, 56-585.1, 56-585.1:1, 56-585.1:2, 56-599, and 56-600 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-585.1:4, relating to electric utility regulation; grid modernization; energy efficiency programs; schedule for rate review proceedings; Transitional Rate Period; energy storage facilities; electric distribution grid transformation projects; wind and solar generation facilities; coal combustion by-product management; pilot programs; undergrounding electrical transmission lines; fuel factor; bill credits; rate reductions attributable to changes in federal tax law; relocation of cable facilities; integrated resource planning; natural gas utility efficiency programs.*7
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Be it enacted by the General Assembly of Virginia:

1 That §§ 56-234, 56-265.1, 56-466.2, 56-576, 56-585.1, 56-585.1:1, 56-585.1:2, 56-599, and 56-600 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 56-585.1:4 as follows:

§ 56-234. Duty to furnish adequate service at reasonable and uniform rates.

A. It shall be the duty of every public utility to furnish reasonably adequate service and facilities at reasonable and just rates to any person, firm or corporation along its lines desiring same. Notwithstanding any other provision of law:

1. A telephone company shall not have the duty to extend or expand its facilities to furnish service and facilities when the person, firm or corporation has service available from one or more alternative providers of wireline or terrestrial wireless communications services at prevailing market rates; and

2. A telephone company may meet its duty to furnish reasonably adequate service and facilities through the use of any and all available wireline and terrestrial wireless technologies; however, a telephone company, when restoring service to an existing wireline customer, shall offer the option to furnish service using wireline facilities.

For purposes of subdivisions 1 and 2, the Commission shall have the authority upon request of an individual, corporation, or other entity, or a telephone company, to determine whether the wireline or terrestrial wireless communications service available to the party requesting service is a reasonably adequate alternative to local exchange telephone service.

The use by a telephone company of wireline and terrestrial wireless technologies shall not be construed to grant any additional jurisdiction or authority to the Commission over such technologies.

For purposes of subdivision 1, "prevailing market rates" means rates similar to those generally available to consumers in competitive areas for the same services.

B. It shall be the duty of every public utility to charge uniformly therefor all persons, corporations or municipal corporations using such service under like conditions. However, no provision of law shall be deemed to preclude voluntary rate or rate design tests or experiments, or other experiments involving the use of special rates, where such experiments have been approved by order of the Commission after notice and hearing and a finding that such experiments are necessary in order to acquire information which is or may be in furtherance of the public interest. *The Commission's final order regarding any petition filed by an investor-owned electric utility for approval of a voluntary rate or rate design test or experiment shall be entered the earlier of not more than six months after the filing of the petition or not more than three months after the date of any evidentiary hearing concerning such petition.* The charge for such service shall be at the lowest rate applicable for such service in accordance with schedules filed with the Commission pursuant to § 56-236. But, subject to the provisions of § 56-232.1, nothing contained herein or in § 56-481.1 shall apply to (i) schedules of rates for any telecommunications service provided to the public by virtue of any contract with, (ii) for any service provided under or relating to a contract for telecommunications services with, or (iii) contracts for service rendered by any telephone company to, the state government or any agency thereof, or by any other public utility to any municipal corporation or to the state or federal government. The provisions hereof shall not apply to or in any way affect any proceeding pending in the State Corporation Commission on or before July 1, 1950, and shall not confer on the Commission any jurisdiction not now vested in it with respect to any such proceeding.

C. The Commission may conclude that competition can effectively ensure reasonably adequate retail services in competitive exchanges and may carry out its duty to ensure that a public utility is furnishing reasonably adequate retail service in its competitive exchanges by monitoring individual customer complaints and requiring appropriate responses to such complaints.

SENATE SUBSTITUTE

SB966S1

60 § 56-265.1. Definitions.

61 In this chapter the following terms shall have the following meanings:

62 (a) "Company" means a corporation, a limited liability company, an individual, a partnership, an
63 association, a joint-stock company, a business trust, a cooperative, or an organized group of persons,
64 whether incorporated or not; or any receiver, trustee or other liquidating agent of any of the foregoing in
65 his capacity as such; but not a municipal corporation or a county, unless such municipal corporation or
66 county has obtained a certificate pursuant to § 56-265.4:4.

67 (b) "Public utility" means any company ~~which that~~ owns or operates facilities within the
68 Commonwealth of Virginia for the generation, transmission, *storage*, or distribution of electric energy
69 for sale, for the production, storage, transmission, or distribution, otherwise than in enclosed portable
70 containers, of natural or manufactured gas or geothermal resources for sale for heat, light or power, or
71 for the furnishing of telephone service, sewerage facilities or water; ~~however~~. *As used in this definition,*
72 *a facility for the storage of electric energy for sale includes one or more pumped hydroelectricity*
73 *generation and storage facilities located in the coalfield region of Virginia as described in § 15.2-6002.*
74 *However, the term "public utility" shall does not include any of the following:*

75 (1) Except as otherwise provided in § 56-265.3:1, any company furnishing sewerage facilities,
76 geothermal resources or water to less than 50 customers. Any company furnishing water or sewer
77 services to 10 or more customers and excluded by this subdivision from the definition of "public utility"
78 for purposes of this chapter nevertheless shall not abandon the water or sewer services unless and until
79 approval is granted by the Commission or all the customers receiving such services agree to accept
80 ownership of the company.

81 (2) Any company generating and distributing electric energy exclusively for its own consumption.

82 (3) Any company (A) which furnishes electric service together with heating and cooling services,
83 generated at a central plant installed on the premises to be served, to the tenants of a building or
84 buildings located on a single tract of land undivided by any publicly maintained highway, street or road
85 at the time of installation of the central plant, and (B) which does not charge separately or by meter for
86 electric energy used by any tenant except as part of a rental charge. Any company excluded by this
87 subdivision from the definition of "public utility" for the purposes of this chapter nevertheless shall,
88 within 30 days following the issuance of a building permit, notify the State Corporation Commission in
89 writing of the ownership, capacity and location of such central plant, and it shall be subject, with regard
90 to the quality of electric service furnished, to the provisions of Chapters 10 (§ 56-232 et seq.) and 17
91 (§ 56-509 et seq.) ~~of this title~~ and regulations thereunder and be deemed a public utility for such
92 purposes, if such company furnishes such service to 100 or more lessees.

93 (4) Any company, or affiliate thereof, making a first or direct sale, or ancillary transmission or
94 delivery service, of natural or manufactured gas to fewer than 35 commercial or industrial customers,
95 which are not themselves "public utilities" as defined in this chapter, or to certain public schools as
96 indicated in this subdivision, for use solely by such purchasing customers at facilities which are not
97 located in a territory for which a certificate to provide gas service has been issued by the Commission
98 under this chapter and which, at the time of the Commission's receipt of the notice provided under
99 § 56-265.4:5, are not located within any area, territory, or jurisdiction served by a municipal corporation
100 that provided gas distribution service as of January 1, 1992, provided that such company shall comply
101 with the provisions of § 56-265.4:5. Direct sales or ancillary transmission or delivery services of natural
102 gas to public schools in the following localities may be made without regard to the number of schools
103 involved and shall not count against the "fewer than 35" requirement in this subdivision: the Counties of
104 Dickenson, Wise, Russell, and Buchanan, and the City of Norton.

105 (5) Any company which is not a public service corporation and which provides compressed natural
106 gas service at retail for the public.

107 (6) Any company selling landfill gas from a solid waste management facility permitted by the
108 Department of Environmental Quality to a public utility certificated by the Commission to provide gas
109 distribution service to the public in the area in which the solid waste management facility is located. If
110 such company submits to the public utility a written offer for sale of such gas and the public utility
111 does not agree within 60 days to purchase such gas on mutually satisfactory terms, then the company
112 may sell such gas to (i) any facility owned and operated by the Commonwealth which is located within
113 three miles of the solid waste management facility or (ii) any purchaser after such landfill gas has been
114 liquefied. The provisions of this subdivision shall not apply to the City of Lynchburg or Fairfax County.

115 (7) Any authority created pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et
116 seq.) making a sale or ancillary transmission or delivery service of landfill gas to a commercial or
117 industrial customer from a solid waste management facility permitted by the Department of
118 Environmental Quality and operated by that same authority, if such an authority limits off-premises sale,
119 transmission or delivery service of landfill gas to no more than one purchaser. The authority may
120 contract with other persons for the construction and operation of facilities necessary or convenient to the
121 sale, transmission or delivery of landfill gas, and no such person shall be deemed a public utility solely

122 by reason of its construction or operation of such facilities. If the purchaser of the landfill gas is located
 123 within the certificated service territory of a natural gas public utility, the public utility may file for
 124 Commission approval a proposed tariff to reflect any anticipated or known changes in service to the
 125 purchaser as a result of the use of landfill gas. No such tariff shall impose on the purchaser of the
 126 landfill gas terms less favorable than similarly situated customers with alternative fuel capabilities;
 127 provided, however, that such tariff may impose such requirements as are reasonably calculated to
 128 recover the cost of such service and to protect and ensure the safety and integrity of the public utility's
 129 facilities.

130 (8) A company selling or delivering only landfill gas, electricity generated from only landfill gas, or
 131 both, that is derived from a solid waste management facility permitted by the Department of
 132 Environmental Quality and sold or delivered from any such facility to not more than three commercial
 133 or industrial purchasers or to a natural gas or electric public utility, municipal corporation or county as
 134 authorized by this section. If a purchaser of the landfill gas is located within the certificated service
 135 territory of a natural gas public utility or within an area in which a municipal corporation provides gas
 136 distribution service and the landfill gas is to be used in facilities constructed after January 1, 2000, such
 137 company shall submit to such public utility or municipal corporation a written offer for sale of that gas
 138 prior to offering the gas for sale or delivery to a commercial or industrial purchaser. If the public utility
 139 or municipal corporation does not agree within 60 days following the date of the offer to purchase such
 140 landfill gas on mutually satisfactory terms, then the company shall be authorized to sell such landfill
 141 gas, electricity, or both, to the commercial or industrial purchaser, utility, municipal corporation, or
 142 county. Such public utility may file for Commission approval a proposed tariff to reflect any anticipated
 143 or known changes in service to the purchaser as a result of the purchaser's use of the landfill gas. No
 144 such tariff shall impose on such purchaser of the landfill gas terms less favorable than those imposed on
 145 similarly situated customers with alternative fuel capabilities; provided, however, that such tariff may
 146 impose such requirements as are reasonably calculated to recover any cost of such service and to protect
 147 and ensure the safety and integrity of the public utility's facilities.

148 (9) A company that is not organized as a public service company pursuant to subsection D of
 149 § 13.1-620 and that sells and delivers propane air only to one or more public utilities. Any company
 150 excluded by this subdivision from the definition of "public utility" for the purposes of this chapter
 151 nevertheless shall be subject to the Commission's jurisdiction relating to gas pipeline safety and
 152 enforcement.

153 (10) A farm or aggregation of farms that owns and operates facilities within the Commonwealth for
 154 the generation of electric energy from waste-to-energy technology. As used in this subdivision, (i)
 155 "farm" means any person that obtains at least 51 percent of its annual gross income from agricultural
 156 operations and produces the agricultural waste used as feedstock for the waste-to-energy technology, (ii)
 157 "agricultural waste" means biomass waste materials capable of decomposition that are produced from the
 158 raising of plants and animals during agricultural operations, including animal manures, bedding, plant
 159 stalks, hulls, and vegetable matter, and (iii) "waste-to-energy technology" means any technology,
 160 including but not limited to a methane digester, that converts agricultural waste into gas, steam, or heat
 161 that is used to generate electricity on-site.

162 (11) A company, other than an entity organized as a public service company, that provides
 163 non-utility gas service as provided in § 56-265.4:6.

164 (12) *A company, other than an entity organized as a public service company, that provides storage
 165 of electric energy that is not for sale to the public.*

166 (c) "Commission" means the State Corporation Commission.

167 (d) "Geothermal resources" means those resources as defined in § 45.1-179.2.

168 **§ 56-466.2. Undergrounding existing overhead distribution lines; relocation of facilities of cable
 169 operator.**

170 When an investor-owned incumbent electric utility proposes to improve electric service reliability
 171 pursuant to clause (iv) of subdivision A 6 of § 56-585.1 by installing new underground facilities to
 172 replace the utility's existing overhead distribution tap lines, if the utility owns the poles from which the
 173 existing overhead distribution tap lines are to be relocated and any cable operator of a cable television
 174 system, as those terms are defined in § 15.2-2108.19, has also attached its facilities to such poles, the
 175 utility shall provide written notice to the cable operator of the utility's intention to relocate the overhead
 176 distribution tap lines ~~and to abandon or remove such poles~~ not less than 90 days prior to relocating the
 177 utility's overhead distribution lines. The cable operator shall notify the utility within 45 days of the
 178 notice of relocation whether the cable operator will relocate its facilities underground *or request to*
 179 *remain overhead in accordance with the provisions set forth herein.* If the cable operator elects to
 180 relocate its facilities underground, in such notice the cable operator may request that the utility use
 181 commercially reasonable efforts to negotiate a common shared underground easement for the facilities to
 182 be located underground of the utility and the cable operator. The cable operator shall be responsible to

183 negotiate any additional easements that it may require. If the cable operator elects to relocate its
184 facilities underground, the cable operator may participate with the utility in a joint relocation of the
185 overhead lines to underground or may engage its own contractors to undertake its relocation work if it
186 deems it appropriate to do so. If the cable operator may legally retain the poles that the utility intends to
187 abandon and the cable operator wishes for its facilities to remain attached to the poles, the utility may
188 convey such poles "as-is" and "where-is" to the cable operator at its depreciated cost less the estimated
189 cost of removal, provided the cable operator assumes all liability for the pole and obtains an easement
190 from the property owner for the use thereof on or before the date the poles are conveyed to the cable
191 operator. In all cases, the cable operator shall be responsible for all costs related to the relocation of
192 cable facilities and, unless otherwise agreed between the utility and the cable operator, the cable operator
193 shall cease all use of such poles and shall relocate or remove its facilities from the poles on or before
194 90 days after the utility gives written notice to the cable operator that it has relocated its distribution tap
195 lines underground. The utility shall not abandon or remove the poles that the utility owns until the cable
196 operator completes the relocation or removal of its facilities or 90 days after the completion of the
197 relocation of the utility overhead distribution lines, whichever first occurs. *If the cable operator does not*
198 *elect to relocate its facilities underground and requests to maintain its facilities overhead, the utility*
199 *may either (i) convey such poles "as-is" and "where-is" to the cable operator at its depreciated cost less*
200 *the estimated cost of removal, provided that the cable operator may legally retain the poles that the*
201 *utility intends to abandon and assumes all liability for the poles conveyed or (ii) retain ownership of its*
202 *poles and allow the cable operator's existing overhead facilities to remain attached, in which case the*
203 *utility shall maintain the pole in accordance with prudent utility standards, provided that the cable*
204 *operator shall continue to pay its pole attachment fees and otherwise comply with its contractual*
205 *obligations pursuant to the applicable pole attachment agreement. In all cases, the cable operator shall*
206 *be responsible for all costs related to the relocation or maintenance of its facilities.*

207 *In instances in which an investor-owned incumbent electric utility continues to own and maintain its*
208 *utility poles after the overhead distribution lines of the utility formerly on such poles have been placed*
209 *underground pursuant to the foregoing provisions, then for purposes of any agreement or ordinance*
210 *with respect to a cable franchise under § 15.2-2108.20 or 15.2-2108.21, the utility shall not be deemed*
211 *to have converted to underground.*

212 **§ 56-576. Definitions.**

213 As used in this chapter:

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

216 "Aggregator" means a person that, as an agent or intermediary, (i) offers to purchase, or purchases,
217 electric energy or (ii) offers to arrange for, or arranges for, the purchase of electric energy, for sale to,
218 or on behalf of, two or more retail customers not controlled by or under common control with such
219 person. The following activities shall not, in and of themselves, make a person an aggregator under this
220 chapter: (i) furnishing legal services to two or more retail customers, suppliers or aggregators; (ii)
221 furnishing educational, informational, or analytical services to two or more retail customers, unless direct
222 or indirect compensation for such services is paid by an aggregator or supplier of electric energy; (iii)
223 furnishing educational, informational, or analytical services to two or more suppliers or aggregators; (iv)
224 providing default service under § 56-585; (v) engaging in activities of a retail electric energy supplier,
225 licensed pursuant to § 56-587, which are authorized by such supplier's license; and (vi) engaging in
226 actions of a retail customer, in common with one or more other such retail customers, to issue a request
227 for proposal or to negotiate a purchase of electric energy for consumption by such retail customers.

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

230 "Commission" means the State Corporation Commission.

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

232 "Covered entity" means a provider in the Commonwealth of an electric service not subject to
233 competition but shall not include default service providers.

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

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

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

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

244 "Distribute," "distributing," or "distribution of" electric energy means the transfer of electric energy

245 through a retail distribution system to a retail customer.

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

248 "*Electric distribution grid transformation project*" means a project associated with electric
249 distribution infrastructure, including related data analytics equipment, that is designed to accommodate
250 or facilitate the integration of utility-owned or customer-owned renewable electric generation resources
251 with the utility's electric distribution grid or to otherwise enhance electric distribution grid reliability,
252 electric distribution grid security, customer service, or energy efficiency and conservation, including
253 advanced metering infrastructure; intelligent grid devices for real time system and asset information;
254 automated control systems for electric distribution circuits and substations; communications networks for
255 service meters; intelligent grid devices and other distribution equipment; distribution system hardening
256 projects for circuits, other than the conversion of overhead tap lines to underground service, and
257 substations designed to reduce service outages or service restoration times; physical security measures
258 at key distribution substations; cyber security measures; energy storage systems and microgrids that
259 support circuit-level grid stability, power quality, reliability, or resiliency or provide temporary backup
260 energy supply; electrical facilities and infrastructure necessary to support electric vehicle charging
261 systems; LED street light conversions; and new customer information platforms designed to provide
262 improved customer access, greater service options and expanded access to energy usage information.

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

266 "Energy efficiency program" means a program that reduces the total amount of electricity that is
267 required for the same process or activity implemented after the expiration of capped rates.

268 Energy efficiency programs include equipment, physical, or program change designed to produce
269 measured and verified reductions in the amount of electricity required to perform the same function and
270 produce the same or a similar outcome. Energy efficiency programs may include, but are not limited to,
271 (i) programs that result in improvements in lighting design, heating, ventilation, and air conditioning
272 systems, appliances, building envelopes, and industrial and commercial processes; (ii) measures, such as
273 but not limited to the installation of advanced meters, implemented or installed by utilities, that reduce
274 fuel use or losses of electricity and otherwise improve internal operating efficiency in generation,
275 transmission, and distribution systems; and (iii) customer engagement programs that result in measurable
276 and verifiable energy savings that lead to efficient use patterns and practices. Energy efficiency
277 programs include demand response, combined heat and power and waste heat recovery, curtailment, or
278 other programs that are designed to reduce electricity consumption so long as they reduce the total
279 amount of electricity that is required for the same process or activity. Utilities shall be authorized to
280 install and operate such advanced metering technology and equipment on a customer's premises;
281 however, nothing in this chapter establishes a requirement that an energy efficiency program be
282 implemented on a customer's premises and be connected to a customer's wiring on the customer's side of
283 the inter-connection without the customer's expressed consent.

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

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

287 "Incumbent electric utility" means each electric utility in the Commonwealth that, prior to July 1,
288 1999, supplied electric energy to retail customers located in an exclusive service territory established by
289 the Commission.

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

293 "In the public interest," for purposes of assessing energy efficiency programs, describes an energy
294 efficiency program if, ~~among other factors, the Commission determines that~~ the net present value of the
295 benefits exceeds the net present value of the costs as determined by ~~the Commission upon consideration~~
296 *not less than any three* of the following four tests: (i) the Total Resource Cost Test; (ii) the Utility Cost
297 Test (also referred to as the Program Administrator Test); (iii) the Participant Test; and (iv) the
298 Ratepayer Impact Measure Test. Such determination shall include an analysis of all four tests, and a
299 program or portfolio of programs shall ~~not be rejected based solely on the results of a single test~~
300 *approved if the net present value of the benefits exceeds the net present value of the costs as determined*
301 *by not less than any three of the four tests.* In addition, an energy efficiency program may be deemed to
302 be "in the public interest" if the program provides measurable and verifiable energy savings to
303 low-income customers or elderly customers.

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

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

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

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

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

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

322 "Renewable energy" means energy derived from sunlight, wind, falling water, biomass, sustainable or
323 otherwise, (the definitions of which shall be liberally construed), energy from waste, landfill gas,
324 municipal solid waste, wave motion, tides, and geothermal power, and does not include energy derived
325 from coal, oil, natural gas, or nuclear power. Renewable energy shall also include the proportion of the
326 thermal or electric energy from a facility that results from the co-firing of biomass.

327 "Renewable thermal energy" means the thermal energy output from (i) a renewable-fueled combined
328 heat and power generation facility that is (a) constructed, or renovated and improved, after January 1,
329 2012, (b) located in the Commonwealth, and (c) utilized in industrial processes other than the combined
330 heat and power generation facility or (ii) a solar energy system, certified to the OG-100 standard of the
331 Solar Ratings and Certification Corporation or an equivalent certification body, that (a) is constructed, or
332 renovated and improved, after January 1, 2013, (b) is located in the Commonwealth, and (c) heats water
333 or air for residential, commercial, institutional, or industrial purposes.

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

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

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

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

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

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

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

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

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

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

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

368 **§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or
369 expire.**

370 A. During the first six months of 2009, the Commission shall, after notice and opportunity for
371 hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation,
372 distribution and transmission services of each investor-owned incumbent electric utility. Such
373 proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified
374 herein. In such proceedings the Commission shall determine fair rates of return on common equity
375 applicable to the generation and distribution services of the utility. In so doing, the Commission may use
376 any methodology to determine such return it finds consistent with the public interest, but such return
377 shall not be set lower than the average of the returns on common equity reported to the Securities and
378 Exchange Commission for the three most recent annual periods for which such data are available by not
379 less than a majority, selected by the Commission as specified in subdivision 2 b, of other
380 investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return
381 more than 300 basis points higher than such average. The peer group of the utility shall be determined
382 in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined
383 rate of return by up to 100 basis points based on the generating plant performance, customer service,
384 and operating efficiency of a utility, as compared to nationally recognized standards determined by the
385 Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine
386 the rates that the utility may charge until such rates are adjusted. If the Commission finds that the
387 utility's combined rate of return on common equity is more than 50 basis points below the combined
388 rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to
389 provide the opportunity to fully recover the costs of providing the utility's services and to earn not less
390 than such combined rate of return. If the Commission finds that the utility's combined rate of return on
391 common equity is more than 50 basis points above the combined rate of return as so determined, it shall
392 be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the
393 Commission may not order such rate reduction unless it finds that the resulting rates will provide the
394 utility with the opportunity to fully recover its costs of providing its services and to earn not less than
395 the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to
396 direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above
397 the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event
398 such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the
399 Commission, following the effective date of the Commission's order and be allocated among customer
400 classes such that the relationship between the specific customer class rates of return to the overall target
401 rate of return will have the same relationship as the last approved allocation of revenues used to design
402 base rates. Commencing in 2011, the Commission, after notice and opportunity for hearing, shall
403 conduct biennial reviews of the rates, terms and conditions for the provision of generation, distribution
404 and transmission services by each investor-owned incumbent electric utility, subject to the following
405 provisions:

406 1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis,
407 and such reviews shall be conducted in a single, combined proceeding. *The first such review shall
408 utilize Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase I
409 Utility in 2020, utilizing the two three successive 12-month test periods beginning January 1, 2017, and
410 ending December 31, 2019. However, the Commission may, in its discretion, elect to stagger its
411 biennial reviews of utilities by utilizing the two successive 12-month test periods ending December 31,
412 2010, for a Phase I Utility, and utilizing the two successive 12-month test periods ending December 31,
413 2011. Thereafter, reviews for a Phase II Utility, will be on a triennial basis with subsequent
414 proceedings utilizing the two three successive 12-month test periods ending December 31 immediately
415 preceding the year in which such review proceeding is conducted. Pursuant to subsection A of
416 § 56-585.1:1, the Commission shall conduct a review for a Phase II Utility in 2021, utilizing the four
417 successive 12-month test periods beginning January 1, 2017, and ending December 31, 2020, with
418 subsequent reviews on a triennial basis utilizing the three successive 12-month test periods ending
419 December 31 immediately preceding the year in which such review proceeding is conducted. All such
420 reviews occurring after December 31, 2017, shall be referred to as triennial reviews.* For purposes of
421 this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1,
422 1999, not bound by a rate case settlement adopted by the Commission that extended in its application
423 beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was
424 bound by such a settlement.

425 2. Subject to the provisions of subdivision 6, *the fair rates rate* of return on common equity
426 applicable separately to the generation and distribution services of such utility, and for the two such
427 services combined, *and for any rate adjustment clauses approved under subdivision 5 or 6,* shall be
428 determined by the Commission during each such biennial triennial review, as follows:

429 a. The Commission may use any methodology to determine such return it finds consistent with the
430 public interest, but such return shall not be set lower than the average of the returns on common equity
431 reported to the Securities and Exchange Commission for the three most recent annual periods for which
432 such data are available by not less than a majority, selected by the Commission as specified in
433 subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility subject to such
434 *biennial triennial* review, nor shall the Commission set such return more than 300 basis points higher
435 than such average.

436 b. In selecting such majority of peer group investor-owned electric utilities, the Commission shall
437 first remove from such group the two utilities within such group that have the lowest reported returns of
438 the group, as well as the two utilities within such group that have the highest reported returns of the
439 group, and the Commission shall then select a majority of the utilities remaining in such peer group. In
440 its final order regarding such *biennial triennial* review, the Commission shall identify the utilities in
441 such peer group it selected for the calculation of such limitation. For purposes of this subdivision, an
442 investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are
443 conducted in the southeastern United States east of the Mississippi River in either the states of West
444 Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a
445 vertically-integrated electric utility providing generation, transmission and distribution services whose
446 facilities and operations are subject to state public utility regulation in the state where its principal
447 operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of
448 at least Baa at the end of the most recent test period subject to such *biennial triennial* review, and (iv) it
449 is not an affiliate of the utility subject to such *biennial triennial* review.

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

453 d. In any Current Proceeding, the Commission shall determine whether the Current Return has
454 increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a
455 percentage, in the United States Average Consumer Price Index for all items, all urban consumers
456 (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since
457 the date on which the Commission determined the Initial Return. If so, the Commission may conduct an
458 additional analysis of whether it is in the public interest to utilize such Current Return for the Current
459 Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall
460 be made without regard to any enhanced rate of return on common equity awarded pursuant to the
461 provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration
462 of overall economic conditions, the level of interest rates and cost of capital with respect to business and
463 industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of
464 goods and services, the effect on the utility's ability to provide adequate service and to attract capital if
465 less than the Current Return were utilized for the Current Proceeding then pending, and such other
466 factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that
467 use of the Current Return for the Current Proceeding then pending would not be in the public interest,
468 then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for
469 such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a
470 percentage at least equal to the increase, expressed as a percentage, in the United States Average
471 Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor
472 Statistics of the United States Department of Labor, since the date on which the Commission determined
473 the Initial Return. For purposes of this subdivision:

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

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

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

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

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

489 g. If the combined rate of return on common equity earned by the generation and distribution
490 services is no more than 50 basis points above or below the return as so determined or, for any test

491 period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a
 492 Phase I Utility, such return is no more than 70 basis points above or below the return as so determined,
 493 such combined return shall not be considered either excessive or insufficient, respectively. However, for
 494 any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31,
 495 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned
 496 below the return as so determined, whether or not such combined return is within 70 basis points of the
 497 return as so determined, the utility may petition the Commission for approval of an increase in rates in
 498 accordance with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a
 499 fair combined rate of return, and such proceeding shall otherwise be conducted in accordance with the
 500 provisions of this section. *The provisions of this subdivision are subject to the provisions of subdivision*
 501 *8.*

502 h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills
 503 pursuant to this section shall not be considered for the purpose of determining the utility's earnings in
 504 any subsequent *biennial triennial* review.

505 3. Each such utility shall make a *biennial triennial* filing by March 31 of every ~~other third~~ year,
 506 ~~beginning in 2011, with such filings commencing for a Phase I Utility in 2020, and such filings~~
 507 ~~commencing for a Phase II Utility in 2021,~~ consisting of the schedules contained in the Commission's
 508 rules governing utility rate increase applications; however, if the Commission elects to stagger the dates
 509 of the biennial reviews of utilities as provided in subdivision 1, then each Phase I Utility shall
 510 commence biennial filings in 2011 and each Phase II Utility shall commence biennial filings in 2012.
 511 Such filing shall encompass the ~~two~~ ~~three~~ successive 12-month test periods ending December 31
 512 immediately preceding the year in which such proceeding is conducted, *except that the filing for a*
 513 *Phase II Utility in 2021 shall encompass the four successive 12-month test periods ending December 31,*
 514 2020, and in every such case the filing for each year shall be identified separately and shall be
 515 segregated from any other year encompassed by the filing. If the Commission determines that rates
 516 should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate
 517 adjustment clauses previously implemented ~~pursuant to subdivision 5 or those~~ related to facilities
 518 utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the
 519 utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment
 520 clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues
 521 and investments only after it makes its initial determination with regard to necessary rate revisions or
 522 credits to customers' bills, and the amounts thereof, but after such clauses are combined as herein
 523 specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the
 524 purposes of future *biennial triennial* review proceedings. *A Phase I Utility shall delay for one year the*
 525 *filing of its biennial review from March 31, 2013, to March 31, 2014, and shall not defer on its books*
 526 *for future recovery any costs incurred during calendar year 2011, other than as provided in subdivision 7*
 527 *or § 56-249.6, and its subsequent biennial filing shall be made by March 31, 2016, and every two years*
 528 *thereafter.*

529 4. The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for
 530 transmission services provided to the utility by the regional transmission entity of which the utility is a
 531 member, as determined under applicable rates, terms and conditions approved by the Federal Energy
 532 Regulatory Commission, and (ii) costs charged to the utility that are associated with demand response
 533 programs approved by the Federal Energy Regulatory Commission and administered by the regional
 534 transmission entity of which the utility is a member. Upon petition of a utility at any time after the
 535 expiration or termination of capped rates, but not more than once in any 12-month period, the
 536 Commission shall approve a rate adjustment clause under which such costs, including, without
 537 limitation, costs for transmission service, charges for new and existing transmission facilities,
 538 administrative charges, and ancillary service charges designed to recover transmission costs, shall be
 539 recovered on a timely and current basis from customers. Retail rates to recover these costs shall be
 540 designed using the appropriate billing determinants in the retail rate schedules.

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

544 a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1,
 545 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring
 546 such costs consistent with an order of the Commission entered under clause (vi) of subsection B of
 547 § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that
 548 comply with the requirements of clause (vi) of subsection B of § 56-582;

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

552 c. Projected and actual costs for the utility to design, implement, and operate energy efficiency
553 programs, including a margin to be recovered on operating expenses, which margin for the purposes of
554 this section shall be equal to the general rate of return on common equity determined as described in
555 subdivision 2. The Commission shall only approve such a petition if it finds that the program is in the
556 public interest. As part of such cost recovery, the Commission, if requested by the utility, shall allow for
557 the recovery of revenue reductions related to energy efficiency programs. The Commission shall only
558 allow such recovery to the extent that the Commission determines such revenue has not been recovered
559 through margins from incremental off-system sales as defined in § 56-249.6 that are directly attributable
560 to energy efficiency programs.

561 None of the costs of new energy efficiency programs of an electric utility, including recovery of
562 revenue reductions, shall be assigned to any *large general service* customer that has a *verifiable history*
563 of having used more than 10 megawatts of demand from a single meter of delivery. Nor shall any of the
564 costs of new energy efficiency programs of an electric utility, including recovery of revenue reductions,
565 be incurred by any *large general service customer* as defined herein that has notified the utility of
566 non-participation in such energy efficiency program or programs. A large general service customer is a
567 customer that has a verifiable history of having used more than 500 kilowatts of demand from a single
568 meter of delivery. Non-participation in energy efficiency programs shall be allowed by the Commission
569 if the large general service customer has, at the customer's own expense, implemented energy efficiency
570 programs that have produced or will produce measured and verified results consistent with industry
571 standards and other regulatory criteria stated in this section. The Commission shall, no later than
572 November 15, 2009, promulgate rules and regulations to accommodate the process under which such
573 large general service customers shall file notice for such an exemption and (i) establish the
574 administrative procedures by which eligible customers will notify the utility and (ii) define the standard
575 criteria that must be satisfied by an applicant in order to notify the utility. In promulgating such rules
576 and regulations, the Commission may also specify the timing as to when a utility shall accept and act on
577 such notice, taking into consideration the utility's integrated resource planning process as well as its
578 administration of energy efficiency programs that are approved for cost recovery by the Commission.
579 The notice of non-participation by a large general service customer, to be given by March 1 of a given
580 year, shall be for the duration of the service life of the customer's energy efficiency program. The
581 Commission on its own motion may initiate steps necessary to verify such non-participants' achievement
582 of energy efficiency if the Commission has a body of evidence that the non-participant has knowingly
583 misrepresented its energy efficiency achievement. A utility shall not charge such large general service
584 customer, as defined by the Commission, for the costs of installing energy efficiency equipment beyond
585 what is required to provide electric service and meter such service on the customer's premises if the
586 customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant
587 proceedings pursuant to this section, the Commission shall take into consideration the goals of economic
588 development, energy efficiency and environmental protection in the Commonwealth;

589 d. Projected and actual costs of participation in a renewable energy portfolio standard program
590 pursuant to § 56-585.2 that are not recoverable under subdivision 6. The Commission shall approve such
591 a petition allowing the recovery of such costs as are provided for in a program approved pursuant to
592 § 56-585.2;

593 e. Projected and actual costs of projects that the Commission finds to be necessary to comply with
594 state or federal environmental laws or regulations applicable to generation facilities used to serve the
595 utility's native load obligations. The Commission shall approve such a petition if it finds that such costs
596 are necessary to comply with such environmental laws or regulations; and

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

603 The Commission shall have the authority to determine the duration or amortization period for any
604 adjustment clause approved under this subdivision.

605 6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the
606 utility's projected native load obligations and to promote economic development, a utility may at any
607 time, after the expiration or termination of capped rates, petition the Commission for approval of a rate
608 adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a
609 coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the
610 Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or
611 without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major
612 unit modifications of generation facilities, including the costs of any system or equipment upgrade,
613 system or equipment replacement, or other cost reasonably appropriate to extend the combined operating

614 license for or the operating life of one or more generation facilities utilizing nuclear power, (iv) one or
 615 more new underground facilities to replace one or more existing overhead distribution facilities of 69
 616 kilovolts or less located within the Commonwealth, or (v) one or more pumped hydroelectricity
 617 generation and storage facilities that utilize on-site or off-site renewable energy resources as all or a
 618 portion of their power source and such facilities and associated resources are located in the coalfield
 619 region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located
 620 within or without the utility's service territory, or (vi) one or more electric distribution grid
 621 transformation projects; however, subject to the provisions of the following sentence, the utility shall not
 622 file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual
 623 incremental increase in the level of investments associated with such a petition that exceeds five percent
 624 of such utility's distribution rate base, as such rate base was determined for the most recently ended
 625 12-month test period in the utility's latest biennial review proceeding conducted pursuant to subdivision
 626 3 and concluded by final order of the Commission prior to the date of filing of such petition under
 627 clause (iv). In all proceedings regarding petitions filed under clause (iv) or (vi), the level of investments
 628 approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of
 629 investments previously approved for recovery in prior proceedings under clause (iv) or (vi), as
 630 applicable. Such a petition concerning facilities described in clause (ii) that utilize nuclear power,
 631 facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities
 632 described in clause (i) may also be filed before the expiration or termination of capped rates. A utility
 633 that constructs or makes modifications to any such facility, or purchases any facility consisting of at
 634 least one megawatt of generating capacity using energy derived from sunlight and located in the
 635 Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more
 636 Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income,
 637 through its rates, including projected construction work in progress, and any associated allowance for
 638 funds used during construction, planning, development and construction or acquisition costs, life-cycle
 639 costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs
 640 of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate
 641 of return on common equity calculated as specified below; however, in determining the amounts
 642 recoverable under a rate adjustment clause for new underground facilities, the Commission shall not
 643 consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance
 644 costs attributable to either the overhead distribution facilities being replaced or the new underground
 645 facilities or (b) any other costs attributable to the overhead distribution facilities being replaced.
 646 Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain
 647 eligible for recovery from customers through the utility's base rates for distribution service. A utility
 648 filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of
 649 generating capacity using energy derived from sunlight and located in the Commonwealth and that
 650 utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may
 651 propose a rate adjustment clause based on a market index in lieu of a cost of service model for such
 652 facility. A utility seeking approval to construct or purchase a generating facility described in clause (i)
 653 or (ii) shall demonstrate that it has considered and weighed alternative options, including third-party
 654 market alternatives, in its selection process. The costs of the facility, other than return on projected
 655 construction work in progress and allowance for funds used during construction, shall not be recovered
 656 prior to the date a facility constructed by the utility and described in clause (i), (ii), or (iii) or (v) begins
 657 commercial operation, the date the utility becomes the owner of a purchased generation facility
 658 consisting of at least one megawatt of generating capacity using energy derived from sunlight and
 659 located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one
 660 or more Virginia businesses, or the date new underground facilities are classified by the utility as plant
 661 in service. Such enhanced rate of return on common equity shall be applied to allowance for funds used
 662 during construction and to construction work in progress during the construction phase of the facility
 663 and shall thereafter be applied to the entire facility during the first portion of the service life of the
 664 facility. The first portion of the service life shall be as specified in the table below; however, the
 665 Commission shall determine the duration of the first portion of the service life of any facility, within the
 666 range specified in the table below, which determination shall be consistent with the public interest and
 667 shall reflect the Commission's determinations regarding how critical the facility may be in meeting the
 668 energy needs of the citizens of the Commonwealth and the risks involved in the development of the
 669 facility. After the first portion of the service life of the facility is concluded, the utility's general rate of
 670 return shall be applied to such facility for the remainder of its service life. As used herein, the service
 671 life of the facility shall be deemed to begin on the date a facility constructed by the utility and described
 672 in clause (i), (ii), or (iii) or (v) begins commercial operation, the date the utility becomes the owner of a
 673 purchased generation facility consisting of at least one megawatt of generating capacity using energy
 674 derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in

675 whole or in part, from one or more Virginia businesses, or the date new underground facilities *or new*
 676 *electric distribution grid transformation projects* are classified by the utility as plant in service, and such
 677 service life shall be deemed equal in years to the life of that facility as used to calculate the utility's
 678 depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the
 679 basis points specified in the table below to the utility's general rate of return, and such enhanced rate of
 680 return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for
 681 funds used during construction shall be calculated for any such facility utilizing the utility's actual
 682 capital structure and overall cost of capital, including an enhanced rate of return on common equity as
 683 determined pursuant to this subdivision, until such construction work in progress is included in rates.
 684 The construction of any facility described in clause (i) or (v) is in the public interest, and in determining
 685 whether to approve such facility, the Commission shall liberally construe the provisions of this title. The
 686 construction or purchase by a utility of one or more generation facilities with at least one megawatt of
 687 generating capacity, and with an aggregate rated capacity that does not exceed 500 5,000 megawatts,
 688 *including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate*
 689 *capacity of 50 megawatts*, that use energy derived from sunlight *or from wind* and are located in the
 690 Commonwealth *or off the Commonwealth's Atlantic shoreline*, regardless of whether any of such
 691 facilities are located within or without the utility's service territory, is in the public interest, and in
 692 determining whether to approve such facility, the Commission shall liberally construe the provisions of
 693 this title. A utility may enter into short-term or long-term power purchase contracts for the power
 694 derived from sunlight generated by such generation facility prior to purchasing the generation facility.
 695 The replacement of any subset of a utility's existing overhead distribution tap lines that have, in the
 696 aggregate, an average of nine or more total unplanned outage events-per-mile over a preceding 10-year
 697 period with new underground facilities in order to improve electric service reliability is in the public
 698 interest. In determining whether to approve petitions for rate adjustment clauses for such new
 699 underground facilities that meet this criteria, and in determining the level of costs to be recovered
 700 thereunder, the Commission shall liberally construe the provisions of this title. ~~There shall be a~~ *The conversion of any such facilities will on or after September 1, 2016,*
 701 ~~rebuttable presumption that the~~ *is deemed to provide local and system-wide benefits; that such new underground facilities are and to be*
 702 ~~cost beneficial, and that the costs associated with such new underground facilities are deemed to be~~
 703 ~~reasonably and prudently incurred and, notwithstanding the provisions of subsection C or D, shall be~~
 704 ~~approved for recovery by the Commission pursuant to this subdivision, provided that the total costs~~
 705 ~~associated with the replacement of any subset of existing overhead distribution tap lines proposed by the~~
 706 ~~utility with new underground facilities, exclusive of financing costs, shall not exceed an average cost per~~
 707 ~~customer of \$20,000, with such customers, including those served directly by or downline of the tap~~
 708 ~~lines proposed for conversion, and, further, such total costs shall not exceed an average cost per mile of~~
 709 ~~tap lines converted, exclusive of financing costs, of \$750,000.~~ A utility may, without regard for whether
 710 ~~it has petitioned for any rate adjustment clause pursuant to clause (vi), petition the Commission, not~~
 711 ~~more than once annually, for approval of a plan for electric distribution grid transformation projects.~~
 712 Any plan for electric distribution grid transformation projects shall include both measures to facilitate
 713 integration of distributed energy resources and measures to enhance physical electric distribution grid
 714 reliability and security. In ruling upon such a petition, the Commission shall consider whether the
 715 utility's plan for such projects, and the projected costs associated therewith, are reasonable and prudent.
 716 Such petition shall be considered on a stand-alone basis without regard to the other costs, revenues,
 717 investments, or earnings of the utility; without regard to whether the costs associated with such projects
 718 will be recovered through a rate adjustment clause under this subdivision or through the utility's rates
 719 for generation and distribution services; and without regard to whether such costs will be the subject of
 720 a customer credit offset, as applicable, pursuant to subdivision 8 d. The Commission's final order
 721 regarding any such petition for approval of an electric distribution grid transformation plan shall be
 722 entered by the Commission not more than six months after the date of filing such petition. The
 723 Commission shall likewise enter its final order with respect to any petition by a utility for a certificate
 724 to construct and operate a generating facility or facilities utilizing energy derived from sunlight,
 725 pursuant to subsection D of § 56-580, within six months after the date of filing such petition. The basis
 726 points to be added to the utility's general rate of return to calculate the enhanced rate of return on
 727 common equity, and the first portion of that facility's service life to which such enhanced rate of return
 728 shall be applied, shall vary by type of facility, as specified in the following table:
 729

Type of Generation Facility	Basis Points	First Portion of Service Life
Nuclear-powered	200	Between 12 and 25 years
Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
Coalbed methane gas powered	150	Between 5 and 15 years
Landfill gas powered	200	Between 5 and 15 years

737 Conventional coal or combined-cycle combustion 100 Between 10 and 20 years
 738 turbine

739 For generating facilities other than those utilizing nuclear power constructed pursuant to clause (ii) or
 740 those utilizing energy derived from offshore wind, as of July 1, 2013, only those facilities as to which a
 741 rate adjustment clause under this subdivision has been previously approved by the Commission, or as to
 742 which a petition for approval of such rate adjustment clause was filed with the Commission, on or
 743 before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified
 744 in the above table during the construction phase of the facility and the approved first portion of its
 745 service life.

746 For generating facilities within the Commonwealth utilizing nuclear power or those utilizing energy
 747 derived from offshore wind projects located in waters off the Commonwealth's Atlantic shoreline, such
 748 facilities shall continue to be eligible for an enhanced rate of return on common equity during the
 749 construction phase of the facility and the approved first portion of its service life of between 12 and 25
 750 years in the case of a facility utilizing nuclear power and for a service life of between 5 and 15 years in
 751 the case of a facility utilizing energy derived from offshore wind, provided, however, that, as of July 1,
 752 2013, the enhanced return for such facilities constructed pursuant to clause (ii) shall be 100 basis points,
 753 which shall be added to the utility's general rate of return as determined under subdivision 2. Thirty
 754 percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1,
 755 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred
 756 by the utility and recovered through a rate adjustment clause under this subdivision at such time as the
 757 Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of
 758 all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall
 759 not be deferred for recovery through a rate adjustment clause under this subdivision; however, such
 760 remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by
 761 the Commission in the test periods under review in the utility's next ~~biennial~~ review filed after July 1,
 762 2014. Thirty percent of all costs of such a facility utilizing energy derived from offshore wind that the
 763 utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after
 764 December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under
 765 this subdivision at such time as the Commission provides in an order approving such a rate adjustment
 766 clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1,
 767 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under
 768 this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through
 769 existing base rates as determined by the Commission in the test periods under review in the utility's next
 770 ~~biennial~~ review filed after July 1, 2014.

771 In connection with planning to meet forecasted demand for electric generation supply and assure the
 772 adequate and sufficient reliability of service, consistent with § 56-598, planning and development
 773 activities for a new nuclear generation facility or facilities are in the public interest.

774 In connection with planning to meet forecasted demand for electric generation supply and assure the
 775 adequate and sufficient reliability of service, consistent with § 56-598, planning and development
 776 activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy
 777 derived from sunlight ~~with an aggregate capacity of 500 megawatts, or from onshore or offshore wind,~~
 778 are in the public interest.

779 *Construction, purchasing, or leasing activities for a new utility-owned and utility-operated generating
 780 facility or facilities utilizing energy derived from sunlight or from wind with an aggregate capacity of
 781 5,000 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and
 782 with an aggregate capacity of 50 megawatts, together with a new test or demonstration project for a
 783 utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore
 784 wind with an aggregate capacity of not more than 16 megawatts, are in the public interest. To the
 785 extent that a utility elects to recover the costs of any such new generation facility or facilities through
 786 its rates for generation and distribution services and does not petition and receive approval from the
 787 Commission for recovery of such costs through a rate adjustment clause described in clause (ii), the
 788 Commission shall provide for a customer credit reinvestment offset, as applicable, pursuant to
 789 subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a
 790 proceeding.*

791 *Electric distribution grid transformation projects are in the public interest. To the extent that a utility
 792 elects to recover the costs of such electric distribution grid transformation projects through its rates for
 793 generation and distribution services, and does not petition and receive approval from the Commission
 794 for recovery of such costs through a rate adjustment clause described in clause (vi), the Commission
 795 shall provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with
 796 respect to all costs deemed reasonable and prudent by the Commission in a proceeding for approval of
 797 a plan for electric distribution grid transformation projects pursuant to subdivision 6 or in a triennial
 798 review proceeding pursuant to subsection D of § 56-580 or in a triennial review proceeding.*

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

807 As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility
808 is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.1-361.1, produced
809 from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by
810 methane or other combustible gas produced by the anaerobic digestion or decomposition of
811 biodegradable materials in a solid waste management facility licensed by the Waste Management Board.
812 A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used
813 in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from
814 the solid waste management facility where it is collected to the generation facility where it is
815 combusted.

816 For purposes of this subdivision, "general rate of return" means the fair combined rate of return on
817 common equity as it is determined by the Commission from time to time for such utility pursuant to
818 subdivision 2. In any proceeding under this subdivision conducted prior to the conclusion of the first
819 biennial review for such utility, the Commission shall determine a general rate of return for such utility
820 in the same manner as it would in a biennial review proceeding.

821 Notwithstanding any other provision of this subdivision, if the Commission finds during the biennial
822 triennial review conducted for a Phase II Utility in 2018 2021 that such utility has not filed applications
823 for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or
824 coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount
825 of the utility's generating resources as such resources existed on July 1, 2007, or that, if all such
826 approvals have been received, that the utility has not made reasonable and good faith efforts to construct
827 one or more such facilities that will provide such additional total capacity within a reasonable time after
828 obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a
829 prospective basis any enhanced rate of return on common equity previously applied to any such facility
830 to no less than the general rate of return for such utility and may apply no less than the utility's general
831 rate of return to any such facility for which the utility seeks approval in the future under this
832 subdivision.

833 Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from
834 the Commission of a rate adjustment clause pursuant to subdivision 6 associated with a test or
835 demonstration project involving a generation facility utilizing energy from offshore wind, and such utility
836 has not, as of July 1, 2023, commenced construction as defined for federal income tax purposes of an
837 offshore wind generation facility or facilities with a minimum aggregate capacity of 250 megawatts, then
838 the Commission, if it finds it in the public interest, may direct that the costs associated with any such
839 rate adjustment clause involving said test or demonstration project shall thereafter no longer be
840 recovered through a rate adjustment clause pursuant to subdivision 6 and shall instead be recovered
841 through the utility's rates for generation and distribution services, with no change in such rates for
842 generation and distribution services as a result of the combination of such costs with the other costs,
843 revenues, and investments included in the utility's rates for generation and distribution services. Any
844 such costs shall remain combined with the utility's other costs, revenues, and investments included in its
845 rates for generation and distribution services until such costs are fully recovered.

846 7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a
847 stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any
848 costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the
849 Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or
850 that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to
851 new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and
852 records of the utility until the Commission's final order in the matter, or until the implementation of any
853 applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in
854 subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of
855 such petition, or during the consideration thereof by the Commission, that are proposed for recovery in
856 such petition and that are related to facilities and projects described in clause (ii) or clause (iii) of
857 subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of
858 subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the
859 books and records of the utility until the Commission's final order in the matter, or until the
860 implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs

861 prudently incurred after the expiration or termination of capped rates related to other matters described
 862 in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or termination of capped
 863 rates, provided, however, that no provision of this act shall affect the rights of any parties with respect
 864 to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia
 865 Electric and Power Company, 109 F.E.R.C. P 61,012 (2004). A utility shall establish a regulatory asset
 866 for regulatory accounting and ratemaking purposes under which it shall defer its operation and
 867 maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant
 868 and (ii) other work at such plant normally performed during a refueling outage. The utility shall
 869 amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning
 870 with the month in which such plant resumes operation after such refueling. The refueling cycle shall be
 871 the applicable period of time between planned refueling outages for such plant. As of January 1, 2014,
 872 such amortized costs are a component of base rates, recoverable in base rates only ratably over the
 873 refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable
 874 in base rates. This provision shall apply to any nuclear-powered generating plant refueling outage
 875 commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs
 876 of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with
 877 respect to *biennial triennial* filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant
 878 to § 56-245 or the Commission's rules governing utility rate increase applications as provided in
 879 subsection B. This provision shall not be deemed to change or reset base rates.

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

885 8. In any *biennial triennial* review proceeding, *for the purposes of reviewing earnings on the utility's*
 886 *rates for generation and distribution services*, the following utility generation and distribution costs not
 887 proposed for recovery under any other subdivision of this subsection, as recorded per books by the
 888 utility for financial reporting purposes and accrued against income, shall be attributed to the test periods
 889 under review *and deemed fully recovered in the period recorded*: costs associated with asset impairments
 890 related to early retirement determinations made by the utility ~~prior to December 31, 2012~~, for utility
 891 generation *plant facilities fueled by coal, natural gas, or oil or for automated meter reading electric*
 892 *distribution service meters; costs associated with projects necessary to comply with state or federal*
 893 *environmental laws, regulations, or judicial or administrative orders relating to coal combustion*
 894 *by-product management that the utility does not petition to recover through a rate adjustment clause*
 895 *pursuant to subdivision 5 e*; costs associated with severe weather events; and costs associated with
 896 natural disasters. Such costs shall be deemed to have been recovered from customers through rates for
 897 generation and distribution services in effect during the test periods under review unless such costs,
 898 individually or in the aggregate, together with the utility's other costs, revenues, and investments to be
 899 recovered through rates for generation and distribution services, result in the utility's earned return on its
 900 generation and distribution services for the combined test periods under review to fall more than 50
 901 basis points below the fair combined rate of return authorized under subdivision 2 for such periods or,
 902 for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31,
 903 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return
 904 authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such *biennial*
 905 *triennial* review proceeding, authorize deferred recovery of such costs and allow the utility to amortize
 906 and recover such deferred costs over future periods as determined by the Commission. The aggregate
 907 amount of such deferred costs shall not exceed an amount that would, together with the utility's other
 908 costs, revenues, and investments to be recovered through rates for generation and distribution services,
 909 cause the utility's earned return on its generation and distribution services to exceed the fair rate of
 910 return authorized under subdivision 2, less 50 basis points, for the combined test periods under review
 911 or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December
 912 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70
 913 basis points. Nothing in this section shall limit the Commission's authority, pursuant to the provisions of
 914 Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test
 915 period earnings of the utility in a *biennial triennial* review, for normalization of nonrecurring test period
 916 costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in
 917 the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

918 If the Commission determines as a result of such *biennial triennial* review that:

919 a. The utility has, during the test period or periods under review, considered as a whole, earned more
 920 than 50 basis points below a fair combined rate of return on its generation and distribution services or,
 921 for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31,

922 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its
923 generation and distribution services, as determined in subdivision 2, without regard to any return on
924 common equity or other matters determined with respect to facilities described in subdivision 6, the
925 Commission shall order increases to the utility's rates necessary to provide the opportunity to fully
926 recover the costs of providing the utility's services and to earn not less than such fair combined rate of
927 return, using the most recently ended 12-month test period as the basis for determining the amount of
928 the rate increase necessary. However, *in the first triennial review proceeding conducted after January 1,*
929 *2021, for a Phase II Utility, the Commission may not order a rate increase, and in all triennial reviews*
930 *of a Phase I or Phase II utility, the Commission may not order such rate increase unless it finds that the*
931 *resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of*
932 *providing its services and to earn not less than a fair combined rate of return on both its generation and*
933 *distribution services, as determined in subdivision 2, without regard to any return on common equity or*
934 *other matters determined with respect to facilities described in subdivision 6, using the most recently*
935 *ended 12-month test period as the basis for determining the permissibility of any rate increase under the*
936 *standards of this sentence, and the amount thereof; and provided that, solely in connection with making*
937 *its determination concerning the necessity for such a rate increase or the amount thereof, the*
938 *Commission shall, in any triennial review proceeding conducted prior to July 1, 2028, exclude from this*
939 *most recently ended 12-month test period any remaining investment levels associated with a prior*
940 *customer credit reinvestment offset pursuant to subdivision d.*

941 b. The utility has, during the test period or test periods under review, considered as a whole, earned
942 more than 50 basis points above a fair combined rate of return on its generation and distribution
943 services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after
944 December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of
945 return on its generation and distribution services, as determined in subdivision 2, without regard to any
946 return on common equity or other matters determined with respect to facilities described in subdivision
947 6, the Commission shall, subject to the provisions of subdivision subdivisions 8 d and 9, direct that 60
948 percent of the amount of such earnings that were more than 50 basis points, or, for any test period
949 commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I
950 Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such
951 fair combined rate of return for the test period or periods under review, considered as a whole, shall be
952 credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as
953 determined at the discretion of the Commission, following the effective date of the Commission's order,
954 and shall be allocated among customer classes such that the relationship between the specific customer
955 class rates of return to the overall target rate of return will have the same relationship as the last
956 approved allocation of revenues used to design base rates; or

957 c. *Such biennial In any triennial review is the second consecutive biennial review proceeding*
958 *conducted after January 1, 2020, for a Phase I Utility or after January 1, 2021, for a Phase II Utility in*
959 *which the utility has, during the test period or test periods under review, considered as a whole, earned*
960 *more than 50 basis points above a fair combined rate of return on its generation and distribution*
961 *services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after*
962 *December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of*
963 *return on its generation and distribution services, as determined in subdivision 2, without regard to any*
964 *return on common equity or other matter determined with respect to facilities described in subdivision 6,*
965 *and the combined aggregate level of capital investment that the Commission has approved other than*
966 *those capital investments that the Commission has approved for recovery pursuant to a rate adjustment*
967 *clause pursuant to subdivision 6 made by the utility during the test periods under review in that*
968 *triennial review proceeding in new utility-owned generation facilities utilizing energy derived from*
969 *sunlight, or from wind, and in electric distribution grid transformation projects, as determined pursuant*
970 *to subdivision 8 d, does not equal or exceed 100 percent of the earnings that are more than 70 basis*
971 *points above the utility's fair combined rate of return on its generation and distribution services for the*
972 *combined test periods under review in that triennial review proceeding, the Commission shall, subject to*
973 *the provisions of subdivision 9 and in addition to the actions authorized in subdivision b, also order*
974 *reductions to the utility's rates it finds appropriate. However, in the first triennial review proceeding*
975 *conducted after January 1, 2021, for a Phase II Utility, any reduction to the utility's rates ordered by*
976 *the Commission pursuant to this subdivision shall not exceed \$50 million in annual revenues, with any*
977 *reduction allocated to the utility's rates for generation services, and in each triennial review of a Phase*
978 *I or Phase II Utility, the Commission may not order such rate reduction unless it finds that the resulting*
979 *rates will provide the utility with the opportunity to fully recover its costs of providing its services and*
980 *to earn not less than a fair combined rate of return on its generation and distribution services, as*
981 *determined in subdivision 2, without regard to any return on common equity or other matters determined*
982 *with respect to facilities described in subdivision 6, using the most recently ended 12-month test period*
983 *as the basis for determining the permissibility of any rate reduction under the standards of this sentence,*

984 and the amount thereof; and

985 *d. In any triennial review proceeding conducted after December 31, 2017, the Commission shall*
 986 *determine, prior to directing that 70 percent of earnings that are more than 70 basis points above the*
 987 *utility's fair combined rate of return on its generation and distribution services for the test period or*
 988 *periods under review be credited to customer bills pursuant to subdivision 8 b, the aggregate level of*
 989 *prior capital investment that the Commission has approved other than those capital investments that the*
 990 *Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6*
 991 *made by the utility during the test period or periods under review in both (i) new utility-owned*
 992 *generation facilities utilizing energy derived from sunlight, or from onshore or offshore wind, and (ii)*
 993 *electric distribution grid transformation projects, as determined by the utility's plant in service and*
 994 *construction work in progress balances related to such investments as recorded per books by the utility*
 995 *for financial reporting purposes as of the end of the most recent test period under review. Any such*
 996 *combined capital investment amounts shall offset any customer bill credit amounts, on a dollar for*
 997 *dollar basis, up to the aggregate level of invested or committed capital under clauses (i) and (ii). The*
 998 *aggregate level of qualifying invested or committed capital under clauses (i) and (ii) is referred to in*
 999 *this subdivision as the customer credit reinvestment offset, which offsets the customer bill credit amount*
 1000 *that the utility has invested or will invest in new solar or wind generation facilities or electric*
 1001 *distribution grid transformation projects for the benefit of customers, in amounts up to 100 percent of*
 1002 *earnings that are more than 70 basis points above the utility's fair rate of return on its generation and*
 1003 *distribution services, and thereby reduce or eliminate otherwise incremental rate adjustment clause*
 1004 *charges and increases to customer bills, which is deemed to be in the public interest. If 100 percent of*
 1005 *the amount of earnings that are more than 70 basis points above the utility's fair combined rate of*
 1006 *return on its generation and distribution services, as determined in subdivision 2, exceeds the aggregate*
 1007 *level of invested capital in new utility-owned generation facilities utilizing energy derived from sunlight,*
 1008 *or from wind, and electric distribution grid transformation projects, as provided in clauses (i) and (ii),*
 1009 *during the test period or periods under review, then 70 percent of the amount of such excess shall be*
 1010 *credited to customer bills as provided in subdivision 8 b in connection with the triennial review*
 1011 *proceeding. Any costs associated with new utility-owned generation facilities utilizing energy derived*
 1012 *from sunlight, or from wind, or electric distribution grid transformation projects, that are the subject of*
 1013 *any customer credit reinvestment offset pursuant to this subdivision shall thereafter be recovered*
 1014 *through the utility's rates for generation and distribution services over the service life of such facilities;*
 1015 *shall be included in the utility's costs, revenues and investments in future triennial review proceedings*
 1016 *conducted pursuant to subdivision 2 until such costs are fully recovered, with no rate base or other cost*
 1017 *of service adjustment associated with the customer credit reinvestment offset pursuant to this*
 1018 *subdivision, except as provided in subdivision a; and shall not be the subject of a rate adjustment clause*
 1019 *petition pursuant to subdivision 6. Only such costs of new utility-owned generation facilities utilizing*
 1020 *energy derived from sunlight, or from wind, or electric distribution grid transformation projects that*
 1021 *have not been included in any customer credit reinvestment offset pursuant to this subdivision, and not*
 1022 *otherwise recovered through the utility's rates for generation and distribution services, may be the*
 1023 *subject of a rate adjustment clause petition by the utility pursuant to subdivision 6.*

1024 The Commission's final order regarding such *biennial triennial* review shall be entered not more than
 1025 eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not
 1026 more than 60 days after the date of the order. The fair combined rate of return on common equity
 1027 determined pursuant to subdivision 2 in such *biennial triennial* review shall apply, for purposes of
 1028 reviewing the utility's earnings on its rates for generation and distribution services, to the entire *two*
 1029 *three* successive 12-month test periods ending December 31 immediately preceding the year of the
 1030 utility's subsequent *biennial triennial* review filing under subdivision 3 *and shall apply to applicable*
 1031 *rate adjustment clauses under subdivisions 5 and 6 prospectively from the date the Commission's final*
 1032 *order in the triennial review proceeding, utilizing rate adjustment clause true-up protocols as the*
 1033 *Commission in its discretion may determine.*

1034 9. If, as a result of a *biennial triennial* review required under this subsection and conducted with
 1035 respect to any test period or periods under review ending later than December 31, 2010 (or, if the
 1036 Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under
 1037 review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II
 1038 Utility), the Commission finds, with respect to such test period or periods considered as a whole, that (i)
 1039 any utility has, during the test period or periods under review, considered as a whole, earned more than
 1040 50 basis points above a fair combined rate of return on its generation and distribution services or, for
 1041 any test period commencing after December 31, 2012, for a Phase II Utility and after December 31,
 1042 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its
 1043 generation and distribution services, as determined in subdivision 2, without regard to any return on
 1044 common equity or other matters determined with respect to facilities described in subdivision 6, and (ii)

1045 the total aggregate regulated rates of such utility at the end of the most recently ended *recently ended* 12-month test period exceeded the annual increases in the United States Average Consumer Price Index
1046 for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United
1047 States Department of Labor, compounded annually, when compared to the total aggregate regulated rates
1048 of such utility as determined pursuant to the ~~biennial~~ review conducted for the base period, the
1049 Commission shall, unless it finds that such action is not in the public interest or that the provisions of
1050 subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for
1051 such test period or periods under review, considered as a whole that were more than 50 basis points, or,
1052 for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31,
1053 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be
1054 credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c, *provided that no credits*
1055 *shall be provided pursuant to this subdivision in connection with any triennial review unless such bill*
1056 *credits would be payable pursuant to the provisions of subdivision 8 d, and any credits under this*
1057 *subdivision shall be calculated net of any customer credit reinvestment offset amounts under subdivision*
1058 *8 d.* Any such credits shall be amortized and allocated among customer classes in the manner provided
1059 by subdivision 8 b. For purposes of this subdivision:

1061 "Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected
1062 to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December
1063 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test
1064 period with respect to which credits have been applied to customers' bills under the provisions of this
1065 subdivision, whichever is later.

1066 "Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except
1067 for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31,
1068 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses
1069 implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8
1070 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase
1071 applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as
1072 of July 1, 2009.

1073 10. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any
1074 utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital
1075 structure and cost of capital of such utility, unless the Commission finds that the debt to equity ratio of
1076 such capital structure is unreasonable for such utility, in which case the Commission may utilize a debt
1077 to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant
1078 to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses
1079 or investments of any other entity with which such utility may be affiliated. In particular, and without
1080 limitation, the Commission shall determine the federal and state income tax costs for any such utility
1081 that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state income
1082 tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a
1083 consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated
1084 according to the applicable federal income tax rate and shall exclude any consolidated tax liability or
1085 benefit adjustments originating from any taxable income or loss of its affiliates.

1086 B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying
1087 for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase
1088 applications; however, in any such filing, a fair rate of return on common equity shall be determined
1089 pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and
1090 purchased power costs as provided in § 56-249.6.

1091 C. Except as otherwise provided in this section, the Commission shall exercise authority over the
1092 rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation,
1093 transmission and distribution services to retail customers in the Commonwealth pursuant to the
1094 provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

1095 D. The Commission may determine, during any proceeding authorized or required by this section, the
1096 reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection
1097 with the subject of the proceeding. A determination of the Commission regarding the reasonableness or
1098 prudence of any such cost shall be consistent with the Commission's authority to determine the
1099 reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et
1100 seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its
1101 customers from renewable energy resources, the Commission shall consider the extent to which such
1102 renewable energy resources, whether utility-owned or by contract, further the objectives of the
1103 Commonwealth Energy Policy set forth in §§ 67-101 and 67-102, and shall also consider whether the
1104 costs of such resources is likely to result in unreasonable increases in rates paid by ~~consumers~~
1105 *customers.*

1106 E. The Commission shall promulgate such rules and regulations as may be necessary to implement

1107 the provisions of this section.

1108 **§ 56-585.1:1. Transitional Rate Period: review of rates, terms and conditions for utility**
 1109 **generation facilities.**

1110 ~~Notwithstanding the provisions of §§ 56-249.6 and 56-585.1:~~

1111 A. No biennial reviews of the rates, terms, and conditions for any service of a Phase I Utility, as
 1112 defined in § 56-585.1, shall be conducted at any time by the ~~State Corporation~~ Commission for the ~~four~~
 1113 ~~three~~ successive 12-month test periods beginning January 1, 2014, and ending December 31, 2017 2016.
 1114 No biennial reviews of the rates, terms, and conditions for any service of a Phase II Utility, as defined
 1115 in § 56-585.1, shall be conducted at any time by the ~~State Corporation~~ Commission for the ~~five~~ ~~two~~
 1116 successive 12-month test periods beginning January 1, 2015, and ending December 31, 2019 2016. Such
 1117 test periods beginning January 1, 2014, and ending December 31, 2017, for a Phase I Utility, and
 1118 beginning January 1, 2015, and ending December 31, 2019 2016, for a Phase II Utility, are collectively
 1119 referred to herein as the "Transitional Rate Period." Review of recovery of fuel and purchase power
 1120 costs shall continue during the Transitional Rate Period in accordance with § 56-249.6. Any biennial
 1121 review of the rates, terms, and conditions for any service of a Phase II Utility occurring in 2015 during
 1122 the Transitional Rate Period shall be solely a review of the utility's earnings on its rates for generation
 1123 and distribution services for the two 12-month test periods ending December 31, 2014, and a
 1124 determination of whether any credits to customers are due for such test periods pursuant to subdivision
 1125 A 8 b of § 56-585.1. After the conclusion of the Transitional Rate Period, ~~biennial~~ reviews of the
 1126 utility's rates for generation and distribution services shall resume for a Phase I Utility in 2020, with the
 1127 first such proceeding utilizing the ~~two~~ ~~three~~ successive 12-month test periods beginning January 1, 2018
 1128 2017, and ending December 31, 2019. After the conclusion of the Transitional Rate Period, ~~biennial~~ reviews
 1129 of the utility's rates for generation and distribution services shall resume for a Phase II Utility,
 1130 as defined in § 56-585.1, in 2022 2021, with the first such proceeding utilizing the ~~two~~ ~~four~~ successive
 1131 12-month test periods beginning January 1, 2020 2017, and ending December 31, 2024 2020. Consistent
 1132 with this provision, (i) no biennial review filings shall be made by an investor-owned incumbent electric
 1133 utility in the years 2016 through 2019, inclusive, and (ii) no adjustment to an investor-owned incumbent
 1134 electric utility's existing tariff rates, including any rates adopted pursuant to § 56-235.2, shall be made
 1135 between the beginning of the Transitional Rate Period and the conclusion of the first ~~biennial~~ review
 1136 after the conclusion of the Transitional Rate Period, except as may be provided pursuant to § 56-245 or
 1137 56-249.6 or subdivisions A 4, 5, or 6 of § 56-585.1.

1138 B. During the Transitional Rate Period, pursuant to § 56-36, the Commission shall have the right at
 1139 all times to inspect the books, papers and documents of any investor-owned incumbent electric utility
 1140 and to require from such companies, from time to time, special reports and statements, under oath,
 1141 concerning their business.

1142 C. 1. Commencing in 2016 and concluding in 2018, the State Corporation Commission, after notice
 1143 and opportunity for a hearing, shall conduct a proceeding every two years to determine the fair rate of
 1144 return on common equity to be used by a Phase I Utility as the general rate of return applicable to rate
 1145 adjustment clauses under subdivisions A 5 or A 6 of § 56-585.1. A Phase I Utility's filing in such
 1146 proceedings shall be made on or before March 31 of 2016, and 2018.

1147 2. Commencing in 2017 and concluding in 2019, the State Corporation Commission, after notice and
 1148 opportunity for a hearing, shall conduct a proceeding every two years to determine the fair rate of return
 1149 on common equity to be used by a Phase II Utility as the general rate of return applicable to rate
 1150 adjustment clauses under subdivisions A 5 or A 6 of § 56-585.1. A Phase II utility's filing in such
 1151 proceedings shall be made on or before March 31 of 2017 and 2019.

1152 3. Such fair rate of return shall be calculated pursuant to the methodology set forth in subdivisions A
 1153 2 a and b of § 56-585.1 and shall utilize the utility's actual end-of-test-period capital structure and cost
 1154 of capital, as well as a 12-month test period ending December 31 immediately preceding the year in
 1155 which the proceeding is conducted. The Commission's final order in such a proceeding shall be entered
 1156 no later than eight months after the date of filing, with any adjustment to the fair rate of return for
 1157 applicable rate adjustment clauses under subdivisions A 5 and 6 of § 56-585.1 taking effect on the date
 1158 of the Commission's final order in the proceeding, utilizing rate adjustment clause true-up protocols as
 1159 the Commission may in its discretion determine. Such proceeding shall concern only the issue of the
 1160 determination of such fair rate of return to be used for rate adjustment clauses under subdivisions A 5
 1161 and 6 of § 56-585.1, and such determination shall have no effect on rates other than those applicable to
 1162 such rate adjustment clauses; however, after the final such proceeding for a utility has been concluded,
 1163 the fair combined rate of return on common equity so determined therein shall also be deemed equal to
 1164 the fair combined rate of return on common equity to be used in such utility's first ~~biennial~~ review
 1165 proceeding conducted after the end of the utility's Transitional Rate Period to review such utility's
 1166 earnings on its rates for generation and distribution services for the historic test periods.

1167 D. In furtherance of rate stability during the Transitional Rate Period, any Phase II Utility carrying a

1168 prior period deferred fuel expense recovery balance on its books and records as of December 31, 2014,
1169 shall not recover from customers 50 percent of any such balance outstanding as of December 31, 2014,
1170 and the State Corporation Commission shall implement as soon as practicable reductions in the fuel
1171 factor rate of any such Phase II Utility to reflect the nonrecovery of any such fuel expense as well as
1172 any reduction in the fuel factor associated with the Phase II Utility's current period forecasted fuel
1173 expense over recovery for the 2014-2015 fuel year and projected fuel expense for the 2015-2016 fuel
1174 year.

1175 E. Except for early retirement plans identified by the utility in an integrated resource plan filed with
1176 the State Corporation Commission by September 1, 2014, for utility generation plants, an investor-owned
1177 incumbent electric utility shall not permanently retire an electric power generation facility from service
1178 during the Transitional Rate Period without first obtaining the approval of the State Corporation
1179 Commission, upon petition from such investor-owned incumbent electric utility, and a finding by the
1180 State Corporation Commission that the retirement determination is reasonable and prudent. During the
1181 Transitional Rate Period, an investor-owned incumbent electric utility shall recover the following costs,
1182 as recorded per books by the utility for financial reporting purposes and accrued against income, only
1183 through its existing tariff rates for generation or distribution services, except such costs as may be
1184 recovered pursuant to § 56-245, § 56-249.6 or subdivisions A 4, A 5, or A 6 of § 56-585.1: (i) costs
1185 associated with asset impairments related to early retirement determinations for utility generation
1186 facilities resulting from the implementation of carbon emission guidelines for existing electric power
1187 generation facilities that the U.S. Environmental Protection Agency has issued pursuant to § 111(d) of
1188 the Clean Air Act; (ii) costs associated with severe weather events; and (iii) costs associated with natural
1189 disasters.

1190 F. During the Transitional Rate Period:

1191 1. The State Corporation Commission shall submit a report and make recommendations to the
1192 Governor and the General Assembly annually on or before December 1 of each year assessing the
1193 updated integrated resource plan of any investor-owned incumbent electric utility. The report shall
1194 include an analysis of, among other matters, the amount, reliability, and type of generation facilities
1195 needed to serve Virginia native load compared to what is then available to serve such load and what
1196 may be available to serve such load in the future in view of market conditions and current and pending
1197 state and federal environmental regulations. As a part of such report, the State Corporation Commission
1198 shall update its estimate of the impact upon electric rates in Virginia of the implementation of carbon
1199 emission guidelines for existing electric power generation facilities that the U.S. Environmental
1200 Protection Agency has issued pursuant to § 111(d) of the federal Clean Air Act. The State Corporation
1201 Commission shall submit copies of such annual reports to the Chairmen of the House and Senate
1202 Committees on Commerce and Labor and the Chairman of the Commission on Electric Utility
1203 Regulation; and

1204 2. The Department of Environmental Quality shall submit a report and make recommendations to the
1205 Governor and the General Assembly annually on or before December 1 of each year concerning the
1206 implementation of carbon emission guidelines for existing electric power generation facilities that the
1207 U.S. Environmental Protection Agency has issued pursuant to § 111(d) of the federal Clean Air Act. The
1208 report shall include an analysis of, among other matters, the impact of such federal regulations on the
1209 operation of any investor-owned incumbent electric utility's electric power generation facilities and any
1210 changes, interdiction, or suspension of such regulations. The Department of Environmental Quality shall
1211 submit copies of such annual reports to the Chairmen of the House and Senate Committees on
1212 Commerce and Labor and the Chairman of the Commission on Electric Utility Regulation.

1213 G. The construction or purchase by an investor-owned incumbent utility of one or more generation
1214 facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that
1215 does not exceed 500 5,000 megawatts, *including rooftop solar installations with a capacity of not less*
1216 *than 50 kilowatts, and with an aggregate capacity of 50 megawatts*, that use energy derived from
1217 sunlight or from wind and are located in the Commonwealth or off the Commonwealth's Atlantic
1218 shoreline, regardless of whether any of such facilities are located within or without such utility's service
1219 territory, is in the public interest, and in determining whether to approve such facility, the Commission
1220 shall liberally construe the provisions of this section. Such utility shall utilize goods or services sourced,
1221 in whole or in part, from one or more Virginia businesses. The utility may propose a rate adjustment
1222 clause based on a market index in lieu of a cost of service model for such facility. An investor-owned
1223 incumbent utility may enter into short-term or long-term power purchase contracts for the power derived
1224 from sunlight generated by such generation facility prior to purchasing the generation facility.

1225 H. *To the extent that the provisions of this section are inconsistent with the provisions of §§ 56-249.6
1226 and 56-585.1, the provisions of this section shall control.*

1227 **§ 56-585.1:2. Pilot program for energy assistance and weatherization.**

1228 Notwithstanding the provisions of §§ 56-249.6 and 56-585.1:

1229 Each Phase I and II Utility shall conduct a pilot program for energy assistance and weatherization for

1230 low income, elderly, and disabled individuals in their respective service territories in the Commonwealth.
 1231 Each pilot program shall be funded by the utility and shall commence September 1, 2015. *Each Phase I Utility shall continue such pilot program at no less than the existing levels of funding as of July 1, 2018, for each year that the utility provides such service. Each Phase II Utility shall continue such pilot program at no less than \$13 million for each year the utility is providing such service. The funding for the pilot programs established pursuant hereto for energy assistance and weatherization for low-income, elderly, and disabled individuals in the service territory in the Commonwealth of each respective utility shall continue until the earlier of amendment or repeal of this section or July 1, 2028.* Each such utility shall report on the status of its pilot program, including the number of individuals served thereby, to the Governor, the State Corporation Commission, and the Chairmen of the House and Senate Commerce and Labor Committees by July 1, 2016, and each year thereafter.

§ 56-585.1:4. Development of solar and wind generation capacity in the Commonwealth.

1241 A. Prior to January 1, 2024, (i) the construction or purchase by a public utility of one or more solar
 1242 or wind generation facilities located in the Commonwealth or off the Commonwealth's Atlantic
 1243 shoreline, each having a rated capacity of at least one megawatt and having in the aggregate a rated
 1244 capacity that does not exceed 5,000 megawatts, or (ii) the purchase by a public utility of energy,
 1245 capacity, and environmental attributes from solar facilities described in clause (i) owned by persons
 1246 other than a public utility is in the public interest, and the Commission shall so find if required to make
 1247 a finding regarding whether such construction or purchase is in the public interest.

1248 B. Prior to January 1, 2024, (i) the construction or purchase by a public utility of one or more solar
 1249 or wind generation facilities located in the Commonwealth or off the Commonwealth's Atlantic
 1250 shoreline, each having a rated capacity of less than one megawatt, including rooftop solar installations
 1251 with a capacity of not less than 50 kilowatts, and having in the aggregate a rated capacity that does not
 1252 exceed 500 megawatts, or (ii) the purchase by a public utility of energy, capacity, and environmental
 1253 attributes from solar facilities described in clause (i) owned by persons other than a public utility is in
 1254 the public interest, and the Commission shall so find if required to make a finding regarding whether
 1255 such construction or purchase is in the public interest.

1256 C. The aggregate cap of 5,000 megawatts of rated capacity described in clause (i) of subsection A
 1257 and the aggregate cap of 500 megawatts of rated capacity described in clause (i) of subsection B are
 1258 separate and independent from each other. The capacity of facilities in subsection B shall not be
 1259 counted in determining the capacity of facilities in subsection A, and the capacity of facilities in
 1260 subsection A shall not be counted in determining the capacity of facilities in subsection B.

1261 D. Twenty-five percent of the solar generation capacity placed in service on or after July 1, 2018,
 1262 located in the Commonwealth, and found to be in the public interest pursuant to subsection A or B shall
 1263 be from the purchase by a public utility of energy, capacity, and environmental attributes from solar
 1264 facilities owned by persons other than a public utility. The remainder shall be construction or purchase
 1265 by a public utility of one or more solar generation facilities located in the Commonwealth. All of the
 1266 solar generation capacity located in the Commonwealth and found to be in the public interest pursuant
 1267 to subsection A or B shall be subject to competitive procurement, provided that a public utility may
 1268 select solar generation capacity without regard to whether such selection satisfies price criteria if the
 1269 selection of the solar generating capacity materially advances non-price criteria, including a criterion
 1270 favoring geographic distribution of generating capacity, if such non-price solar generating capacity
 1271 selected does not exceed 25 percent of the utility's solar generating capacity.

1272 E. Construction, purchasing, or leasing activities for a test or demonstration project for a new
 1273 utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore
 1274 wind with an aggregate capacity of not more than 16 megawatts are in the public interest.

§ 56-599. Integrated resource plan required.

1275 A. Each electric utility shall file an updated integrated resource plan by July 1, 2015. Thereafter,
 1276 each electric utility shall file an updated integrated resource plan annually by May 1, in each year
 1277 immediately preceding the year the utility is subject to a triennial review filing. A copy of each
 1278 integrated resource plan shall be provided to the Chairmen of the House and Senate Committees on
 1279 Commerce and Labor and to the Chairman of the Commission on Electric Utility Regulation. All
 1280 updated integrated resource plans shall comply with the provisions of any relevant order of the
 1281 Commission establishing guidelines for the format and contents of updated and revised integrated
 1282 resource plans. Each integrated resource plan shall consider options for maintaining and enhancing rate
 1283 stability, energy independence, economic development including retention and expansion of
 1284 energy-intensive industries, and service reliability.

1285 B. In preparing an integrated resource plan, each electric utility shall systematically evaluate, and
 1286 may propose:

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

1291 3. Building new generation facilities;
1292 4. Relying on purchases from the short term or spot markets;
1293 5. Making investments in demand-side resources, including energy efficiency and demand-side
1294 management services;
1295 6. Taking such other actions, as the Commission may approve, to diversify its generation supply
1296 portfolio and ensure that the electric utility is able to implement an approved plan;
1297 7. The methods by which the electric utility proposes to acquire the supply and demand resources
1298 identified in its proposed integrated resource plan;
1299 8. The effect of current and pending state and federal environmental regulations upon the continued
1300 operation of existing electric generation facilities or options for construction of new electric generation
1301 facilities; and
1302 9. The most cost effective means of complying with current and pending state and federal
1303 environmental regulations, including compliance options to minimize effects on customer rates of such
1304 regulations;
1305 10. *Long-term electric distribution grid planning and proposed electric distribution grid*
1306 *transformation projects; and*
1307 11. *Developing a long-term plan for energy efficiency measures to accomplish policy goals of*
1308 *reduction in customer bills, particularly for low-income, elderly, and disabled customers; reduction in*
1309 *emissions; and reduction in carbon intensity.*

1310 C. The Commission shall analyze and review an integrated resource plan and, after giving notice and
1311 opportunity to be heard, the Commission shall make a determination *within nine months after the date*
1312 *of filing* as to whether such an ~~IRP~~ integrated resource plan is reasonable and is in the public interest.

1313 **§ 56-600. Definitions.**

1314 As used in this chapter:

1315 "Allowed distribution revenue" means the average annual, weather-normalized, nongas commodity
1316 revenue per customer associated with the rates in effect as adopted in the applicable utility's last
1317 Commission-approved rate case or performance-based regulation plan, multiplied by the average number
1318 of customers served.

1319 "Conservation and ratemaking efficiency plan" means a plan filed by a natural gas utility pursuant to
1320 this chapter that includes a decoupling mechanism.

1321 "Cost-effective conservation and energy efficiency program" means a program approved by the
1322 Commission that is designed to decrease the average customer's annual, weather-normalized consumption
1323 or total gas bill, for gas and nongas elements combined, or avoid energy costs or consumption the
1324 customer may otherwise have incurred, and is determined by the Commission to be cost-effective ~~upon~~
1325 ~~consideration, among other factors, that if the net present value of the benefits exceeds the net present~~
1326 ~~value of the costs under as determined by not less than any three of the following four tests: the Total~~
1327 ~~Resource Cost Test, the Program Administrator Test (also referred to as the Utility Cost Test), the~~
1328 ~~Participant Test, and the Ratepayer Impact Measure Test. Such determination shall include an analysis of~~
1329 ~~all four tests, and a program or portfolio of programs shall not be rejected based solely on the results of~~
1330 ~~a single test approved if the net present value of the benefits exceeds the net present value of the costs~~
1331 ~~as determined by not less than any three of the four tests.~~ Such determination shall also be made (i)
1332 with the assignment of administrative costs associated with the conservation and ratemaking efficiency
1333 plan to the portfolio as a whole and (ii) with the assignment of education and outreach costs associated
1334 with each program in a portfolio of programs to such program and not to individual measures within a
1335 program, when such administrative, education, or outreach costs are not otherwise directly assignable.
1336 Without limitation, rate designs or rate mechanisms, customer education, customer incentives, and
1337 weatherization programs are examples of conservation and energy efficiency programs that the
1338 Commission may consider. Energy efficiency programs that provide measurable and verifiable energy
1339 savings to low-income customers or elderly customers may also be deemed cost effective. A
1340 cost-effective conservation and energy efficiency program shall not include a program designed to
1341 convert propane customers to natural gas.

1342 "Decoupling mechanism" means a rate, tariff design or mechanism that decouples the recovery of a
1343 utility's allowed distribution revenue from the level of consumption of natural gas by its customers,
1344 including (i) a mechanism that adjusts actual nongas distribution revenues per customer to allowed
1345 distribution revenues per customer, such as a sales adjustment clause, (ii) rate design changes that
1346 substantially align the percentage of fixed charge revenue recovery with the percentage of the utility's
1347 fixed costs, such as straight fixed variable rates, provided such mechanism includes a substantial demand
1348 component based on a customer's peak usage, or (iii) a combination of clauses (i) and (ii) that
1349 substantially decreases the relative amount of nongas distribution revenue affected by changes in per
1350 customer consumption of gas.

1351 "Fixed costs" means any and all of the utility's nongas costs of service, together with an authorized
1352 return thereon, that are not associated with the cost of the natural gas commodity flowing through and

1353 measured by the customer's meter.

1354 "Measure" means an individual item, service, offering, or rebate available to a customer of a natural
1355 gas utility as part of the utility's conservation and ratemaking efficiency plan.

1356 "Natural gas utility" or "utility" means any investor-owned public service company engaged in the
1357 business of furnishing natural gas service to the public.

1358 "Portfolio" means the program or programs included in a natural gas utility's conservation and
1359 ratemaking efficiency plan.

1360 "Program" means a group of one or more related measures for a customer class.

1361 "Revenue-neutral" means a change in a rate, tariff design or mechanism as a component of a
1362 conservation and ratemaking efficiency plan that does not shift annualized allowed distribution revenue
1363 between customer classes, and does not increase or decrease the utility's average, weather-normalized
1364 nongas utility revenue per customer for any given rate class by more than 0.25 percent when compared
1365 to (i) the rate, tariff design or mechanism in effect at the time a conservation and ratemaking efficiency
1366 plan is filed pursuant to this chapter or (ii) the allocation of costs approved by the Commission in a rate
1367 case using the cost of service methodology set forth in § 56-235.2 or a performance-based regulation
1368 plan authorized by § 56-235.6, where a plan is filed in conjunction with such case.

1369 *2. § 1. There is hereby established a pilot program to further the understanding of underground electric
1370 transmission lines in regard to electric reliability, construction methods and related cost and timeline
1371 estimating, and the probability of meeting such projections. The pilot program shall consist of the
1372 approval to construct qualifying electrical transmission lines of 230 kilovolts or less (but greater than
1373 69 kilovolts) in whole or in part underground. Such pilot program shall consist of a total of two
1374 qualifying electrical transmission line projects, constructed in whole or in part underground, as
1375 specified and set forth in this act.*

1376 *§ 2. Notwithstanding any other law to the contrary, as a part of the pilot program established
1377 pursuant to this act, the State Corporation Commission shall approve as a qualifying project a
1378 transmission line of 230 kilovolts or less that is pending final approval of a certificate of public
1379 convenience and necessity from the State Corporation Commission as of December 31, 2017, for the
1380 construction of an electrical transmission line approximately 5.3 miles in length utilizing both overhead
1381 and underground transmission facilities, of which the underground portion shall be approximately 3.1
1382 miles in length, which has been previously proposed for construction within or immediately adjacent to
1383 the right-of-way of an interstate highway. Once the State Corporation Commission has affirmed the
1384 project need through an order, the project shall be constructed in part underground, and the
1385 underground portion shall consist of a double circuit.*

1386 *The State Corporation Commission shall approve such underground construction within 30 days of
1387 receipt of the written request of the public utility to participate in the pilot program pursuant to this
1388 section. The State Corporation Commission shall not require the submission of additional technical and
1389 cost analyses as a condition of its approval but may request such analyses for its review. The State
1390 Corporation Commission shall approve the underground construction of one contiguous segment of the
1391 transmission line that is approximately 3.1 miles in length that was previously proposed for construction
1392 within or immediately adjacent to the right-of-way of the interstate highway, for which, by resolution,
1393 the locality has indicated general community support. The remainder of the construction for the
1394 transmission line shall be aboveground. The Commission shall not be required to perform any further
1395 analysis as to the impacts of this route, including environmental impacts or impacts upon historical
1396 resources.*

1397 *The electric utility may proceed to acquire right-of-way and take such other actions as it deems
1398 appropriate in furtherance of the construction of the approved transmission line, including acquiring the
1399 cables necessary for the underground installation.*

1400 *§ 3. In reviewing applications submitted by public utilities for certificates of public convenience and
1401 necessity for the construction of electrical transmission lines of 230 kilovolts or less filed between July
1402 1, 2018, and July 1, 2020, the State Corporation Commission shall approve, consistent with the
1403 requirements of § 4 of this enactment, one additional application as a qualifying project to be
1404 constructed in whole or in part underground, as a part of this pilot program. The one qualifying project
1405 shall be in addition to the qualifying project described in § 2 of this enactment.*

1406 *§ 4. For purposes of § 3, a project shall be qualified to be placed underground, in whole or in part,
1407 if it meets all of the following criteria: (i) an engineering analysis demonstrates that it is technically
1408 feasible to place the proposed line, in whole or in part, underground; (ii) the governing body of each
1409 locality in which a portion of the proposed line will be placed underground indicates, by resolution,
1410 general community support for the project and that it supports the transmission line to be placed
1411 underground; (iii) a project has been filed with the State Corporation Commission or is pending
1412 issuance of a certificate of public convenience and necessity by July 1, 2020; (iv) the estimated
1413 additional cost of placing the proposed line, in whole or in part, underground does not exceed 2.5 times*

1414 the cost of placing the same line overhead, assuming accepted industry standards for undergrounding to
1415 ensure safety and reliability; if the public utility, the affected localities, and the State Corporation
1416 Commission agree, a proposed underground line whose cost exceeds 2.5 times the cost of placing the
1417 line overhead may also be accepted into the pilot program; (v) the public utility requests that the
1418 project be considered as a qualifying project under this enactment; and (vi) the primary need of the
1419 project shall be for purposes of grid reliability, grid resiliency, or to support economic development
1420 priorities of the Commonwealth and shall not be to address aging assets that would have otherwise been
1421 replaced in due course.

1422 § 5. Approval of a transmission line pursuant to this enactment for inclusion in the pilot program
1423 shall be deemed to satisfy the requirements of § 15.2-2232 of the Code of Virginia and local zoning
1424 ordinances with respect to such transmission line and any associated facilities, such as stations,
1425 substations, transition stations and locations, and switchyards or stations, that may be required.

1426 § 6. The State Corporation Commission shall report annually to the Commission on Electric Utility
1427 Restructuring, the Joint Commission on Technology and Science, and the Governor on the progress of
1428 the pilot program by no later than December 1 of each year that this act is in effect. The State
1429 Corporation Commission shall submit a final report to the Commission on Electric Utility Restructuring,
1430 the Joint Commission on Technology and Science, and the Governor no later than December 1, 2024,
1431 analyzing the entire program and making recommendations about the continued placement of
1432 transmission lines underground in the Commonwealth. The State Corporation Commission's final report
1433 shall include, but not be limited to, analysis and findings of the costs of underground construction and
1434 historical and future consumer rate effects of such costs, effect of underground transmission lines on
1435 grid reliability, operability (including operating voltage), probability of meeting cost and construction
1436 timeline estimates of such underground transmission lines, and aesthetic or other benefits attendant to
1437 the placement of transmission lines underground.

1438 § 7. For the qualifying projects chosen pursuant to this enactment and not fully recoverable as
1439 charges for new transmission facilities pursuant to subdivision A 4 of § 56-585.1 of the Code of
1440 Virginia, the State Corporation Commission shall approve a rate adjustment clause. The rate adjustment
1441 clause shall provide for the full and timely recovery of any portion of the cost of such project not
1442 recoverable under applicable rates, terms, and conditions approved by the Federal Energy Regulatory
1443 Commission and shall include the use of the fair return on common equity most recently approved in a
1444 State Corporation Commission proceeding for such utility. Such costs shall be entirely assigned to the
1445 utility's Virginia jurisdictional customers. The State Corporation Commission's final order regarding any
1446 petition filed pursuant to this section shall be entered not more than three months after the filing of
1447 such petition.

1448 § 8. Approval of a proposed transmission line for inclusion in this program shall not preclude the
1449 placing of existing or future overhead facilities in the same area or corridor by other transmission
1450 projects.

1451 § 9. The provisions of this enactment shall not be construed to limit the ability of the State
1452 Corporation Commission to approve additional applications for placement of transmission lines
1453 underground.

1454 § 10. If two applications are not submitted to the State Corporation Commission that meet the
1455 requirements of this act, the State Corporation Commission shall document the failure of the projects to
1456 qualify for the pilot program in order to justify approving fewer than two projects to be placed
1457 underground, in whole or in part.

1458 § 11. Insofar as the provisions of this act are inconsistent with the provisions of any other law or
1459 local ordinance, the provisions of this act shall be controlling.

1460 3. That after July 1, 2018, each Phase I Utility as defined in subdivision A 1 of § 56-585.1 of the
1461 Code of Virginia shall not recover from customers \$10 million of incurred fuel costs, and the State
1462 Corporation Commission shall implement at the time of the utility's next fuel cost recovery
1463 proceeding conducted pursuant to § 56-249.6 of the Code of Virginia reductions in the fuel factor
1464 rate of the Phase I Utility to reflect the nonrecovery of such fuel expense as well as any change in
1465 the fuel factor associated with the Phase I Utility's fuel recovery balance for the 2017-2018 fuel
1466 year and projected fuel expense for the 2018-2019 fuel year. Such nonrecovery shall not be
1467 included in any earnings test after July 1, 2018.

1468 4. That, no later than 30 days following July 1, 2018, each Phase II Utility as defined in
1469 subdivision A 1 of § 56-585.1 of the Code of Virginia shall provide to its current customers a
1470 one-time, voluntary generation and distribution services bill credit, to be allocated on a historic
1471 test period energy usage basis, in an aggregate amount of \$133 million. Such one-time voluntary
1472 generation and distribution services bill credit shall not be included in any earnings test after July
1473 1, 2018.

1474 5. That, no later than 30 days after January 1, 2019, each Phase II Utility shall provide to its
1475 current customers a one-time, voluntary generation and distribution services bill credit, to be

1476 allocated on a historic test period energy usage basis, in an aggregate amount of \$67 million,
 1477 which one-time voluntary generation and distribution services bill credit shall be included in the
 1478 earnings test for the utility in its first triennial review after January 1, 2019.

1479 6. That the State Corporation Commission shall implement adjustments in the rates for generation
 1480 and distribution services of incumbent electric utilities, as defined in § 56-576 of the Code of
 1481 Virginia, effective April 1, 2019, to reflect the actual annual reductions in corporate income taxes
 1482 to be paid by such utilities pursuant to the provisions of the federal Tax Cuts and Jobs Act of
 1483 2017 (P.L. 115-97) and as of the effective date of such act.

1484 7. That in advance of the determination of the State Corporation Commission (the Commission) as
 1485 to rate reductions to reflect reductions in corporate income taxes pursuant to the sixth enactment
 1486 of this act, any (i) Phase I Utility as defined in subdivision A 1 of § 56-585.1 of the Code of
 1487 Virginia shall reduce its existing rates for generation and distribution services on an interim basis,
 1488 within 30 days of July 1, 2018, in an amount sufficient to reduce its annual revenues from such
 1489 rates by an aggregate amount of \$50 million and (ii) Phase II Utility as defined in subdivision A 1
 1490 of § 56-585.1 of the Code of Virginia shall reduce its existing rates for generation and distribution
 1491 services on an interim basis, within 30 days of July 1, 2018, in an amount sufficient to reduce its
 1492 annual revenues from such rates by an aggregate amount of \$125 million. The amount of such
 1493 interim reduction in rates for generation and distribution services shall be attributable to
 1494 reductions in the corporate income tax obligations of the utility pursuant to the provisions of the
 1495 federal Tax Cuts and Jobs Act of 2017 (P.L. 115-97). In implementing any further reductions to
 1496 the rates for generation and distribution services of any Phase I Utility or Phase II Utility effective
 1497 April 1, 2019, pursuant to the sixth enactment of this act, the Commission shall consider this
 1498 interim revenue requirement reduction, and its actions shall be limited to a true-up of this interim
 1499 reduction amount to the actual annual reduction in corporate tax obligations of such utility as of
 1500 the effective date of the federal Tax Cuts and Jobs Act of 2017 (P.L. 115-97).

1501 8. That the provisions of this act amending and reenacting § 56-585.1 of the Code of Virginia by
 1502 adding subdivision A 8 d shall expire on July 1, 2028.

1503 9. That the State Corporation Commission (the Commission) shall establish pilot programs under
 1504 which each Phase I Utility and each Phase II Utility, as such terms are defined in subdivision A 1
 1505 of § 56-585.1 of the Code of Virginia, shall submit a proposal to deploy electric power storage
 1506 batteries. A proposal shall provide for the deployment of batteries pursuant to a pilot program
 1507 that accomplishes at least one of the following: (i) improve reliability of electrical transmission or
 1508 distribution systems; (ii) improve integration of different types of renewable resources; (iii)
 1509 deferred investment in generation, transmission, or distribution of electricity; (iv) reduced need for
 1510 additional generation of electricity during times of peak demand; or (v) connection to the facilities
 1511 of a customer receiving generation, transmission, and distribution service from the utility. A Phase
 1512 I Utility may install batteries with up to 10 megawatts of capacity. A Phase II Utility may install
 1513 batteries with up to 30 megawatts of capacity. Each pilot program shall have a duration of five
 1514 years. The pilot program shall provide for the recovery of all reasonable and prudent costs
 1515 incurred under the pilot program through the electric utility's base rates on a nondiscriminatory
 1516 basis. Any pilot program proposed by a Phase I Utility or Phase II Utility that satisfies the
 1517 requirements of this enactment is in the public interest.

1518 10. That the State Corporation Commission shall, by December 1, 2018, adopt such rules or
 1519 establish such guidelines as may be necessary for the general administration of pilot programs to
 1520 deploy electric power storage batteries established by the ninth enactment of this act.

1521 11. That any individual nonresidential retail customer of a Phase II Utility, as defined in
 1522 subdivision A 1 of § 56-585.1 of the Code of Virginia, whose single account demand during the
 1523 most recent calendar year exceeded 500 kilowatts but did not exceed one percent of the Phase II
 1524 Utility's peak load during the most recent calendar year, unless such customer had noncoincident
 1525 peak demand in excess of 90 megawatts in calendar year 2006 or any year thereafter, and that is
 1526 currently taking service from the Phase II Utility pursuant to an approved tariff rate schedule
 1527 applicable to large general service customers, not to include any customer taking service under
 1528 any experimental or pilot program tariff rate schedule, tariff rate schedule for market-based rates,
 1529 tariff rate schedule to purchase 100 percent renewable energy pursuant to subdivision A 5 of
 1530 § 56-577 of the Code of Virginia, or companion tariff rate schedule, that enters into an exclusive
 1531 supply agreement with the Phase II Utility whereby the customer agrees to purchase electric
 1532 energy exclusively from the Phase II Utility serving the exclusive service territory in which such
 1533 retail customer is located for a period of three years or more shall be eligible for a Manufacturing
 1534 and Commercial Competitiveness Retention Credit during the duration of such exclusive supply
 1535 agreement, which shall reduce the base generation charges under the customer's existing approved
 1536 tariff rate by a total of two percent.

1537 12. That any Phase II Utility, as that term is defined in subdivision A 1 of § 56-585.1 of the Code
1538 of Virginia, shall consider in its integrated resource plan next filed after July 1, 2018, either as a
1539 demand-side energy efficiency measure or a supply-side generation alternative, whether the
1540 construction or purchase of one or more generation facilities with at least one megawatt of
1541 generating capacity, having a measurable aggregate rated capacity of 200 megawatts by 2024, that
1542 use combined heat and power or waste heat to power and are located in the Commonwealth, are
1543 in the customer interest. For purposes of this analysis, the total efficiency, including the use of
1544 thermal energy, for eligible combined heat and power facilities must meet or exceed 65 percent
1545 (Lower Heating Value). The assumed efficiency of waste heat to power systems that do not burn
1546 any supplemental fuel and use only waste heat as a fuel source is 100 percent. As used in this
1547 enactment, "waste heat to power" means a system that generates electricity through the recovery
1548 of a qualified waste heat resource and "qualified waste heat resource" means (i) exhaust heat or
1549 flared gas from an industrial process that does not have, as its primary purpose, the production of
1550 electricity and (ii) a pressure drop in any gas for an industrial or commercial process.

1551 13. That each Phase I Utility and each Phase II Utility, as such terms are defined in subdivision A
1552 1 of § 56-585.1 of the Code of Virginia, shall investigate the feasibility of providing broadband
1553 Internet services using utility distribution and transmission infrastructure. Such investigation shall
1554 include determination of regulatory barriers to such services and proposed legislation to address
1555 such barriers. The State Corporation Commission shall assist each such utility in its determination
1556 of such barriers and development of proposed legislation. Each such utility shall evaluate whether
1557 it is in the public interest and the interest of the utility (i) to make improvements to the
1558 distribution grid in furtherance of providing such broadband Internet services in conjunction with
1559 its program of electric distribution grid transformation projects; (ii) to operate broadband Internet
1560 services using utility distribution and transmission infrastructure to provide broadband Internet
1561 services to underserved areas of the Commonwealth; or (iii) to permit a commercial entity to lease
1562 such capacity to provide broadband Internet services to underserved areas of the Commonwealth.
1563 Each such utility shall report whether it determines such broadband Internet services using utility
1564 distribution and transmission infrastructure to be feasible, including the maturity of the
1565 technology, the compatibility of such services with existing electric services, the financial
1566 requirements to undertake such broadband Internet services, and those underserved areas in the
1567 Commonwealth where the provision of such broadband Internet services appears feasible, to the
1568 Governor, the State Corporation Commission, and the Chairmen of the House and Senate
1569 Committees on Commerce and Labor by December 1, 2018.

1570 14. That it is the objective of the General Assembly that the construction and development of new
1571 utility-owned and utility-operated generating facilities utilizing energy derived from sunlight and
1572 from wind with an aggregate capacity of 5,000 megawatts, including rooftop solar installations
1573 with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 50 megawatts, be
1574 placed in service on or before July 1, 2028. The State Corporation Commission shall submit a
1575 report and make recommendations to the Governor and the General Assembly annually on or
1576 before December 1 of each year through December 1, 2028, assessing (i) the aggregate annual new
1577 construction and development of new utility-owned and utility-operated generating facilities
1578 utilizing energy derived from sunlight, (ii) the integration of utility-owned renewable electric
1579 generation resources with the utility's electric distribution grid; (iii) the aggregate additional
1580 utility-owned and utility-operated generating facilities utilizing energy derived from sunlight placed
1581 in operation since July 1, 2018, and (iv) the need for additional generation of electricity utilizing
1582 energy derived from sunlight in order to meet the objective of the General Assembly on or before
1583 July 1, 2028. The State Corporation Commission shall submit copies of such annual reports to the
1584 Chairmen of the House and Senate Committees on Commerce and Labor and the Chairman of the
1585 Commission on Electric Utility Regulation.

1586 15. That each Phase I Utility and Phase II Utility, as such terms are defined in subdivision A 1 of
1587 § 56-585.1 of the Code of Virginia, shall develop a proposed program of energy conservation
1588 measures. Any program shall provide for the submission of a petition or petitions for approval to
1589 design, implement, and operate energy efficiency programs pursuant to subdivision A 5 c of
1590 § 56-585.1 of the Code of Virginia. At least five percent of such energy efficiency programs shall
1591 benefit low-income, elderly, and disabled individuals. The projected costs for the utility to design,
1592 implement, and operate such energy efficiency programs, including a margin to be recovered on
1593 operating expenses, shall be no less than an aggregate amount of \$140 million for a Phase I Utility
1594 and \$870 million for a Phase II Utility for the period beginning July 1, 2018, and ending July 1,
1595 2028, including any existing approved energy efficiency programs. In developing such portfolio of
1596 energy efficiency programs, each utility shall utilize a stakeholder process, to be facilitated by an
1597 independent monitor compensated under the funding provided pursuant to subdivision E of
1598 § 56-592.1 of the Code of Virginia, to provide input and feedback on the development of such

1599 energy efficiency programs. Such stakeholder process shall include representatives from each
 1600 utility, the State Corporation Commission, the office of Consumer Counsel of the Attorney
 1601 General, the Department of Mines, Minerals and Energy, energy efficiency program implementers,
 1602 energy efficiency providers, residential and small business customers, and any other interested
 1603 stakeholder who the independent monitor deems appropriate for inclusion in such process. The
 1604 utility shall report on the status of the energy efficiency program, including the petitions filed and
 1605 the determination thereon, to the Governor, the State Corporation Commission, and the Chairmen
 1606 of the House and Senate Commerce and Labor Committees on July 1, 2019, and annually
 1607 thereafter through July 1, 2028.

1608 16. That each Phase I Utility and each Phase II Utility, as such terms are defined in subdivision A
 1609 1 of § 56-585.1 of the Code of Virginia, shall investigate and report upon its economic development
 1610 activities and assistance provided to Virginia localities in the area of economic development in
 1611 each utility's respective service area. Such report shall include discussion of any existing economic
 1612 rate incentives, the use thereof, and recommendations for changes of such economic rate
 1613 incentives, if any; any electrical equipment discounts for economic development purposes; any
 1614 ongoing support for the development of new economic development sites, including determining
 1615 the energy infrastructure and permitting requirements in advance of an end-user locating on the
 1616 site, and providing marketing assistance and promotion of validated sites; any direct assistance to
 1617 localities in their economic development efforts, including responses to requests for information
 1618 and proposals for economic development prospects; and any resources and personnel devoted to
 1619 such economic development efforts. The report shall include a discussion of underserved areas,
 1620 particularly in rural areas of the Commonwealth, together with suggestions for enhancing
 1621 economic development assistance in such rural areas. The report shall also provide
 1622 recommendations for the enhancement of economic development activities in each utility's
 1623 respective service area, including a discussion of requirements to provide electric services to
 1624 business-ready sites in advance of identifying a user for such sites. Each utility shall report to the
 1625 Governor, the State Corporation Commission, and the Chairmen of the House and Senate
 1626 Commerce and Labor Committees on December 1, 2018.

1627 17. That each Phase I Utility and each Phase II Utility, as such terms are defined in subdivision A
 1628 1 of § 56-585.1 of the Code of Virginia, shall investigate potential improvements to the net energy
 1629 metering programs as provided under § 56-594 of the Code of Virginia, potential improvements to
 1630 the pilot programs for community solar development as provided under § 56-585.1:3 of the Code
 1631 of Virginia, expansion of options for customers with corporate clean energy procurement targets,
 1632 and impediments to the siting of new renewable energy projects. Each such utility shall include
 1633 interested stakeholders in the investigation of such issues and the development of proposed
 1634 legislation and shall issue a report of findings to the Governor, the State Corporation Commission,
 1635 and the Chairmen of the House and Senate Committees on Commerce and Labor by November 1,
 1636 2018.

1637 18. That as part of its integrated resource plans filed between 2019 and 2028, any Phase II Utility,
 1638 as that term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, shall incorporate
 1639 into its long-term plan for energy efficiency measures policy goals of reduction in customer bills,
 1640 particularly for low-income, elderly, veterans, and disabled customers; reduction in emissions; and
 1641 reduction in the utility's carbon intensity. Considerations shall include analysis of the following:
 1642 energy efficiency programs for low-income customers in alignment with billing and credit
 1643 practices; energy efficiency programs that reflect policies and regulations related to customers with
 1644 serious medical conditions; programs specifically focused on low-income customers, occupants of
 1645 multifamily housing, veterans, elderly, and disabled customers; options for combining distributed
 1646 generation, energy storage, and energy efficiency for residential and small business customers; the
 1647 extent that electricity rates account for the amount of customer electricity bills in the
 1648 Commonwealth and how such extent in the Commonwealth compares with such extent in other
 1649 states, including a comparison of the average retail electricity price per kWh by rate class among
 1650 all 50 states and an analysis of each state's primary fuel sources for electricity generation,
 1651 accounting for energy efficiency, heating source, cooling load, housing size, and other relevant
 1652 factors; and other issues as may seem appropriate.

1653 19. That the State Corporation Commission shall submit a report and make recommendations to
 1654 the Governor and the General Assembly annually on or before December 1 of each year assessing
 1655 (i) the reliability of electrical transmission or distribution systems; (ii) the integration of utility or
 1656 customer owned renewable electric generation resources with the utility's electric distribution grid;
 1657 (iii) the level of investment in generation, transmission, or distribution of electricity; (iv) the need
 1658 for additional generation of electricity during times of peak demand; and (v) distribution system
 1659 hardening projects and enhanced physical security measures. The State Corporation Commission

1660 shall submit copies of such annual reports to the Chairmen of the House and Senate Committees
1661 on Commerce and Labor and the Chairman of the Commission on Electric Utility Regulation.
1662 20. That the provisions of this act shall apply to any applications pending with the State
1663 Corporation Commission regarding new underground facilities or offshore wind facilities on or
1664 after January 1, 2018.
1665 21. That on or before July 1, 2028, subject to the approval of the State Corporation Commission
1666 (the Commission), a Phase I Utility, as that term is defined in subdivision A 1 of § 56-585.1 of the
1667 Code of Virginia, shall construct or acquire a generation facility or facilities utilizing energy
1668 derived from sunlight with an aggregate capacity of not less than 200 megawatts located in the
1669 Commonwealth, which utility-owned generation facility or facilities is in the public interest as is
1670 set forth in this act. If a Phase I Utility serves in more than one jurisdiction, and a jurisdiction
1671 other than the Commonwealth denies the Phase I Utility recovery of the costs of the generation
1672 facility or facilities utilizing energy from sunlight allocated to that jurisdiction, the Phase I Utility
1673 can recover all of the costs of the generation facility or facilities utilizing energy from sunlight
1674 from its Virginia jurisdictional customers, and all attributes of the generation facility or facilities
1675 utilizing energy from sunlight, including energy and capacity shall be assigned to Virginia.
1676 22. That from July 1, 2018, until July 1, 2028, not more than one-half of the combined capital
1677 investment amount attributable to (i) investments in new utility-owned generation facilities utilizing
1678 energy derived from sunlight or from wind; (ii) investments in electric distribution grid
1679 transformation projects; (iii) investments in one or more new underground facilities to replace one
1680 or more existing overhead distribution facilities of 69 kilovolts or less located within the
1681 Commonwealth; (iv) investment in the estimated additional cost of placing the two proposed pilot
1682 projects for the construction of qualifying electrical transmission lines of 230 kilovolts or less (but
1683 greater than 69 kilovolts) in whole or in part underground, in excess of the cost of placing the
1684 same lines overhead, assuming accepted industry standards for undergrounding to ensure safety
1685 and reliability; and (v) the projected costs for the utility to design, implement and operate energy
1686 efficiency programs, including a margin to be recovered on operating expenses, submitted to the
1687 Commission for approval, shall be (a) investments in one or more new underground facilities to
1688 replace one or more existing overhead distribution facilities of 69 kilovolts or less located within
1689 the Commonwealth; (b) investment in the estimated additional cost of placing the two proposed
1690 pilot projects for the construction of qualifying electrical transmission lines of 230 kilovolts or less
1691 (but greater than 69 kilovolts) in whole or in part underground in excess of the cost of placing the
1692 same line overhead, assuming accepted industry standards for undergrounding to ensure safety
1693 and reliability; and (c) electric grid distribution transformation projects solely designed for
1694 physical security at distribution substations.
1695 23. That this act shall be known as the Grid Transformation and Security Act.