

SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

1 A BILL to amend and reenact § 56-580 of the Code of Virginia, relating to the applicability of the  
2 Electric Utility Restructuring Act to municipal electric utilities.

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

4 **1. That § 56-580 of the Code of Virginia is amended and reenacted as follows:**

5 § 56-580. Transmission and distribution of electric energy.

6 A. The Commission shall continue to regulate pursuant to this title the distribution of retail  
7 electric energy to retail customers in the Commonwealth and, to the extent not prohibited by federal law,  
8 the transmission of electric energy in the Commonwealth.

9 B. The Commission shall continue to regulate, to the extent not prohibited by federal law, the  
10 reliability, quality and maintenance by transmitters and distributors of their transmission and retail  
11 distribution systems.

12 C. The Commission shall develop codes of conduct governing the conduct of incumbent electric  
13 utilities and affiliates thereof when any such affiliates provide, or control any entity that provides,  
14 generation, distribution, transmission or any services made competitive pursuant to § 56-581.1, to the  
15 extent necessary to prevent impairment of competition.

16 D. The Commission shall permit the construction and operation of electrical generating facilities  
17 upon a finding that such generating facility and associated facilities (i) will have no material adverse  
18 effect upon reliability of electric service provided by any regulated public utility and (ii) are not  
19 otherwise contrary to the public interest. In review of a petition for a certificate to construct and operate  
20 a generating facility described in this subsection, the Commission shall give consideration to the effect  
21 of the facility and associated facilities on the environment and establish such conditions as may be  
22 desirable or necessary to minimize adverse environmental impact as provided in § 56-46.1. In order to  
23 avoid duplication of governmental activities, any valid permit or approval required for an electric  
24 generating plant and associated facilities issued or granted by a federal, state or local governmental

25 entity charged by law with responsibility for issuing permits or approvals regulating environmental  
 26 impact and mitigation of adverse environmental impact or for other specific public interest issues such  
 27 as building codes, transportation plans, and public safety, whether such permit or approval is prior to or  
 28 after the Commission's decision, shall be deemed to satisfy the requirements of this section with respect  
 29 to all matters that (i) are governed by the permit or approval or (ii) are within the authority of, and were  
 30 considered by, the governmental entity in issuing such permit or approval, and the Commission shall  
 31 impose no additional conditions with respect to such matters. Nothing in this section shall affect the  
 32 ability of the Commission to keep the record of a case open. Nothing in this section shall affect any right  
 33 to appeal such permits or approvals in accordance with applicable law. In the case of a proposed facility  
 34 located in a region that was designated as of July 1, 2001, as serious nonattainment for the one-hour  
 35 ozone standard as set forth in the federal Clean Air Act, the Commission shall not issue a decision  
 36 approving such proposed facility that is conditioned upon issuance of any environmental permit or  
 37 approval.

38 E. Nothing in this section shall impair the distribution service territorial rights of incumbent  
 39 electric utilities, and incumbent electric utilities shall continue to provide distribution services within  
 40 their exclusive service territories as established by the Commission. Nothing in this chapter shall impair  
 41 the Commission's existing authority over the provision of electric distribution services to retail  
 42 customers in the Commonwealth including, but not limited to, the authority contained in Chapters 10 (§  
 43 56-232 et seq.) and 10.1 (§ 56-265.1 et seq.) of this title.

44 F. Nothing in this chapter shall impair the exclusive territorial rights of an electric utility owned  
 45 or operated by a municipality as of July 1, 1999, nor shall any provision of this chapter apply to any  
 46 such electric utility unless (i) that municipality elects to have this chapter apply to that utility or (ii) that  
 47 utility, directly or indirectly, sells, offers to sell or seeks to sell electric energy to any retail customer  
 48 outside the geographic area that was served by such municipality as of July 1, 1999, except (a) any area  
 49 within the municipality that was served by an incumbent public utility as of that date but was thereafter  
 50 served by an electric utility owned or operated by a municipality pursuant to the terms of a franchise  
 51 agreement between the municipality and the incumbent public utility, or (b) where the geographic area

52 served by an electric utility owned or operated by a municipality is changed pursuant to mutual  
53 agreement between the municipality and the incumbent public utility. If an electric utility owned or  
54 operated by a municipality as of July 1, 1999, is made subject to the provisions of this chapter pursuant  
55 to clause (i) or (ii) of this subsection, then in such event the provisions of this chapter applicable to  
56 incumbent electric utilities shall also apply to any such utility, mutatis mutandis.

57 G. The applicability of this chapter to any investor-owned incumbent electric utility supplying  
58 electric service to retail customers on January 1, 2003, whose service territory assigned to it by the  
59 Commission is located entirely within Dickenson, Lee, Russell, Scott, and Wise Counties shall be  
60 suspended effective July 1, 2003, so long as such utility does not provide retail electric services in any  
61 other service territory in any jurisdiction to customers who have the right to receive retail electric energy  
62 from another supplier. During any such suspension period, the utility's rates shall be (i) its capped rates  
63 established pursuant to § 56-582 for the duration of the capped rate period established thereunder, and  
64 (ii) determined thereafter by the Commission on the basis of such utility's prudently incurred costs  
65 pursuant to Chapter 10 (§ 56-232 et seq.) of this title.

66 H. The expiration date of any certificates granted by the Commission pursuant to subsection D,  
67 for which applications were filed with the Commission prior to July 1, 2002, shall be extended for an  
68 additional two years from the expiration date that otherwise would apply.

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