

**§ 56-577. Schedule for transition to retail competition; Commission authority.**

A. The transition to retail competition for the purchase and sale of electric energy shall be implemented as follows:

1. On or before January 1, 2001, each incumbent electric utility owning, operating, controlling, or having an entitlement to transmission capacity shall join or establish a regional transmission entity, which entity may be an independent system operator, to which such utility shall transfer the management and control of its transmission system, subject to the provisions of § 56-579.
2. On and after January 1, 2002, retail customers of electric energy within the Commonwealth shall be permitted to purchase energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth during and after the period of transition to retail competition, subject to the following:
  - a. The Commission shall establish a phase-in schedule for customers by class, and by percentages of class, to ensure that by January 1, 2004, all retail customers are permitted to purchase electric energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth.
  - b. The Commission shall also ensure that residential and small business retail customers are permitted to select suppliers in proportions at least equal to that of other customer classes permitted to select suppliers during the period of transition to retail competition.
3. On and after January 1, 2002, the generation of electric energy shall no longer be subject to regulation under this title, except as specified in this chapter.
4. On and after January 1, 2004, all retail customers of electric energy within the Commonwealth, regardless of customer class, shall be permitted to purchase electric energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth.

B. The Commission may delay or accelerate the implementation of any of the provisions of this section, subject to the following:

1. Any such delay or acceleration shall be based on considerations of reliability, safety, communications or market power; and
2. Any such delay shall be limited to the period of time required to resolve the issues necessitating the delay, but in no event shall any such delay extend the implementation of customer choice for all customers beyond January 1, 2005.

The Commission shall, within a reasonable time, report to the General Assembly, or any legislative entity monitoring the restructuring of Virginia's electric industry, any such delays and the reasons therefor.

C. Except as may be otherwise provided in this chapter, prior to and during the period of transition to retail competition, the Commission may conduct pilot programs encompassing retail customer choice of electric energy suppliers, consistent with its authority otherwise provided in this title and the provisions of this chapter.

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

**E. By January 1, 2002, the Commission shall promulgate such regulations regarding minimum periods, if any, for which customers who request service from an incumbent electric utility pursuant to § 56-582.D or a default service provider, after a period of receiving service from other suppliers of electric energy, must use such service from such incumbent electric utility or default service provider, as determined to be in the public interest by the Commission.**

**§ 56-581.1. Authority to make services competitive. Competitive Retail Electric Billing and Metering.**

~~A. On or before January 1, 2001, the Commission shall recommend to the Legislative Transition Task Force whether metering services, billing services, or both, for which competition has not been otherwise authorized by law, may be provided by persons licensed to provide such services. The Commission's recommendation under this subsection as to the appropriateness of and date of commencement of competition (i) shall include the draft plan for implementation of competition for metering services and billing services and (ii) may vary by service, type of seller, region, incumbent electric utility, and customer group. Such recommendation and draft plan, which shall be developed after notice and an opportunity for hearing, shall:~~

- ~~1. Be consistent with the goal of facilitating the development of effective competition in electric service for all customer classes;~~
- ~~2. Take into account the readiness of customers and suppliers to buy and sell such services;~~
- ~~3. Take into account the technological feasibility of furnishing any such services on a competitive basis;~~
- ~~4. Take into account whether reasonable steps have been or will be taken to educate and prepare customers for the implementation of competition for any such services;~~
- ~~5. Not jeopardize the safety, reliability, or quality of electric service;~~

- ~~6. Consider the degree of control exerted over utility operations by utility customers.~~
- ~~7. Not adversely affect the ability of an incumbent electric utility authorized or obligated to provide electric service to customers who do not buy such services from competitors to provide electric service to such customers at reasonable rates; and~~
- ~~8. Give due consideration to the potential effects of such determinations on utility tax collection by state and local governments in the Commonwealth.~~

~~B. Competition for metering services, billing services, or both, may be implemented concurrently or pursuant to separate schedules as determined by the General Assembly.~~

~~C. If, on or before January 1, 2001, the Commission has not recommended that competition is appropriate for (i) metering services, (ii) billing services, or (iii) any portion of either service, the Commission shall continue to consider such matters and report thereon to the Legislative Transition Task Force no less frequently than annually until such services are made competitive.~~

~~D. Upon enactment of legislation making competitive metering services, billing services, or both, an incumbent electric utility shall undertake such coordination, with person licensed to provide such service, as the Commission deems reasonably necessary to the development of such competition, provided that the reasonable costs of such coordination are recovered by such utility. The foregoing shall apply to an affiliate of an incumbent electric utility if such affiliate controls a resource that is necessary to the coordination required of the incumbent electric utility by this subsection.~~

~~E. Any person seeking to sell, offering to sell, or selling competitive metering services, competitive billing services, or both, shall be subject to the licensure requirements of § 56-587.~~

~~F. Upon enactment of legislation making competitive a service presently provided by an incumbent electric utility, the Commission shall adjust the rates for any noncompetitive services provided by such utility so that such rates do not reflect costs associated with or properly allocable to the service made subject to competition.~~

**A. Effective January 1, 2002, distributors shall offer consolidated billing service to licensed suppliers, aggregators, and retail customers, and licensed suppliers and aggregators shall also be permitted to bill all retail customers separately for services rendered on and after the first regular meter reading date after January 1, 2002, subject to conditions, regulations, and licensing requirements established by the Commission.**

**B. Effective January 1, 2003, licensed suppliers and aggregators may offer consolidated billing service to distributors and retail customers for services rendered on and after the first regular meter reading date after January 1, 2003, subject to conditions, regulations, and licensing requirements established by the Commission.**

**C. Upon application by a distributor or upon its own motion, the Commission may delay any element of the competitive provision of billing services to retail customers for the period of time necessary, but no longer than one year, to resolve issues arising from**

considerations of billing accuracy, timeliness, quality, consumer readiness, or adverse effects upon development of competition in electric service. The Commission shall report any such delays and the underlying reasons therefor to the Legislative Transition Task Force within a reasonable time.

**D.** The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section in a manner that is consistent with its Recommendation and Draft Plan filed with the Legislative Transition Task Force on December 12, 2000, to facilitate the development of effective competition in electric service for all customer classes, and to ensure reasonable levels of billing accuracy, timeliness, and quality, and adequate consumer readiness and protection. Such rules and regulations shall include provisions regarding the licensing of persons seeking to sell, offering to sell, or selling competitive billing services, pursuant to the licensure requirements of § 56-587.

**E.** The Commission shall approve the provision of competitive metering services by licensed providers for large industrial and large commercial customers of investor-owned distributors on or after January 1, 2002, and for residential and small business customers of investor-owned distributors on or after January 1, 2003, as determined to be in the public interest by the Commission consistent with the following criteria:

- 1.** Be consistent with the goal of facilitating the development of effective competition in electric service for all customer classes;
- 2.** Take into account the readiness of customers and suppliers to buy and sell such services;
- 3.** Take into account the technological feasibility of furnishing any such services on a competitive basis;
- 4.** Take into account whether reasonable steps have been or will be taken to educate and prepare customers for the implementation of competition for any such services;
- 5.** Not jeopardize the safety, reliability, or quality of electric service;
- 6.** Consider the degree of control exerted over utility operations by utility customers;
- 7.** Not adversely affect the ability of an incumbent electric utility authorized or obligated to provide electric service to customers who do not buy such services from competitors to provide electric service to such customers at reasonable rates;
- 8.** Give due consideration to the potential effects of such determinations on utility tax collection by state and local governments in the Commonwealth; and

9. Ensure the technical and administrative readiness of a distributor to coordinate and facilitate the provision of competitive metering services for its customers.

Upon the reasonable request of a distributor, the Commission shall delay the provision of competitive metering service in such distributor's service territory until January 1, 2003, for large industrial and large commercial customers, and after January 1, 2004, for residential and small business customers.

F. The Commission shall promulgate such rules and regulation as may be necessary to implement the authorization related to competitive metering services provided for in subsection E. Such rules and regulations shall include provisions regarding the licensing of persons seeking to sell, offering to sell, or selling competitive metering services, pursuant to the licensure requirements of § 56-587.

G. An incumbent electric utility shall coordinate with persons licensed to provide competitive metering services, billing services, or both, as the Commission deems reasonably necessary to the development of such competition. The foregoing shall apply to an affiliate of an incumbent electric utility if such affiliate controls a resource that is necessary to the coordination required of the incumbent electric utility by this subsection.

H. Notwithstanding the provisions of § 56-582, the Commission shall allow a distributor to recover its costs directly associated with the implementation of billing or metering competition through a tariff for all licensed suppliers, but not those that would be incurred by such utilities in any event as part of the restructuring under this Act. The Commission shall also determine the most appropriate method of recovering such costs through a tariff for such licensed suppliers; however, such method shall not unreasonably affect any customer for which the service is not made competitive.

I. The Commission shall adjust the rates for any noncompetitive services provided by a distributor so that such rates do not reflect costs associated with or properly allocable to the service made subject to competition. Such adjustment may be accomplished through unbundled rates, bill credits, the distributor's tariffs for licensed suppliers, or other methods as determined by the Commission.

J. Municipal electric utilities ~~{and utility consumer services cooperatives}~~ shall not be required to provide consolidated billing services to licensed suppliers, aggregators or retail customers~~{, or}~~. Municipal electric utilities and utility consumer services cooperatives shall not be required to undertake coordination of the provision of billing services by suppliers and aggregators provided, however, that ~~{such}~~ [the] exemptions [set forth in this subsection] shall not apply if any such municipal electric utility or utility consumer services cooperative, or its affiliate, offers competitive electric energy supply to retail customers in the service territory of any other Virginia incumbent electric utility. The Commission may permit any municipal electric utility or utility consumer services cooperative that pursues such competitive activity to maintain such exemption upon application to the Commission demonstrating good cause for relief. [In addition, upon petition by a consumer services cooperative, the Commission may approve the provision of competitive metering services

by licensed providers for large industrial and large commercial customers of such cooperative on or after January 1, 2002, and for residential and small business customers of such cooperative on or after January 1, 2003, as determined to be in the public interest by the Commission consistent with the criteria set forth in subsection E.]

§ 56-585. Default service.

A. The Commission shall, after notice and opportunity for hearing, (i) determine the components of default service and (ii) establish one or more programs making such services available to retail customers requiring them commencing with the date of customer choice for all retail customers established pursuant to § 56-577. For purposes of this chapter, "default service" means service made available under this section to retail customers who (i) do not affirmatively select a supplier, (ii) are unable to obtain service from an alternative supplier, or (iii) have contracted with an alternative supplier who fails to perform.

B. ~~The~~ **From time to time, the** Commission shall designate ~~the one or more~~ providers of default service. In doing so, the Commission:

1. Shall take into account the characteristics and qualifications of prospective providers, including ~~cost~~ **proposed rates**, experience, safety, reliability, corporate structure, access to electric energy resources necessary to serve customers requiring such services, and other factors deemed necessary to **promote the reliable provision of such services, to prevent the inefficient use of such services, and to** protect the public interest;
2. May ~~[Shall, on or before January 1, 2004, and]~~ **periodically [thereafter][,] as necessary, conduct bidding processes under procedures established by the Commission and,** upon a finding that the public interest will be served, designate one or more willing **and suitable** providers to provide one or more components of such services, in one or more regions of the Commonwealth, to one or more classes of customers; ~~and~~
3. ~~In the absence of a finding~~**To the extent that default service is not provided pursuant to a designation** under subdivision 2, may require **a distributor** ~~an incumbent electric utility or distribution utility~~ to provide **[in a safe and reliable manner]** one or more components of such services, or to form an affiliate to do so, in one or more regions of the Commonwealth, at rates ~~which are fairly compensatory to the utility and which reflect any cost of energy prudently procured, including energy procured from the competitive market~~ **determined pursuant to subsection C and for periods specified by the Commission;** however, the Commission may not require ~~an incumbent electric utility or distribution utility~~ **a distributor**, or affiliate thereof, to provide any such services outside the territory in which such ~~utility~~ **distributor** provides service.
4. **Notwithstanding imposition on a distributor by the Commission of the requirement provided in subdivision 3, the Commission may thereafter, upon**

**a finding that the public interest will be served, designate through the competitive bidding process established in subdivision 2 one or more willing and suitable providers to provide one or more components of such services, in one or more regions of the Commonwealth, to one or more classes of customers.**

C. ~~The Commission shall~~**In the event a distributor is required to provide default services pursuant to subdivision B.3., after notice and opportunity for hearing, the Commission shall [periodically, for each such distributor,] determine the rates, terms and conditions for such default services, after taking into account the characteristics and qualifications set forth in subdivision B.1., consistent with the provisions of subdivision B-3 and Chapter 10 (§ 56-232 et seq.) of this title and shall establish such requirements for providers and customers as it finds necessary to promote the reliable and economic provision of such services and to prevent the inefficient use of such services. The Commission may use any rate method that promotes the public interest and may establish different rates, terms and conditions for different classes of customers as follows:**

- 1. Until the expiration or termination of capped rates, the rates for default service provided by a distributor shall be the capped rates established pursuant to § 56-582.A.2. After the expiration or termination of such capped rates, the rates for default services shall be based upon competitive market prices for electric generation services.**
- 2. The Commission shall, after notice and opportunity for hearing, determine the rates, terms and conditions for such services consistent with default service by such distributor on the basis of the provisions of subdivision B-3 and Chapter 10 (§ 56-232 et seq.) of this title and, except that the generation-related components of such rates shall be based upon a plan approved by the Commission as set forth below, or, in the absence of an approved plan, based upon prices for generation capacity and energy in competitive regional electricity markets. ~~[In determining such markets, the Commission shall consider, among other factors it finds relevant, the liquidity and price transparency of such markets and the reasonable accessibility of such markets to the RTE to which the distributor belongs.]~~**
- 3. In advance of a distributor's provision of default service, and upon request of such distributor, the Commission shall review any plan filed by the distributor to procure electric generation services for default service. The Commission shall approve such plan if the Commission determines that the procurement of electric generation capacity and energy under such plan is adequately based upon prices of capacity and energy in competitive regional electricity markets. ~~[In determining such markets, the Commission shall consider, among other factors it finds relevant, the liquidity and price transparency of such markets and the reasonable accessibility of such markets to the RTE to which the distributor belongs.]~~ If the Commission determines that the plan does not adequately meet such criteria, then the**

Commission shall modify, with the concurrence of the distributor, or reject the plan.

4. [In determining competitive regional electricity markets and rates for default service for purposes of this subsection, the Commission shall consider: (i) the liquidity and price transparency of such markets, (ii) whether competition is an effective regulator of prices in such markets, (iii) the wholesale or retail nature of such markets, as appropriate, (iv) the reasonable accessibility of such markets to the RTE to which the distributor belongs, and (v) such other factors as it finds relevant.]

**D.** In implementing this section, the Commission shall take into consideration the need of default service customers for rate stability and for protection from unreasonable rate fluctuations.

~~D.E.~~ On or before July 1, 2004, and annually thereafter, the Commission shall determine, after notice and opportunity for hearing, whether there is a sufficient degree of competition such that the elimination of default service for particular customers, particular classes of customers or particular geographic areas of the Commonwealth will not be contrary to the public interest. The Commission shall report its findings and recommendations concerning modification or termination of default service to the General Assembly and to the Legislative Transition Task Force, not later than December 1, 2004, and annually thereafter.

~~E.F.~~ A distribution electric cooperative, or one or more affiliates thereof, shall have the obligation and right to be the supplier of default services in its certificated service territory. **A cooperative's rates for such default services shall be the capped rate for the duration of the capped rate period and shall be based upon the cooperative's prudently incurred cost thereafter. Subsections B and C shall not apply to a cooperative or its rates.** Such default services, for the purposes of this subsection, shall include the supply of electric energy and all services made competitive pursuant to § 56-581.1. If a distribution electric cooperative, or one or more affiliates thereof, elects or seeks to be a default supplier of another electric utility, then the Commission shall designate the default supplier for that distribution electric cooperative, or any affiliate thereof, pursuant to subsection B.

**§ 56-590. Divestiture, functional separation and other corporate relationships.**

A. The Commission shall not require any incumbent electric utility to divest itself of any generation, transmission or distribution assets pursuant to any provision of this chapter.

- B. 1. The Commission shall, however, direct the functional separation of generation, retail transmission and distribution of all incumbent electric utilities in connection with the provisions of this chapter to be completed by January 1, 2002.
2. By January 1, 2001, each incumbent electric utility shall submit to the Commission a plan for such functional separation which may be accomplished

through the creation of affiliates, or through such other means as may be acceptable to the Commission.

3. Consistent with this chapter, the Commission may impose conditions, as the public interest requires, upon its approval of any incumbent electric utility's plan for functional separation, including requirements that (i) the incumbent electric utility's generation assets or, **at the election of the incumbent electric utility and if approved by the Commission pursuant to subdivision 4 of this subsection**, their equivalent ~~remain~~ **are made** available for electric service during the capped rate period as provided in § 56-582 and, if applicable, during any period the **distributor** serves as a default provider as provided for in § 56-585, ~~and~~ (ii) the incumbent electric utility receive Commission approval for the sale, transfer or other disposition of generation assets during the capped rate period and, if applicable, during any period the **distributor** serves as a default provider, **and (iii) any such generation asset sold, transferred, or otherwise disposed of by the incumbent electric utility with Commission approval shall not be further sold, transferred, or otherwise disposed of during the capped rate period and, if applicable, during any period the distributor serves as default provider, without additional Commission approval.**

- [4.] In the event that an incumbent electric utility proposes that the equivalent to its generation assets be made available pursuant to subdivision 3 of this subsection, the Commission shall determine the adequacy of such proposal and shall approve or reject such proposal based on the public interest.**

**[Notwithstanding]**

- [5. In exercising its authority under the provisions of this section ~~{or}~~ and under § 56-90, the Commission shall have no authority to regulate, including on a cost of service ~~{bases}~~ [basis], the price at which generation assets or their equivalent are made available for default service purposes~~[-, and rates for the provision of default service by a distributor shall be determined consistent with the provisions of]~~. The Commission's authority to regulate the price of such service shall be consistent with the pricing provisions applicable to a distributor pursuant to § 56-585.**

C. Whenever pursuant to § 56-581.1 services are made subject to competition, the Commission shall direct the functional separation of such services to the extent necessary to achieve the purposes of this section. Each affected incumbent electric utility shall, by dates prescribed by the Commission, submit for the Commission's approval a plan for such functional separation.

D. The Commission shall, to the extent necessary to promote effective competition in the Commonwealth, promulgate rules and regulations to carry out the provisions of this section, which rules and regulations shall include provisions:

1. Prohibiting cost-shifting or cross-subsidies between functionally separate units;

2. Prohibiting functionally separate units from engaging in anti-competitive behavior or self-dealing;
3. Prohibiting affiliated entities from engaging in discriminatory behavior towards nonaffiliated units; and
4. Establishing codes of conduct detailing permissible relations between functionally separate units.

E. Neither a covered entity nor an affiliate thereof may be a party to a covered transaction without the prior approval of the Commission. Any such person proposing to be a party to such transaction shall file an application with the Commission. The Commission shall approve or disapprove such transaction within sixty days after the filing of a completed application; however, the sixty-day period may be extended by Commission order for a period not to exceed an additional 120 days. The application shall be deemed approved if the Commission fails to act within such initial or extended period. The Commission shall approve such application if it finds, after notice and opportunity for hearing, that the transaction will comply with the requirements of subsection F, and may, as a part of its approval, establish such conditions or limitations on such transaction as it finds necessary to ensure compliance with subsection F.

F. A transaction described in subsection E shall not:

1. Substantially lessen competition among the actual or prospective providers of noncompetitive electric service or of a service which is, or is likely to become, a competitive electric service; or
2. Jeopardize or impair the safety or reliability of electric service in the Commonwealth, or the provision of any noncompetitive electric service at just and reasonable rates.

G. **Except as provided in § 56-590 B.5, ~~Nothing~~ nothing** in this chapter shall be deemed to abrogate or modify the Commission's authority under Chapter 3 (§ 56-55 et seq.), 4 (§ 56-76 et seq.) or 5 (§ 56-88 et seq.) of this title. However, any person subject to the requirements of subsection E that is also subject to the requirements of Chapter 5 of this title may be exempted from compliance with the requirements of Chapter 5 of this title.

**§ 56-595. Legislative Transition Task Force established.**

A. The Legislative Transition Task Force is hereby established **(i)** to work collaboratively with the Commission in conjunction with the phase-in of retail competition within the Commonwealth- **and (ii) to seek to ensure effective competition in the Commonwealth as soon as practical.**

B. The Task Force shall consist of ten members, with six members from the House of Delegates and four members from the Senate. Appointments shall be made and vacancies filled

by the Speaker of the House of Delegates in accordance with the principles of Rule 16 of the House of Delegates and the Senate Committee on Privileges and Elections, as appropriate.

C. The Task Force members shall be appointed to begin service on and after July 1, 1999, and shall continue to serve until ~~July 1, 2005~~ **December 31, 2008**. They shall (i) monitor the work of the Virginia State Corporation Commission in implementing this chapter, receiving such reports as the Commission may be required to make pursuant thereto, including reviews, analysis, and impact on consumers of electric utility restructuring programs of other states; (ii) determine whether, and on what basis, incumbent electric utilities should be permitted to discount capped generation rates established pursuant to § 56-582; (iii) after the commencement of customer choice, monitor, with the assistance of the Commission, the Office of the Attorney General, incumbent electric utilities, suppliers, and retail customers, whether the recovery of stranded costs, as provided in § 56-584, has resulted or is likely to result in the overrecovery or underrecovery of just and reasonable net stranded costs; (iv) examine utility worker protection during the transition to retail competition; generation, transmission and distribution systems reliability concerns; energy assistance programs for low-income households; renewable energy programs; and energy efficiency programs; and (v) annually report to the Governor and each session of the General Assembly during their tenure concerning the progress of each stage of the phase-in of retail competition, offering such recommendations as may be appropriate for legislative and administrative consideration in order to maintain the Commonwealth's position as a low-cost electricity market and ensuring that residential customers and small business customers benefit from competition.

D. There shall be established a Consumer Advisory Board effective July 1, 1999. The Consumer Advisory Board shall consist of seventeen members. The Senate Privileges and Elections Committee shall appoint six members. The Speaker of the House of Delegates shall appoint six members. The Governor shall appoint five members. Appointed members shall be from all classes of consumers and with geographical representation. The Consumer Advisory Board shall assist the Legislative Transition Task Force in its work as prescribed in this section, and on other issues as may be directed by the Legislative Transition Task Force.

**§ 56-596. Advancing competition.**

**A. In all relevant proceedings pursuant to this Act, the Commission shall take into consideration, among other things, the goals of advancement of competition and economic development in the Commonwealth.**

**B. By September 1 of each year, the Commission shall report to the Legislative Transition Task Force and the Governor information on the status of competition in the Commonwealth[, the status of the development of regional competitive markets,] and its recommendations to facilitate effective competition in the Commonwealth as soon as practical. This report shall include any recommendations of actions to be taken by the General Assembly, Commission, electric utilities, suppliers, generators, distributors, and regional transmission entities it considers to be in the public interest. Such recommendations shall include actions regarding the supply and demand balance for generation services, new and existing generation capacity, transmission constraints, market**

power, suppliers licensed and operating in the Commonwealth, and the shared or joint use of generation sites.

C. In addition to the provisions of § 56-595.C., by December 1 of each year, the Legislative Transition Task Force shall report to the General Assembly and Governor information on the status of competition in the Commonwealth[, the status of the development of regional competitive markets,] and its recommendations to facilitate effective competition in the Commonwealth as soon as practical. This report shall include any recommendations of actions to be taken by the General Assembly, Commission, electric utilities, suppliers, generators, distributors, and regional transmission entities it considers to be in the public interest.

D. By December 1, 2001, the Legislative Transition Task Force shall recommend to the Governor and General Assembly modifications in state administration and regulatory procedures it determines appropriate to facilitate the approval of construction of new electric generation facilities to provide electric capacity and energy within the Commonwealth to ensure effective competition as soon as practical, without lessening necessary environmental considerations including siting and air quality impacts. The Commission, Secretary of Commerce and Trade, Secretary of Natural Resources, and all state agencies shall assist in the study resulting in the above-recommended procedural modifications.

**§ 58.1-2901. (Applicable for tax years beginning on and after January 1, 2001) Collection and remittance of tax.** (Applicable for tax years beginning on and after January 1, 2001)  
Collection and remittance of tax.

A. The **provider of billing services** shall collect the tax from the consumer by adding it as a separate charge to the consumer's monthly statement. Until the consumer pays the tax to such **provider of billing services**, the tax shall constitute a debt of the consumer to the Commonwealth, localities, and the State Corporation Commission. If any consumer receives and pays for electricity but refuses to pay the tax on the bill that is imposed by § 58.1-2900, the **provider of billing services** shall notify the State Corporation Commission of the name and address of such consumer. If any consumer fails to pay a bill issued by a **provider of billing services** including the tax that is imposed by § 58.1-2900, the **provider of billing services** shall follow its normal collection procedures with respect to the charge for electric service and the tax, and upon collection of the bill or any part thereof shall (i) apportion the net amount collected between the charge for electric service and the tax and (ii) remit the tax portion to the State Corporation Commission and the appropriate locality. After the consumer pays the tax to the **provider of billing services**, the taxes collected shall be deemed to be held in trust by such provider until remitted to the State Corporation Commission and the appropriate locality.

When determining the amount of tax to collect from consumers of an electric utility that is a cooperative which purchases, for the purpose of resale within the Commonwealth, electricity from a federal entity that made payments during such taxable period to the Commonwealth in lieu of taxes in accordance with a federal law requiring such payments to be calculated on the basis of such federal entity's gross proceeds from the sale of electricity, the **provider of billing**

**services** shall deduct from each of the respective tax amounts calculated in accordance with § 58.1-2900 an amount equal to the calculated tax amounts multiplied by the ratio that the total cost of the power, including facilities rental, supplied by said federal entity to said cooperative for resale within the Commonwealth bears to said cooperative's total operating revenue within the Commonwealth for the taxable period. The State Corporation Commission may audit the records and books of said cooperative to verify that the tax imposed by this chapter has been correctly determined and properly remitted.

B. A **provider of billing services** shall remit monthly to the Commission the amount of tax paid during the preceding month by the **provider of billing services's** consumers, except for (i) amounts added on the bills to utilities owned and operated by municipalities which are collected by the entity providing transmission directly to such utilities (or an association or agency of which the municipality is a member), which they shall remit directly to the Commission and (ii) the portion which represents the local consumption tax, which portion shall be remitted to the locality in which the electricity was consumed and shall be based on such locality's license fee rate which it imposed. Amounts of the tax that are added on the bills to utilities owned and operated by municipalities, which are collected by the entity providing transmission directly to such utilities (or an association or agency of which the municipality is a member), shall be remitted monthly by such entity to the Commission, except that the portion which represents the local consumption tax shall be remitted to the locality in which the electricity was consumed and shall be based on such locality's license fee rate which it imposed.

C. The electric utility consumption tax shall be remitted monthly, on or before the last day of the succeeding month of collection. Those portions of the electric utility consumption tax that relate to the state consumption tax and the special regulatory tax shall be remitted to the Commission; the portion that relates to the local consumption tax shall be remitted to the localities. Failure to remit timely will result in a ten percent penalty.

D. Taxes on electricity sales in the year ending December 31, 2000, relating to the local consumption tax, shall be paid in accordance with § 58.1-3731. Monthly payments in accordance with subsection C shall commence on February 28, 2001.

E. For purposes of this section, "service provider" means the person who delivers electricity to the consumer, **and "provider of billing services" means the person who bills a consumer for electric services rendered. If both the person who delivers electricity to the consumer "service provider" and another person separately and directly bill a consumer for electricity service, then the person who delivers electricity to the consumer "service provider" shall be considered the "provider of billing services."**

F. The portion of the electric utility consumption tax relating to the local consumption tax replaces and precludes localities from imposing a license tax in accordance with § 58.1-3731 and the business, professional, occupation and license tax in accordance with Chapter 37 (§ 58.1-3700 et seq.) on electric suppliers subsequent to December 31, 2000, except as provided in subsection D. If the license fee rate imposed by a locality is less than the equivalent of the local consumption tax rate component of the consumption tax paid under subsection A of § 58.1-2900, the excess collected by the Commission shall constitute additional state consumption tax revenue and shall be remitted by the Commission to the state treasury.

G. The Department of Taxation may audit the books and records of any electric utility owned and operated by a municipality (or an association or agency of which the municipality is a member) to verify that the tax imposed by this chapter has been correctly determined and properly remitted to the Commission.

**§ 58.1-2902. (Applicable for tax years beginning on and after January 1, 2001) Electric utility consumption tax relating to the special regulatory tax; when not assessed or assessed only in part.**

A. The Commission may in the performance of its function and duty in levying the electric utility consumption tax relating to the special regulatory tax, omit the levy on any portion of the tax fixed in § 58.1-2900 as is unnecessary within the Commission's sole discretion for the accomplishment of the objects for which the tax is imposed, including a reasonable margin in the nature of a reserve fund.

B. The Commission shall notify ~~all [each] service provider~~ **provider of billing services [as defined in § 58.1-2901.E]** collecting the tax on consumers of electricity of any change in the electric utility consumption tax relating to the special regulatory tax not later than the first day of the second month preceding the month in which the revised rate is to take effect.

**§ 58.1-3814. (Effective January 1, 2001) Water or heat, light and power companies**  
(Effective January 1, 2001) Water or heat, light and power companies

A. Any county, city or town may impose a tax on the consumers of the utility service or services provided by any water or heat, light and power company or other corporations coming within the provisions of Chapter 26 (§ 58.1-2600 et seq.) of this title, which tax shall not be imposed at a rate in excess of twenty percent of the monthly amount charged to consumers of the utility service and shall not be applicable to any amount so charged in excess of fifteen dollars per month for residential customers. Any city, town or county that on July 1, 1972, imposed a utility consumer tax in excess of limits specified herein may continue to impose such a tax in excess of such limits, but no more. For taxable years beginning on and after January 1, 2001, any tax imposed by a county, city or town on consumers of electricity shall be imposed pursuant to subsections C through J of this section only.

B. Any tax enacted pursuant to the provisions of this section, or any change in a tax or structure already in existence, shall not be effective until sixty days subsequent to written notice by certified mail from the county, city or town imposing such tax or change thereto, to the registered agent of the utility corporation that is required to collect the tax.

C. Any county, city or town may impose a tax on the consumers of services provided within its jurisdiction by any electric light and power, water or gas company owned by another municipality; provided, that no county shall be authorized under this section to impose a tax within a municipality on consumers of services provided by an electric light and power, water or gas company owned by that municipality. Any county tax imposed hereunder shall not apply within the limits of any incorporated town located within such county which town imposes a

town tax on consumers of utility service or services provided by any corporation coming within the provisions of Chapter 26 (§ 58.1-2600 et seq.) of this title, provided that such town (i) provides police or fire protection, and water or sewer services, provided that any such town served by a sanitary district or service authority providing water or sewer services or served by the county in which the town is located when such service or services are provided pursuant to an agreement between the town and county shall be deemed to be providing such water and sewer services itself, or (ii) constitutes a special school district and is operated as a special school district under a town school board of three members appointed by the town council.

Any county, city or town may provide for an exemption from the tax for any public safety answering point as defined in § 58.1-3813.1.

Any city with a population of not less than 27,000 and not more than 28,500 may provide an exemption from the tax for any church or religious body entitled to an exemption pursuant to Article 4 (§ 58.1-3650 et seq.) of Chapter 36 of this title.

Any municipality required to collect a tax imposed under authority of this section for another city or county or town shall be entitled to a reasonable fee for such collection.

D. In a consolidated county wherein a tier-city exists, any county tax imposed hereunder shall apply within the limits of any tier-city located in such county, as may be provided in the agreement or plan of consolidation, and such tier-city may impose a tier-city tax on the same consumers of utility service or services, provided that the combined county and tier-city rates do not exceed the maximum permitted by state law.

E. The tax authorized by this section shall not apply to utility sales of products used as motor vehicle fuels.

F.1. Any county, city or town may impose a tax on consumers of electricity provided by electric suppliers as defined in § 58.1-400.2.

The tax so imposed shall be based on kilowatt hours delivered monthly to consumers, and shall not exceed the limits set forth in this subsection. The **provider of billing services as defined in section 58.1-2901 E** shall bill the tax to all users who are subject to the tax and to whom it ~~delivers bills for~~ **electricity service**, and shall remit such tax to the appropriate locality in accordance with § 58.1-2901. Any locality that imposed a tax pursuant to this section prior to January 1, 2001, based on the monthly revenue amount charged to consumers of electricity shall convert its tax to a tax based on kilowatt hours delivered monthly to consumers, taking into account minimum billing charges. The kilowatt hour tax rates shall, to the extent practicable: (i) avoid shifting the amount of the tax among electricity consumer classes and (ii) maintain annual revenues being received by localities from such tax at the time of the conversion. **The** current service provider shall provide to localities no later than August 1, 2000, information to enable localities to convert their tax. The maximum amount of tax imposed on residential consumers as a result of the conversion shall be limited to three dollars per month, except any locality that imposed a higher maximum tax on July 1, 1972, may continue to impose such higher maximum tax on residential consumers at an amount no higher than the maximum tax in effect prior to January 1, 2001, as converted to kilowatt hours. For nonresidential consumers, the initial

maximum rate of tax imposed as a result of the conversion shall be based on the annual amount of revenue received from each class of nonresidential consumers in calendar year 1999 for the kilowatt hours used that year. Kilowatt hour tax rates imposed on nonresidential consumers shall be based at a class level on such factors as existing minimum charges, the amount of kilowatt hours used, and the amount of consumer utility tax paid in calendar year 1999 on the same kilowatt hour usage. The limitations in this section on kilowatt hour rates for nonresidential consumers shall not apply after January 1, 2004, which is the scheduled date of completion of the electric deregulation transition period pursuant to the Virginia Electric Utility Restructuring Act (§ 56-576 et seq.). On or before October 31, 2000, any locality imposing a tax on consumers of electricity shall duly amend its ordinance under which such tax is imposed so that the ordinance conforms to the requirements of subsections C through J of this section. Notice of such amendment shall be provided to the service provider in a manner consistent with subsection B of this section except that "registered agent of the **provider of billing services**" shall be substituted for "registered agent of the utility corporation." Any conversion of a tax to conform to the requirements of this subsection shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by the locality shall be in effect.

2. For purposes of this section, "kilowatt hours delivered" shall mean in the case of eligible customer-generators, as defined in § 56-594, those kilowatt hours supplied from the electric grid to such customer-generators, minus the kilowatt hours generated and fed back to the electric grid by such customer-generators.

G. Until the consumer pays the tax to such **provider of billing services**, the tax shall constitute a debt to the locality. If any consumer receives and pays for electricity but refuses to pay the tax on the bill that is imposed by a locality, the **provider of billing services** shall notify the locality of the name and address of such consumer. If any consumer fails to pay a bill issued by a **provider of billing services**, including the tax imposed by a locality as stated thereon, the **provider of billing services** shall follow its normal collection procedures with respect to the charge for electric service and the tax, and upon collection of the bill or any part thereof shall (i) apportion the net amount collected between the charge for electric service and the tax and (ii) remit the tax portion to the appropriate locality. After the consumer pays the tax to the **provider of billing services**, the taxes shall be deemed to be held in trust by such **provider of billing services** until remitted to the localities.

H. Any county, city or town may impose a tax on consumers of natural gas provided by pipeline distribution companies and gas utilities. The tax so imposed shall be based on CCF delivered monthly to consumers and shall not exceed the limits set forth in this subsection. The pipeline distribution company or gas utility shall bill the tax to all users who are subject to the tax and to whom it delivers gas and shall remit such tax to the appropriate locality in accordance with § 58.1-2905. Any locality that imposed a tax pursuant to this section prior to January 1, 2001, based on the monthly revenue amount charged to consumers of gas shall convert to a tax based on CCF delivered monthly to consumers, taking into account minimum billing charges. The CCF tax rates shall, to the extent practicable: (i) avoid shifting the amount of the tax among gas consumer classes and (ii) maintain annual revenues being received by localities from such tax at the time of the conversion. Current pipeline distribution companies and gas utilities shall provide to localities not later than August 1, 2000, information to enable localities to convert

their tax. The maximum amount of tax imposed on residential consumers as a result of the conversion shall be limited to three dollars per month, except any locality that imposed a higher maximum tax on July 1, 1972, may continue to impose such higher maximum tax on residential consumers at an amount no higher than the maximum tax in effect prior to January 1, 2001, as converted to CCF. For nonresidential consumers, the initial maximum rate of tax imposed as a result of the conversion shall be based on the annual amount of revenue received and due from each of the nonresidential gas purchase and gas transportation classes in calendar year 1999 for the CCF used that year. CCF tax rates imposed on nonresidential consumers shall be based at a class level on such factors as existing minimum charges, the amount of CCF used, and the amount of consumer utility tax paid and due in calendar year 1999 on the same CCF usage. The initial maximum rate of tax imposed under this section shall continue, unless lowered, until December 31, 2003. Beginning January 1, 2004, nothing in this section shall be construed to prohibit or limit any locality from imposing a consumer utility tax on nonresidential customers up to the amount authorized by subsection A.

On or before October 31, 2000, any locality imposing a tax on consumers of gas shall duly amend its ordinance under which such tax is imposed so that the ordinance conforms to the requirements of subsections C through J of this section. Notice of such amendment shall be provided to pipeline distribution companies and gas utilities in a manner consistent with subsection B except that "registered agent of the pipeline distribution company or gas utility" shall be substituted for "registered agent of the utility corporation." Any conversion of a tax to conform to the requirements of this subsection shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by the locality shall be in effect.

I. Until the consumer pays the tax to such gas utility or pipeline distribution company, the tax shall constitute a debt to the locality. If any consumer receives and pays for gas but refuses to pay the tax that is imposed by the locality, the gas utility or pipeline distribution company shall notify the localities of the names and addresses of such consumers. If any consumer fails to pay a bill issued by a gas utility or pipeline distribution company, including the tax imposed by a locality, the gas utility or pipeline distribution company shall follow its normal collection procedures with regard to the charge for the gas and the tax and upon collection of the bill or any part thereof shall (i) apportion the net amount collected between the charge for gas service and the tax and (ii) remit the tax portion to the appropriate locality. After the consumer pays the tax to the gas utility or pipeline distribution company, the taxes shall be deemed to be held in trust by such gas utility or pipeline distribution company until remitted to the localities.

J. For purposes of this section:

"Class of consumers" means a category of consumers served under a rate schedule established by the pipeline distribution company and approved by the State Corporation Commission.

"Gas utility" has the same meaning as provided in § 56-235.8.

"Pipeline distribution company" has the same meaning as provided in § 58.1-2600.

"**Provider of billing services**" has the same meaning as provided in subsection E of § 58.1-2901, and "class" of consumers means a category of consumers defined as a class by their service provider.

**2. That the provisions of section 56-590(B)(3)(iii) do not apply to such sales, transfers or disposals approved by the Commission prior to the effective date of this Act.**

#~~47107v9~~ [47107v10]