

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

1 Consumer, Environment & Education Draft, incorporating 12/29/98 Drafting  
2 Group activities. *Note: Unless otherwise indicated, page references are to the*  
3 *Consumer, Environment & Education (CEE) decision tree.*

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5 § 56-587. Licensing of Aggregators. [CEE pg. 3, bullets 1 & 6 mandatory; bullets 2-  
6 5 permissive, subject to SCC development of licensing and regulatory scheme.]

7 A. As a condition of doing business in the Commonwealth, each person seeking to  
8 aggregate electric energy within this Commonwealth on and after January 1, 2002, shall  
9 obtain a license from the Commission to do so. The license shall authorize that person to act  
10 as an aggregator [should be defined] until the license is otherwise terminated, suspended  
11 or revoked. Licensing pursuant to this section, however, shall not relieve any person seeking  
12 to act as a supplier of electric energy from their obligation to obtain a license as a supplier  
13 pursuant to § 56-585.

14 B. As a condition of obtaining, retaining and renewing any license issued pursuant to  
15 this section, a person shall satisfy such reasonable and nondiscriminatory requirements as  
16 may be specified by the Commission, which may include requirements that such person (i)  
17 provide background information; (ii) demonstrate, in a manner satisfactory to the Commission,  
18 financial responsibility; (iii) post a bond as deemed adequate by the Commission to ensure  
19 that financial responsibility; (iv) pay an annual license fee to be determined by the  
20 Commission; and (v) pay all taxes and fees lawfully imposed by the Commonwealth or by any  
21 municipality or other political subdivision of the Commonwealth. In addition, as a condition of  
22 obtaining, retaining and renewing any license pursuant to this section, a person shall satisfy  
23 such reasonable and nondiscriminatory requirements as may be specified by the Commission,  
24 including, but not limited to, requirements that such person demonstrate (i) technical

1 capabilities as the Commission may deem appropriate, and (ii) access to generation and  
2 generation reserves, if acting as a supplier.

3 C. In establishing aggregator licensing schemes and requirements applicable to the  
4 same, the Commission may differentiate between (i) those aggregators representing retail  
5 customers only, (ii) those aggregators representing suppliers only, and (iii) those aggregators  
6 representing both retail customers and suppliers.

7 D. The Commission may adopt other rules and regulations governing the requirements  
8 for obtaining, retaining, and renewing a license to aggregate electric energy to retail  
9 customers, and may, as appropriate, refuse to issue a license to, or suspend, revoke, or  
10 refuse to renew the license of, any person that does not meet those requirements.

11 § 56-587.1. Municipal aggregation. **[CEE pg. 5, bullets 1-3, as modified by the**  
12 **drafting group. CEE, pg. 6, bullet 2].**

13 Counties, cities and towns (hereafter “municipalities”) may, at their election and upon  
14 authorization by majority votes of their governing bodies, aggregate electrical energy and  
15 demand requirements for the purpose of negotiating the purchase of electrical energy  
16 requirements from any licensed supplier within this Commonwealth, as follows:

17 1. Any municipality may aggregate the electric energy load of residential, commercial  
18 and industrial retail customers within its boundaries on a voluntary, opt-in basis in which each  
19 such customer must affirmatively select such municipality as its aggregator.

20 2. Any municipality may aggregate the electric energy load of its governmental  
21 buildings, facilities and any other governmental operations requiring the consumption of  
22 electric energy.

23 3. Two or more municipalities within this Commonwealth may aggregate the electric  
24 energy load of their governmental buildings, facilities and any other governmental operations  
25 requiring the consumption of electric energy.

26 4. Any municipality within this Commonwealth may aggregate (i) the electric energy  
27 load of its governmental buildings, facilities and any other governmental operations requiring

1 the consumption of electric energy, together with (ii) the electric energy load of any  
2 nongovernmental person or entity within this Commonwealth.

3 § 56-588. Metering and billing, etc. **[incorporated into § 56-584 in Structure &  
4 Transition draft dated 12/26/98]**

5 § 56-589. Consumer education and protection; Commission report to legislative task  
6 force.

7 A. **[CEE pg. 7, column 2, bullets 1-3 and language suggested, in concept, by  
8 drafting group on 12/29/98]** The Commission shall develop a consumer education program  
9 designed to provide the following information to retail customers during the period of transition  
10 to retail competition and thereafter:

11 1. Opportunities and options in choosing (i) suppliers and aggregators of electric  
12 energy, and (ii) any other service made competitive pursuant to this chapter;

13 2. Marketing and billing information suppliers and aggregators of electric energy will be  
14 required to furnish retail customers;

15 3. Retail customers' rights and obligations concerning the purchase of electric energy  
16 and related services; and

17 4. Such other information as the Commission may deem necessary and appropriate in  
18 the public interest.

19 B. The Commission shall complete the development of the consumer education  
20 program described in subsection A, and report its findings and recommendations to the  
21 Legislative Transition Task Force on or before December 1, 1999, and as frequently thereafter  
22 as may be required by such task force concerning:

23 1. The scope of such recommended program consistent with the requirements of  
24 subsection A;

25 2. Materials and media required to effectuate any such program;

26 3. State agency and nongovernmental entity participation;

27 4. Program duration;

- 1           5. Funding requirements and mechanisms for any such program; and
- 2           6. Such other findings and recommendations the Commission deems appropriate in
- 3 the public interest.

4           **C. [CEE pg. 9, generally; CEE pg. 10, generally; CEE page 12, column 2, bullet 5].**

5 The Commission shall develop regulations governing marketing practices by licensed  
6 suppliers, aggregators or any other providers of services made competitive by this chapter.  
7 The Commission shall also establish standardized marketing information to be furnished by  
8 licensed suppliers, aggregators or any other providers of services made competitive by this  
9 chapter during the period of transition to retail competition, and thereafter, which information  
10 may include:

- 11           1. Pricing and other key contract terms and conditions;
- 12           2. To the extent feasible, fuel mix and emissions data on at least an annualized basis.
- 13           3. Consumers' rights of cancellation following execution of any contract.
- 14           4. Toll-free telephone number for customer assistance.
- 15           5. Such other and further marketing information as the Commission may deem
- 16 necessary and appropriate in the public interest.

17           **D. [CEE pg. 11, bullets 1, 2 and 5-7]** The Commission shall also establish  
18 standardized billing information to be furnished by suppliers, aggregators or any other  
19 providers of services made competitive by this chapter during the period of transition to retail  
20 competition, and thereafter. Such billing information shall:

- 21           1. Distinguish between charges for regulated services and unregulated services.
- 22           2. Itemize any and all nonbypassable wires charges.
- 23           3. Be presented in a standardized format to be established by the Commission.
- 24           4. Disclose, to the extent feasible, fuel mix and emissions data on at least an
- 25 annualized basis.
- 26           5. Include such other billing information as the Commission deems necessary and
- 27 appropriate in the public interest.

1 E. **[CEE, pg. 14]** The Commission shall establish a complaint bureau for the purpose  
2 of receiving, reviewing and investigating complaints by retail customers against licensed  
3 suppliers, aggregators and other providers of any services made competitive under this  
4 chapter. The Commission shall be authorized to inquire into possible violations of this chapter  
5 and to enjoin or punish any violations thereof pursuant to its authority under this chapter, this  
6 title, and under Title 12.1 (§ 12.1-1 et seq.).

7 F. **[CEE, pg. 15, bullets 1 & 4]** The Commission shall establish reasonable limits on  
8 customer security deposits required by suppliers, aggregators or any other persons providing  
9 competitive services pursuant to this chapter.

10 § 56-589.1. **[CEE, pg. 12, column 2, bullet 4; and column 4, bullet 4, as modified**  
11 **by the drafting group on 12/29/98]** Retail customers private right of action; marketing  
12 practices.

13 A. Any person who suffers loss as the result of marketing practices, including  
14 telemarketing practices, (i) engaged in by any licensed supplier, aggregator or any other  
15 provider of any service made competitive under this chapter, and (ii) in violation of subsection  
16 C of § 56-589, including any rule or regulation adopted by the Commission pursuant thereto,  
17 shall be entitled to initiate an action to recover actual damages, or \$500, whichever is greater.  
18 If the trier of fact finds that the violation was willful, it may increase damages to an amount not  
19 exceeding three times the actual damages sustained, or \$1,000, whichever is greater.

20 B. Notwithstanding any other provision of law to the contrary, in addition to any  
21 damages awarded, such person also may be awarded reasonable attorney's fees and court  
22 costs.

23 C. Any action pursuant to this section shall be commenced within two years after its  
24 accrual. The cause of action shall accrue as provided in § 8.01-230. However, if the  
25 Commission, or any other governmental agency files suit for the purpose of enforcing the  
26 provisions of subsection C of § 56-589, the time during which such governmental suit and all

1 appeals therefrom is pending shall not be counted as any part of the period within which an  
2 action under this section shall be brought.

3 D. The circuit court may make such additional orders or decrees as may be necessary  
4 to restore to any identifiable person any money or property, real, personal, or mixed, tangible  
5 or intangible, which may have been acquired from such person by means of any act or  
6 practice violative of subsection C of § 56-589, provided, that such person shall be identified  
7 by order of the court within 180 days from the date of any order permanently enjoining the  
8 unlawful act or practice.

9 E. In any case arising under this section, no liability shall be imposed upon any  
10 licensed supplier, aggregator or any other provider of any service made competitive under this  
11 chapter, who shows by a preponderance of the evidence that (i) the act or practice alleged to  
12 be in violation of subsection C of § 56-589 was an act or practice over which the same had no  
13 control, or (ii) the alleged violation resulted from a bona fide error notwithstanding the  
14 maintenance of procedures reasonably adopted to avoid a violation. However, nothing in this  
15 section shall prevent the court from ordering restitution and payment of reasonable attorney's  
16 fees and court costs pursuant to subsection B to individuals aggrieved as a result of an  
17 unintentional violation of subsection C of § 56-589.

18 § 56-590. Public purpose programs. **[CEE pp. 1 & 2]. At its 12/29 meeting, the**  
19 **Drafting group recommended further study of this issue by Legislative Transition Task**  
20 **Force. See Structure & Transition Draft Supplement--additions to § 56-594.**

21 § 56-590.1. **[CEE, pg. 16, bullet 4]** Environment and Renewable energy; net energy  
22 metering provisions.

23 A. The Commission shall establish net energy metering provisions designed to  
24 encourage private investment in renewable energy resources, stimulate economic growth  
25 within the Commonwealth, enhance the continued diversification of Virginia's energy resource  
26 mix, and reduce interconnection and administrative costs for electric service providers.

1           B. For the purpose of this section “net energy metering” means measuring the  
2 difference between electricity supplied to an eligible customer-generator, and the electricity  
3 generated and fed back to the electric grid by the eligible customer-generator over an annual  
4 period, with corresponding billing or crediting of the customer-generator retail customer  
5 account by such customer-generator’s supplier of electric energy.

6           § 56-590.2. Energy efficiency. **At its 12/29 meeting, the Drafting group**  
7 **recommended further study of this issue by the Legislative Transition Task Force. See**  
8 **Structure & Transition Draft Supplement--additions to § 56-594.**

9           § 56-590.3. Utility worker protection. **At its 12/29 meeting, the Drafting group**  
10 **recommended further study of this and related reliability issues by the Legislative**  
11 **Transition Task Force. See Structure & Transition Draft Supplement--additions to § 56-**  
12 **594.**

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