

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 13, 2018

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. PUR-2018-00126

Ex Parte: In the matter of repealing Regulations
Governing Exemptions for Large General Service
Customers under § 56-585.1 A 5 c of the Code of Virginia

ORDER FOR NOTICE AND COMMENT

The Regulations Governing Exemptions for Large General Service Customers under § 56-585.1 A 5 c of the Code of Virginia, 20 VAC 5-316-10 *et seq.* ("LGS Customer Exemption Rules"), adopted by the State Corporation Commission ("Commission") pursuant to § 56-585.1 of the Virginia Electric Utility Regulation Act, Chapter 23 (§ 56-576 *et seq.*) of Title 56 of the Code of Virginia ("Code"), apply to the large general service customers of Virginia's electric utilities subject to the provisions of § 56-585.1 A 5 c that have verifiable histories of using more than 500 kilowatts ("kW") but no more than 10 megawatts of demand from a single metering point. The LGS Customer Exemption Rules establish requirements for such large general service customers to request exemption from any rate adjustment clause approved by the Commission pursuant to § 56-585.1 A 5 c of the Code, if the customer can demonstrate that it has implemented an energy efficiency program, at the customer's expense, that has produced or will produce measured and verified results.¹

Effective July 1, 2018, Chapter 296 of the 2018 Acts of Assembly ("Chapter 296") amended § 56-585.1 A 5 c of the Code to state, in part:

None of the costs of new energy efficiency programs of an electric utility, including recovery of revenue reductions, shall be assigned to any large general

¹ See 20 VAC 5-316-10.

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service customer. A large general service customer is a customer that has a verifiable history of having used more than 500 kilowatts of demand from a single meter of delivery.

Chapter 296 eliminated from Code § 56-585.1 A 5 c the language requiring a large general service customer with a verifiable history of using more than 500 kW, who does not wish to participate in an electric utility's energy efficiency program or programs, to demonstrate that it has implemented an energy efficiency program, at the customer's expense, that has produced or will produce measured and verified results. Chapter 296 also eliminated the language in § 56-585.1 A 5 c that required the Commission to "promulgate rules and regulations to accommodate the process under which such large general service customers shall file notice of such exemption. . . ." Accordingly, there appears to be no need to retain the LGS Customer Exemption Rules.

NOW THE COMMISSION, having considered the amendments to § 56-585.1 A 5 c of the Code by Chapter 296, finds that interested parties should be permitted to comment on the need to retain any portion of the Regulations Governing Exemptions for Large General Service Customers under § 56-585.1 A 5 c of the Code of Virginia, 20 VAC 5-316-10, *et seq.*

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUR-2018-00126.
- (2) The Commission's Division of Information Resources shall forward the proposed repeal of the Regulations Governing Exemptions for Large General Service Customers under § 56-585.1 A 5 c of the Code of Virginia, Appendix A hereto, to the Registrar of Virginia for publication in the Virginia Register of Regulations.
- (3) The Commission's Division of Information Resources shall make a downloadable version of the proposed repeal of the Regulations Governing Exemptions for Large General

Service Customers under § 56-585.1 A 5 c of the Code of Virginia, Appendix A, available for access by the public at the Commission's website, <http://www.scc.virginia.gov/case>. The Clerk of the Commission shall make a copy of the proposed repeal of Regulations Governing Exemptions for Large General Service Customers under § 56-585.1 A 5 c of the Code available for public inspection and provide a copy, free of charge, in response to any written request for one.

(4) On or before September 17, 2018, any interested person may comment on, propose modifications or supplements to, or request a hearing on the proposed repeal of Regulations Governing Exemptions for Large General Service Customers under § 56-585.1 A 5 c of the Code by filing an original and fifteen (15) copies of such comments or requests with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Interested persons desiring to submit comments or hearing requests electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>. Individuals shall be specific in their comments to the proposed repeal of Regulations Governing Exemptions for Large General Service Customers under § 56-585.1 A 5 c of the Code of Virginia and shall address only those issues pertaining to the amendment of § 56-585.1 A 5 c of the Code pursuant to Chapter 296. Issues outside the scope of implementing this amendment will not be open for consideration. Any request for hearing shall state with specificity why the issues raised in the request for hearing cannot be adequately addressed in written comments. Interested parties shall refer in their comments or requests to Case No. PUR-2018-00126.

(5) If no written request for a hearing on the proposal to repeal the Regulations Governing Exemptions for Large General Service Customers under § 56-585.1 A 5 c of the Code

of Virginia, as outlined in this Order, is received on or before September 17, 2018, the Commission may, upon consideration of any comments submitted in support of or in opposition to the proposal, enter an order based upon the papers filed herein.

(6) This matter is continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all persons on Attachment A hereto and C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424. A copy hereof shall be delivered to the Commission's Office of General Counsel and the Divisions of Public Utility Regulation and Utility Accounting and Finance.

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STATE CORPORATION COMMISSION

Chapter 316 Rules Governing Exemptions for Large General Services Customers

20VAC5-316-10. ~~Applicability and scope. (Repealed.)~~

~~This chapter is promulgated pursuant to the provisions of § 56-585.1 A 5 c of the Virginia Electric Utility Regulation Act, Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia. This chapter is specifically applicable to the large general service customers (customers or customer) of Virginia's electric utilities (utilities or utility) subject to the provisions of § 56-585.1 A 5 c that have verifiable histories of using more than 500 kilowatts but no more than 10 megawatts of demand from a single metering point. As used in this chapter, a customer comprises all of the individual electric utility accounts owned by a single entity, located on a single site, and that are engaged in the same business. This chapter is also applicable to customers with highest measured demands from a single metering point of more than 500 kilowatts in any single month if such customers do not have three calendar years of history. A customer is eligible for an exemption from any rate adjustment clause approved for a utility by the State Corporation Commission (commission) pursuant to § 56-585.1 A 5 c of the Code of Virginia, if any customer can demonstrate that it has implemented an energy efficiency program (program), at the customer's expense, that has produced or will produce measured and verified results.~~

20VAC5-316-20. ~~Administrative procedures for notice to utility and commission. (Repealed.)~~

~~A. Any customer seeking to establish its exemption from a rate adjustment clause authorized by the commission pursuant to § 56-585.1 A 5 c shall provide a notice of nonparticipation concerning the rate adjustment clause to its utility on or before March 1 of the year in which an exemption is sought. The notice of nonparticipation shall be concurrently filed by the customer with the commission's Division of Energy Regulation.~~

~~B. Upon receipt of the notice of nonparticipation, a utility shall, within 60 days thereof, verify the customer's highest measured demand in the three prior calendar years preceding the receipt of such notice. The utility shall accept the exemption request if the customer has a highest measured usage in excess of 500 kilowatts and has submitted the information required by 20VAC5-316-30. In the event the utility fails to notify the customer of any deficiency in its notice of nonparticipation within the 60-day period, the exemption shall be deemed accepted by the utility. The utility's acceptance or denial of any exemption request shall concurrently be sent to the customer and filed by the utility with the commission's Division of Energy Regulation.~~

~~C. Once a utility has accepted a customer's exemption request, that customer shall be exempt from any rate adjustment clause approved for the utility by the commission pursuant to § 56-585.1 A-5-c of the Code of Virginia, beginning with the billing month following the date of acceptance of the exemption request and continuing throughout the life of the customer's energy efficiency improvements described in the customer's notice of nonparticipation. A customer shall notify the utility and the commission if the conditions of the customer's notice of nonparticipation change in any material respect.~~

20VAC5-316-30. Standard criteria for notice to utility. (Repealed.)

~~A. Each notice of nonparticipation shall identify the customer, the customer's billing address and utility account number, and the location of the specific facility and metering point for which any such exemption is being sought.~~

~~B. The notice of nonparticipation shall also contain an affidavit signed by the customer's president, corporate secretary, or other officer of the customer concerning the program or programs. Such affidavit shall attest to the validity of information submitted in support of the customer's notice of nonparticipation.~~

~~C. The notice of nonparticipation shall describe the energy efficiency savings achieved or expected to be achieved from its investment in its program and the specific measures undertaken to achieve those savings.~~

~~D. The notice of nonparticipation shall include information concerning any anticipated change in operations that may affect achieved or expected energy efficiency savings, including the life expectancy of the energy efficiency measures undertaken.~~

~~E. To qualify for the exemption, each customer shall have or expect to have measurable, verifiable, and significant energy efficiency savings consistent with § 56-585.1 A-5 c of the Code of Virginia. Additionally, each customer providing a notice of nonparticipation to its utility pursuant to this chapter shall subsequently furnish yearly reports to the commission's Division of Energy Regulation describing the energy efficiency savings achieved by the customer during each 12-month period in which such notice of nonparticipation is in effect. Such reports shall be filed on or about March 1 of the year following such customer's filing of its notice of nonparticipation, with such March 1 filings continuing thereafter throughout the life of the customer's energy efficiency improvements described in the customer's notice of nonparticipation.~~

~~F. Each notice of nonparticipation shall also include a measurement and verification plan conforming to the protocol set forth in the definition of "measured and verified" as provided in § 56-576 of the Code of Virginia.~~

~~G. Not later than December 31 of each year, each utility shall notify its customers of the percentage energy efficiency reductions expected to be achieved by the utility's energy efficiency programs for which the commission has approved rate adjustment clauses pursuant to § 56-585.1 A-5 c of the Code of Virginia.~~

20VAC5-316-40. ~~Dispute resolution. (Repealed.)~~

~~A. Customers and utilities shall seek to resolve all disputes arising out of the exemption process established under this chapter pursuant to the provisions of this section.~~

~~B. In the event of any such dispute, either party shall furnish the other a written notice of dispute. The notice shall describe in detail the nature of the dispute. The parties shall make good faith efforts to resolve the dispute informally within 10 business days of the receipt of such notice.~~

~~C. If any such dispute has not been resolved within 10 business days following receipt of the notice, either party may seek resolution assistance from the commission's Division of Energy Regulation where such matter will be treated as an informal complaint under the commission's Rules of Practice and Procedure (5VAC5-20).~~

~~Alternatively, the parties may, upon mutual agreement, seek resolution through the assistance of a dispute resolution service for the purpose of assisting the parties in (i) resolving the dispute, or (ii) selecting an appropriate dispute resolution method or mechanism (e.g., mediation, settlement judge, early neutral evaluation, or technical expert) to assist the parties in resolving their dispute. In any such dispute resolution proceeding, each party shall conduct all negotiations in good faith and shall be responsible for 1/2 of any charges for the dispute resolution provider, but each party shall bear its own legal fees and other costs incurred as a result of the dispute resolution process.~~

~~D. If any such dispute remains unresolved following the parties' good faith exercise of the dispute resolution alternatives set forth in this section, either party may file a formal complaint with the commission pursuant to the commission's Rules of Practice and Procedure (5VAC5-20).~~

20VAC5-316-50. ~~Waiver and enforcement. (Repealed.)~~

~~A. The commission may waive any or all parts of this chapter for good cause shown.~~

~~B. The commission on its own motion may initiate steps necessary to verify a nonparticipating customer's achievement of energy efficiency if the commission has a body of evidence that the nonparticipating customer has knowingly misrepresented its energy efficiency achievement. Such proceedings shall be governed by the commission's Rules of Practice and Procedure (5VAC5-20).~~

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