



renewable energy and sustainability targets.<sup>1</sup> Without the ARB provision, these large buyers who have spearheaded Virginia’s transition to a cleaner electricity system would be penalized by paying twice to adopt new renewable resources to meet their Virginia electricity footprint—once via their own contracted purchases and again through RPS charges. In addition to punishing early actors, this double charging effect would harm the future growth of Virginia’s robust voluntary renewable energy market. In addition, without the ARB, all Virginia customers would be paying to “over-comply” with the RPS standards, putting the Commonwealth on an illogical and unnecessarily costly path to exceed 100% clean energy. The ARB provision solves these challenges without diluting the RPS by allowing qualifying large buyers to meet the RPS standards through their own direct renewable energy purchases, as long as those purchases meet the requirements of the ARB provision. AEBG advocated for and continues to support the ARB provision as a fair and sensible approach to allow large buyers to play a continued role in accelerating Virginia’s transition to a 100% clean electricity system.

In addition to providing responses below to the questions posed by the Commission, AEBG also requests the opportunity to reply to feedback submitted by Virginia Electric and Power Company (“Dominion”) and Appalachian Power Company (“APCo”). Without knowing how Dominion and APCo propose to comply with the requirements of § 56-585.5 G, it is difficult for AEBG to provide useful and actionable input to the Commission. Given that the provisions finalized in this docket will directly impact AEBG members, we respectfully request the

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<sup>1</sup> For example, leading purchasers of renewable energy in Virginia such as Facebook, Microsoft, and Amazon have respectively committed to 100% renewable energy by 2020; 100% renewable energy through direct power purchases by 2025 and becoming carbon negative by 2030; and 100% renewable energy by 2025. These targets far outpace the VCEA’s 100% clean energy by 2050 requirement. See <https://sustainability.fb.com/>, <https://www.microsoft.com/en-us/corporate-responsibility/sustainability/operations#primaryR10>, <https://sustainability.aboutamazon.com/?energyType=true&workerCount=true&engagementProgram=true&productCategory=true>.

opportunity to weigh in on the utility proposals prior to issuance of a final order by the Commission.

**1. What processes do APCo and Dominion propose to "certify, and verify as necessary, to the Commission that the accelerated renewable energy buyer has satisfied the exemption requirements of [Code § 56-585.5 G]"? What analysis will APCo and Dominion use to confirm whether an ARB has met the requirements of Code § 56-585.5 G? Has Dominion or APCo previously certified any ARBs?**

AEBG asks that processes adopted by APCo and Dominion to certify and verify that a customer has met the applicable requirements of the ARB provision be clear to customers, replicable, and respectful of the confidentiality of renewable energy contracts that ARBs enter into.

First, customers must have a clear understanding of the process, which should be straightforward and simple to follow given that the requirements of Code § 56-585.5 G are also clear and straightforward. Unnecessarily cumbersome or convoluted processes and requirements will create delays and uncertainty, adding risk and work that will undermine the purpose of the ARB provision.

Second, the process must be easily replicable to avoid creating a barrier to entry for new or repeat ARB customers. While the initial certification process must be sufficiently rigorous to ensure compliance, it should not be a reason why customers decline to elect the ARB provision, and efforts should be taken to ensure that the initial certification process is clear and efficient. The annual certification process once an ARB and its applicable projects or contracts have been deemed eligible should only require certification that eligible RECs have been retired by or on behalf of the ARB, and should therefore be routine and simple. For example, the process could be streamlined by the use of third-party verifiers to certify annual REC retirement on an aggregate

basis across all of a customer's eligible projects once a customer is deemed eligible and its contract(s) or project(s) are determined to qualify.

Third, confidentiality is extremely important for both business and practical reasons. From a business perspective, renewable energy buyers cannot divulge business-sensitive information about their electricity load and confidential information about renewable energy contracts. For customers with a publicly stated sustainability target, any public disclosure of annual REC retirement volume could be used to estimate the customer's total load, which is business-sensitive information. Furthermore, disclosure of contract information—especially to potential competitors for future contracts such as Dominion and APCo—would also violate confidentiality undermine the health of the voluntary renewable energy market in Virginia. From a practical perspective, renewable energy buyers under many contractual arrangements would have to request the ability to share specific contract information from the counterparty to the contract. AEBG is confident that confidentiality can be maintained without undermining the integrity of the ARB provision. For example, ARBs could provide an attestation to the utility verifying the eligibility of a contract or project, with the State Corporation Commission conducting spot checks to ensure compliance. However information is shared and verified, we also emphasize that required information should be limited to that needed for purposes of determining ARB eligibility, and should be specifically justified as being necessary to do so. In addition, any public reporting of ARB participation should be done on a strictly aggregated and confidential basis, both to protect the confidentiality of ARB customers and their contracts and to provide the information in a more useful, actionable format.

Finally, AEBG requests the opportunity to reply to processes proposed by APCo and Dominion with regard to certifying and verifying ARB eligibility.

**2. Administratively, how do APCo and Dominion plan to track ARBs, including which ARBs are exempt from which riders? Are regulations needed to address related procedures?**

As above, AEBG recommends that any mechanism to track ARBs should be straightforward and simple, especially once an ARB has been deemed eligible. ARBs and prospective ARBs should also have access to reliable and up-to-date information about which riders ARBs are exempt from. We do not have specific recommendations with regard to regulations to ensure this information is available or to address ARB tracking at this time, and request the opportunity to reply to responses submitted by APCo and Dominion.

**3. What internal dispute resolution process will APCo and Dominion use to resolve disputes with prospective ARBs related to the certification requirements of Code § 56-585.5 G? Are regulations needed to address how a prospective ARB may challenge before the Commission a certification decision by Dominion or APCo?**

AEBG supports the development of an internal dispute resolution process between ARBs and their utility, and we also support development of a challenge process before the Commission to ensure that ARBs have access to a fair and objective arbiter should irreconcilable disputes arise. AEBG does not have recommendations as to the specific regulatory requirements of such a challenge process at this time, and respectfully requests the opportunity to reply to responses submitted by APCo and Dominion.

**4. Should the Commission approve procedures by which an ARB "may choose to certify satisfaction of this exemption by reporting to the Commission individually," and, if so, what procedures should be adopted? Should such procedures include notice and an opportunity for input from such ARB's incumbent electric provider (i.e., APCo or Dominion)?**

The language of the ARB provision makes clear that customers will have the option to certify their eligibility and satisfaction of the requirements of the ARB provision either through their utility or directly to the Commission. AEBG supports this flexibility, and supports the

development of a process by the Commission to approve procedures for certification directly through the Commission. Such procedures should follow the same recommendations that we laid out in response to question 1 with respect to certification and verification by Dominion or APCo.

**5. Are contracts entered into by ARBs under Code § 56-585.5 G 1 (ii) for "bundled capacity, energy, and RECs" retail or wholesale power contracts? If applicable, will these contracts be ring-fenced arrangements?**

AEBG is not aware of any reason why the nature of contracts entered into by ARBs is of importance as long as such contracts meet the eligibility requirements laid out in Code § 56-585.5 G. We respectfully request the opportunity to respond to any concerns raised in this proceeding.

**6. Are non-jurisdictional customers of APCo and Dominion eligible to be certified as ARBs? If so, does the Commission have jurisdiction to certify a non-jurisdictional customer as an ARB or to resolve disputes involving non-jurisdictional customers?**

AEBG is not aware of any reason why non-jurisdictional customers of APCo and Dominion would be automatically excluded from ARB eligibility. If any such reasons are raised in this proceeding, we respectfully request the opportunity to respond.

**7. Given the statutory definition of "aggregate load" under Code § 56-585.5 A, are there issues concerning whether a customer has an "aggregate load over 25 megawatts in the prior calendar year" that should be addressed through regulations?**

AEBG believes the definition of "aggregate load" under Code § 56-585.5 A<sup>2</sup> is sufficiently straightforward as to not require additional clarification or regulation. However, should issues be raised by other commenters in this proceeding, we respectfully request the opportunity to respond.

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<sup>2</sup> "Aggregate load" means the combined electrical load associated with selected accounts of an accelerated renewable energy buyer with the same legal entity name as, or in the names of affiliated entities that control, are controlled by, or are under common control of, such legal entity or are the names of affiliated entities under a common parent.

**8. Code § 56-585.5 G permits ARBs to enter into contracts with, in addition to Dominion and APCo, "a person other than a Phase I or Phase II Utility." For ARB contracts involving the sale of bundled capacity, energy, and RECs, must such "person" be licensed in Virginia as a competitive service provider? Should a process be included in the regulations addressing how such "person" can obtain customer load information from APCo or Dominion (with the customer's permission) to confirm whether a potential ARB has the requisite load to qualify as an ARB, and if so, what process should be included?**

There is no reason why a "person" with whom an ARB enters into a contract involving the sale of bundled capacity, energy, and RECs must be licensed as a competitive service provider, nor is there any need for such a "person" to obtain customer load information from APCo or Dominion, nor to confirm the customer's eligibility to qualify as an ARB.

It is the responsibility of the ARB, working directly with its applicable utility, to determine its own eligibility and to ensure that any contracts it enters into are also eligible. Third parties with which the ARB enters into contracts should not be held responsible for ensuring that the customer or the contract will be eligible for the ARB provision. Introduction of a process requiring a counterparty to an ARB contract to confirm a customer's eligibility for ARB would require both parties to take on risks and responsibilities that are not aligned with their role in the contract.

Furthermore, because an ARB remains a customer of APCo or Dominion, there is no need for the counterparty to an ARB-eligible contract to be licensed in Virginia as a competitive service provider. Introducing any such requirements would render ineligible many if not all non-utility contracts for which prospective ARB customers plan to seek ARB certification, and would undermine the purpose of the ARB provision to allow customers flexibility to enter into long-term renewable energy contracts that suit their particular needs. AEBG therefore urges strongly against introduction of any of the potential requirements or regulations discussed in this question.

**9. Code § 56-585.5 G also provides that "[t]o the extent that an accelerated renewable energy buyer contracts for the capacity of new solar or wind generation resources pursuant to this subsection, the aggregate amount of such nameplate capacity shall be offset from the utility's procurement requirements pursuant to subsection D." It also states that "the calculation of the utility's RPS Program requirements shall not include the electric load covered by customers certified as accelerated renewable energy buyers." Should procedures be included in the regulations addressing how ARBs entering into contracts with persons other than APCo and Dominion should report this information on an annual basis, and if so, what process should be included?**

As noted in response to question 1, AEBG recommends a straightforward annual verification process relying on a third-party verifier. Once an ARB has been deemed eligible and the contracts into which it has entered have also been deemed eligible, the annual reporting and verification process need only attest to the retirement of eligible RECs. For purposes of adjusting an individual ARB customer's retail bill, such a process should report on that customer's aggregate ARB contracts and load, which should be kept confidential. Any publicly available information should report only aggregate information for all ARBs; individual customer information is not needed for the purpose of tracking use of the ARB provision or adjusting utility procurement requirements, and indeed aggregate information is more useful for these purposes.

**10. Are there additional issues that should be brought to the Commission's attention and addressed through regulations related to ARBs and the implementation of Code § 56-585.5 G?**

AEBG does not have any other recommendations at this time. Overall, we recommend that regulations related to ARBs and implementation of Code § 56-585.5 G should be as clear and simple as possible, and must respect customer confidentiality. We appreciate the opportunity to share our perspective as the SCC considers regulations to implement the ARB provision of the VCEA, and we respectfully request time to submit comments in response to input provided by

other parties in this docket, especially Dominion and APCO, prior to issuance of a final Commission order.

Respectfully Submitted,

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