

**Electric Utility Regulation**  
**Content Outline: SB 1416 & HB 3068**

**Passed by General Assembly**  
**Substitute by Governor Kaine**  
**April 2, 2007**

**2007 Fuel Factor Increases**

1. Allow deferral of \$600 million in fuel charges, without interest, over five years (2007-2010).
  - a. Caps residential increases for fuel at 4% increases
  - b. No interest charges (est. \$100 million benefit to consumers)
    - i. Industrial rate increases estimated 5-8% between 2007 and 2011 and may reduce to negative impacts afterward. Industrial rates were expected to rise by 22% in 2007 and now will not
  - c. *Set July as the annual review date for deferred fuel costs*
2. Fuel costs charged to customers under normal regulations for future fuel factor situations.

**Return on Equity "Floor"**

1. Sets a codified floor for authorized profit level built into rates for investor-owned utilities based on comparison to average of earned returns on common equity of utilities in S.E. for the three most recent annual periods - a southern utilities (including Kentucky) index."
2. SCC cannot reduce ROE levels below peer company returns.
3. Allows SCC ~~50~~ **100** basis point increase or decrease for utility based upon performance of utility, including service, *operating efficiency* and the performance incentive may not be amended until the next biennial review.
4. Allows up to 50 basis points overearnings without correction.
5. Requires automatic 50 basis point correction for underearnings.
6. Construction is out of ROE.
7. ROE floor may not increase by more than CPI-U above the previous ROE calculation.

**Return on Equity "Ceiling"**

1. SCC sets a ceiling for authorized profit level for investor-owned utilities based on comparison to "southern utilities index" plus 300 basis points higher than such average. [10.92 plus 300 basis points in 2006.]
2. Also, requires utilities to credit 60% of the overearnings above the southern index average plus 50 basis points, to consumers over the next ~~24~~ **6-12** months after the commission's order.
3. *Directs SCC not to use credits to consumers from overearnings in determining a utility's earnings in subsequent biennial reviews.*
4. If the utility overearns in the second biennial review period as determined by the southern index ROE, exclusive of the new generation bonus, the SCC may order rate reductions to the southern index ROE floor.
5. *Directs SCC to "maintain costs of retail electric energy that are cost competitive with peer group".*

**Rate Increase Collar**

NA

**New Generation Bonus**

1. SCC sets statutory bonus profit level for constructing new plants at 100 to 200 basis points for ~~8-25~~ **5-25** years per facility, based upon a Table of Generation Facilities, including construction and construction work in progress. Generation facilities include coal, IGCC, nuclear, *combined cycle, carbon capture compatible, clean coal powered and renewable powered.*
2. Gives SCC discretion to address technology choices that may not be in the public interest.

3. The bonus profit is applicable to the facility that is the subject of investment.
4. Costs associated with the project cannot be recovered until the first day of commercial operation.
5. The service life of the facility begins on the first day of commercial operation.
6. Must file 10 year capital construction plan w/SCC by 3/11.

**“Off System” Sales**

1. Credits energy revenues from off-system sales of power against a utilities fuel factor expenses.
2. Also, credits 75% of total annual margins from off-system sales against fuel factor expenses.
3. Allows utilities to keep 25% of margins from off-system sales and those revenues are not considered in the biennial review process (i.e., ROE calculation).
4. In the event that margins result in net losses, no charges will be applied to fuel factor expenses.
5. *In the event that margins result in net losses, those losses will not be considered in a utility’s biennial review.*

**Additional “Riders” or “Surcharges”**

Mandates numerous new separate rate surcharges be added to collect single categories of specific costs (e.g., transmission; base power plant construction; other construction; demand-side management, Renewable Portfolio Standard and efficiency programs). Allows rider for environmental and regulation costs that may reduce the need for constructing new generation facilities and, further, gives those facilities a new generation enhanced ROE. Gives SCC authority to determine duration and amortization period for riders approved.

1. Transmission Rider. Only applies after capped rates. SCC has authority.
2. Fuel Rider. Pass through.
3. Demand-management, conservation, energy efficiency, load management riders. Only applies after capped rates. Utility can petition SCC for approval of more than one rider every only once every 12 months only. SCC only approves if "in the public interest and the need is... demonstrated with reasonable certainty...and if the SCC allows reasonable costs to be recovered.
4. RPS Fuel Rider. Same as above. Direct pass through just like other fuel.
5. E&R Rider. Same rules as above. Costs for environmental law & regulation costs. SCC must approve that the "costs are necessary to comply with such environmental laws and regulations." It is stated that the SCC shall "determine the reasonableness or prudence of any costs of any utility” in regards to E&R riders.

In all of these riders, the SCC only determines the "duration and amortization period" for the adjustment clauses/riders.

**Rate Review – Biennial**

1. 12/31/2008 End of capped rates (continue at same rate until after rate case)
2. Biennial beginning in March 2009.
3. DVP & APCo will have full rate case in March 2009. SCC is directed to look back one year to reset rates or award refunds.
4. Rates may be reset lower or higher.
  - o SCC may choose in this one year whether to reduce rates or award refunds to consumers.
  - o SCC will have discretion to stagger cases in 2011 and after.
  - o 2011 and after, SCC will review rates and look back over 2 years.

**Renewable Portfolio Standard Mandate**

1. Mandatory for consumers and voluntary for utilities.
2. Allows an enhanced return on equity of 50 basis points to utilities that can demonstrate they

can meet 12% of their load generation, excluding nuclear, from “renewable resources” by 2022 in incremental phases. Phase I would require 4% of the base load.

3. ***Exempts large industrials from RPS incremental costs.***
4. 50 basis point ROE enhancement applies per Phase and may be stacked. ROE enhancement continues until 3<sup>rd</sup> succeeding biennial review.
5. ***A utility with a 50 basis point or greater Performance Enhancement ROE must take that incentive in lieu of the RPS ROE enhancement.***
6. RPS ROE enhancement is in lieu of any other ROE enhancement at the same time.
7. There is no requirement that the energy source demonstrate environmental benefit or a prudent cost that is affordable for the consumer. Further, the program does not require domestic generation, so the utility may purchase renewable energy credits (RECs) to meet its requirement, thus, the environmental (if there were one) and economic benefits of domestic generation are not required.
8. RPS costs allocated to classes based on demand and within the class based on the energy used by the individual customer.
9. SCC considers reasonable costs, promulgates rules for RPS and verifies RPS goals are being met.
10. Established 1.5 million ton cap on certain biomass to insure that there is no unfair competition for finite wood resources between utilities and pulp/paper manufacturers.
11. ***Restricts utilities from buying RECs from large industrial class to fulfill RPS goals.***
12. ***Restricts utilities purchase of RECs to regional interconnection facilities and facilities in which Virginia utilities own 49%+ ownership that are adjacent to regional interconnection facilities.***
13. ***Restricts “pumped storage” as a renewable energy source, but allows run of river generation from a combined pumped storage and run of river facility.***

#### **Electric Cooperatives**

- Boards may increase or decrease rates by 5% in any three year period without SCC approval.

#### **Competition & Aggregation**

1. Allows all 5 megawatt & larger customers, each not to exceed 1% of incumbent utilities peak load, retail choice until 12/2009.
2. Requires five year notice to return to default service provider unless SCC gives an exemption. ***Exemption granted if impact on other retail customers and utility will not be adversely affected in a manner contrary to the public interest.***
3. After 12/2009 allows aggregation of 5 megawatts for 2+ consumers ~~up to 1% of the peak load of the utility.~~
4. ***After capped rates end, all customers can purchase 100% renewable electricity sold by any supplier licensed to sell retail electric energy in VA , except if the incumbent electric utility serving the territory of that customer offers an approved tariff for electric energy of 100% renewable energy.***

#### **Allegheny/DelMarVA**

NA

#### **Conservation**

1. Directs the SCC to evaluate a demand-management and conservation program, specifically to determine how to reduce 2006 base year electric energy consumption by ~~5%~~ **10%** by 2022.
2. Also, SCC is to produce a report on a public benefit fund and ***legislation to achieve said goal by 12/15/07.***

#### **State Corporation Commission (SCC)/Attorney General (AG) Utility Comparison Report**

1. SCC and AG provide Governor and General Assembly a report on utility rates, reliability and generation of Virginia utilities as compared to the southern index peer group. Report is due 11/1/08 and every five years.
2. Corrective actions necessary to implement this regulatory plan reports due 11/1/07 and

11/1/08 by SCC and AG.

**Stranded Costs**

- *Allows incumbent electric utilities to recover “just and reasonable net stranded costs through capped rates.”*

**Net Metering**

- *Directs incumbent electric utilities and SCC to allow for net metering contracts between generator-users and utilities up to a 1% peak load for said utility.*

**Competitive Bidding**

- *Competitive bidding for purchase and construction is required for all regulated electric utilities*

- Text in bold italics is language added by Governor Kaine in the SB 1416/HB 3068 substitute.
- Strikethrough text is language amended or deleted by Governor Kaine in the SB 1416/HB 3068 substitute.