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HOUSE BILL NO. 1158

Offered January 15, 2014

A *BILL to amend the Code of Virginia by adding in Title 56 a chapter numbered 28, consisting of sections numbered 56-609 through 56-614, relating to distributed solar generation facilities; community solar gardens.*

Patrons—Surovell and Kory

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 56 a chapter numbered 28, consisting of sections numbered 56-609 through 56-614, as follows:

CHAPTER 28.**COMMUNITY SOLAR GARDENS.****§ 56-609. Definitions.**

As used in this chapter, unless the context requires otherwise:

"Community solar garden" means a solar electric generation facility with a rated generation capacity of two megawatts or less that is located within the service territory of a utility.

"Subscriber" means a retail customer of a utility who owns a subscription and who has identified one or more physical locations of a community solar garden to which the subscription shall be attributed. Such physical locations shall be within the same locality as the community solar garden. The subscriber may change from time to time the premises to which the community solar garden electricity generation shall be attributed, so long as the premises are within the geographical limits allowed for a subscriber.

"Subscriber organization" means a for-profit or nonprofit entity whose sole purpose shall be owning and operating, or contracting for the owning and operation of, a community solar garden. A subscriber organization shall have not fewer than 10 subscribers.

"Subscription" means a proportional interest in solar electric generation facilities installed at a community solar garden, together with the renewable energy credits associated with or attributable to such facilities. Each subscription shall be sized to represent at least one kilowatt of the community solar garden's generating capacity and to supply no more than 120 percent of the average annual consumption of electricity by each subscriber at the premises to which the subscription is attributed, with a deduction for the amount of any existing solar facilities at such premises. Subscriptions in a community solar garden may be transferred or assigned to a subscriber organization or to any person who qualifies to be a subscriber under this section.

"Utility" means an investor-owned electric public utility.

§ 56-610. Subscriber organizations.

A. The community solar garden may be owned and operated by a subscriber organization or owned and operated by a third party under contract with a subscriber organization.

B. On or before January 1, 2015, the Commission shall adopt rules as necessary to implement this chapter, including rules to facilitate the financing of subscriber-owned community solar gardens. Such rules shall include:

1. Minimum capitalization;

2. The share of a community solar garden's eligible solar electric generation facilities that a subscriber organization may at any time own in its own name; and

3. Authorization for subscriber organizations to enter into leases, sale-and-leaseback transactions, operating agreements, and other ownership arrangements with third parties.

C. If a subscriber ceases to be a customer at the premises on which the subscription is based but, within a reasonable period as determined by the Commission, becomes a customer at another premises in the service territory of the utility and within the geographic area served by the community solar garden, the subscription shall continue in effect but the bill credit and other features of the subscription shall be adjusted as necessary to reflect all differences between the new and previous premises' customer classification and average annual consumption of electricity.

§ 56-611. Exemptions from regulation.

Neither the owners of nor the subscribers to a community solar garden shall be considered public utilities subject to regulation by the Commission solely as a result of their interest in the community solar garden. Prices paid for subscriptions in community solar gardens shall not be subject to regulation by the Commission.

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59 **§ 56-612. Purchase of output from community solar gardens.**

60 A. The beneficial use of the electricity generated by the facility belongs to the subscribers to the
61 community solar garden.

62 B. Each utility shall submit annually to the Commission a plan addressing its purchases of the
63 electricity and renewable energy credits generated from one or more community solar gardens over the
64 period covered by the plan.

65 C. Each utility shall issue one or more standard offers to purchase the net output from community
66 solar gardens on terms consistent with the provisions of subsection F.

67 D. The output from a community solar garden shall be sold only to the utility in whose service
68 territory the community solar garden is located. The utility shall purchase the net electricity added to
69 the grid from the solar electric generating facility and renewable energy credits generated by the
70 community solar garden as provided in subsection E. The amount of electricity and renewable energy
71 credits generated by each community solar garden shall be determined by a production meter installed
72 by the utility or third-party system owner and paid for by the owner of the community solar garden.

73 E. The purchase of the output of a community solar garden by a utility shall take the form of a net
74 metering credit against the utility's electric bill to each community solar garden subscriber at the
75 premises set forth in the subscriber's subscription. The net metering credit shall be calculated by
76 multiplying the subscriber's share of the electricity production from the community solar garden by the
77 retail rate per kilowatt-hour of the utility, minus a reasonable charge as determined by the Commission
78 to cover the utility's costs of delivering to the subscriber's premises the electricity generated by the
79 community solar garden, integrating the solar generation with the utility's system, and administering the
80 community solar garden's contracts and net metering credits. If, and to the extent that, a subscriber's
81 net metering credit exceeds the subscriber's electric bill in any billing period, the net metering credit
82 shall be carried forward and applied against future bills. The utility and the owner of the community
83 solar garden shall agree on whether the purchase of the renewable energy credits from subscribers will
84 be accomplished through a credit on each subscriber's electricity bill or by a payment to the owner of
85 the community solar garden.

86 F. The owner of the community solar garden shall provide real-time production data to the utility to
87 facilitate incorporation of the community solar garden into the utility's operation of its electric system
88 and to facilitate the provision of net metering credits.

89 G. The owner of the community solar garden shall be responsible for providing to the utility, on a
90 monthly basis and within reasonable periods set by the utility, the percentage shares that should be used
91 to determine the net metering credit to each subscriber. If the electricity output of the community solar
92 garden is not fully subscribed, the utility shall purchase the unsubscribed renewable energy at a rate
93 equal to the utility's average hourly incremental cost of electricity supply over the immediately preceding
94 calendar year.

95 **§ 56-613. Access to utility's facilities.**

96 All utilities shall have the obligation to connect any community solar garden established pursuant to
97 this chapter, located within the utility's service territory, to the utility's transmission and distribution
98 facilities pursuant to the provisions of § 56-578.

99 **§ 56-614. Regulations.**

100 A. The Commission shall adopt regulations consistent with this section that encourage:

101 1. The ownership by customers of subscriptions in community solar gardens, to the extent the
102 commission finds there to be customer demand for such ownership;

103 2. Ownership in community solar gardens by residential retail customers, including low-income
104 customers, to the extent the commission finds there to be demand for such ownership;

105 3. The development of community solar gardens with attributes that the commission finds result in
106 lower overall total costs for the utility's customers; and

107 4. Successful financing and operation of community solar gardens owned by subscriber organization.

108 B. The Commission shall adopt regulations that authorize utilities to give preferences to community
109 solar gardens that have low-income subscribers.