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SENATE BILL NO. 313

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on February 5, 2018)

(Patron Prior to Substitute—Senator Edwards)

A BILL to amend the Code of Virginia by adding a section numbered 56-594.3, relating to electric utilities; community solar facilities; subscriber organizations.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 56-594.3 as follows:

§ 56-594.3. Community solar generation facilities; subscriptions.

A. As used in this section:

"Community solar facility" means a solar electrical generating facility that:

- 1. Has a rated generation capacity of not more than five megawatts;
- 2. Is located within the Commonwealth in the service territory of a utility;
- 3. Is interconnected with a utility through a separate meter; and
- 4. Is interconnected and operated in parallel with an electric utility's distribution facilities.

"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 facility to which the subscription shall be attributed. Such physical locations shall be within the subscriber's utility's service territory. The subscriber may change from time to time the premises to which the community solar facility electricity generation shall be attributed, so long as the premises are within the same utility service territory as the community solar facility. If and when the subscriber moves to another premise outside of the utility service territory, the subscriber may sell, transfer, or donate the subscription to another retail customer who moves into the subscriber's former premises.

"Subscriber organization" means a for-profit or nonprofit entity whose sole purpose shall be owning and operating a community solar facility.

"Subscription" means a proportional interest in a community solar facility, together with the renewable energy credits associated with or attributable to the proportional interest in such facilities. Renewable energy credits shall be owned by the subscriber organization and allocated to subscribers in proportion to their subscription, and nothing shall prevent a subscriber from selling its renewable energy credits to another party. Each subscription shall be sized to represent at least one kilowatt of the community solar facility's generating capacity and expected 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. Subscriptions in a community solar facility may be transferred or assigned to a subscriber organization or to any person who qualifies to be a subscriber.

"Subscription credits" has the meaning ascribed to the term in subsection K.

"Utility" includes supplier or distributor.

B. A subscriber organization electing to establish and operate a community solar facility pursuant to this section shall:

- 1. Enter into subscriptions with no fewer than 10 subscribers;
- 2. Abide by the appropriate small generator interconnection process as described in 20VAC5-314; and
- 3. Pay to its utility any necessary additional expenses as required by this section and that are deemed reasonable by the Commission pursuant to subsection K.

C. A utility shall be permitted to recover the cost for connecting its distribution facilities to the generating meter either through a proportional cost-sharing agreement with the subscriber organization or through metering the total capacity and energy placed on the distribution system by the community solar facility as deemed reasonable by the Commission. Utilities shall bill the subscriber organization for eligible costs for interconnection and engineering studies required pursuant to the appropriate interconnection process.

D. The Commission shall adopt regulations as necessary to implement this section. Such regulations shall include:

- 1. Minimum capitalization;
- 2. The share of a subscriber organization's eligible community solar facilities that a subscriber organization may at any time own in its own name; and
- 3. Authorization for subscriber organizations to enter into solar service agreements, such as power purchase agreements or self-generation agreements; leases; sale-and-leaseback transactions; operating agreements; and other ownership arrangements with third parties.

E. If a subscriber ceases to be a customer at the premises on which the subscription is based but,

60 *within a reasonable period as determined by the Commission, becomes a customer at another premises*
61 *in the service territory of the utility and within the geographic area served by the community solar*
62 *facility, the subscription shall continue in effect but the bill credit and other features of the subscription*
63 *shall be adjusted as necessary to reflect all differences between the new and previous premises'*
64 *customer classification and average annual consumption of electricity.*

65 *F. The subscriber organization shall not be considered a public utility subject to regulation by the*
66 *Commission. Prices paid for subscriptions to subscriber organizations shall not be subject to regulation*
67 *by the Commission. Notwithstanding any provision of this title to the contrary, sales and purchases of*
68 *electric energy pursuant to subscriptions authorized under this section shall be permitted*
69 *notwithstanding any certificate of public convenience and authority that has been issued to a utility.*

70 *G. The output of the community solar facility owned and operated by a subscriber organization*
71 *belongs to the subscribers to the subscriber organization.*

72 *H. Each utility shall submit annually to the Commission a plan addressing its purchases of the*
73 *electricity and renewable energy credits generated from one or more subscriber organizations over the*
74 *period covered by the plan.*

75 *I. Each utility shall issue one or more standard offers to purchase the net output from subscriber*
76 *organizations on terms consistent with the provisions of subsections K and L.*

77 *J. The electric power output from a community solar facility owned and operated by a subscriber*
78 *organization shall be sold only to the utility in whose service territory the community solar facility is*
79 *located. The utility shall purchase the net electricity added to the grid from the community solar facility*
80 *as provided in subsection K. The amount of electricity and renewable energy credits generated by each*
81 *community solar facility shall be determined by a production meter installed by the utility or third-party*
82 *system owner and paid for by the subscriber organization.*

83 *K. The purchase of the output of a community solar facility by a utility shall take the form of a*
84 *subscription credit against the utility's electric bill to each community solar facility subscriber at the*
85 *premises set forth in the subscriber's subscription. The subscription credit shall be calculated by*
86 *multiplying the subscriber's share of the electricity production from the community solar facility by the*
87 *retail rate per kilowatt-hour of the utility, minus a reasonable charge as determined by the Commission*
88 *to cover the utility's costs of delivering to the subscriber's premises the electricity generated by the*
89 *community solar facility, integrating the solar generation with the utility's system, and administering the*
90 *community solar facility's contracts and subscription credits. If, and to the extent that, a subscriber's*
91 *subscription credit exceeds the subscriber's electric bill in any billing period, the subscription credit*
92 *shall be carried forward and applied against future bills. If, and to the extent that, a subscriber's*
93 *subscription credit exceeds the subscriber's electric bill in any billing period, the subscription credit*
94 *shall be carried and applied against future bills.*

95 *L. The subscriber organization shall provide real-time production data to the utility to facilitate*
96 *incorporation of the community solar facility into the utility's operation of its electric system and to*
97 *facilitate the provision of subscription credits.*

98 *M. The subscriber organization shall be responsible for providing to the utility, on a monthly basis*
99 *and within reasonable periods set by the utility, the percentage shares that should be used to determine*
100 *the subscription credit to each subscriber. If the electricity output of the community solar facility is not*
101 *fully subscribed, the utility shall purchase the unsubscribed renewable energy at a rate equal to the*
102 *utility's average hourly incremental cost of electricity supply over the immediately preceding calendar*
103 *year.*

104 *N. All utilities shall have the obligation to connect any community solar facility established pursuant*
105 *to this section, located within the utility's service territory, to the utility's distribution facilities pursuant*
106 *to the provisions of § 56-578. A utility shall not enforce in any agreement by which it is obligated to*
107 *purchase electricity for resale any clause or term that has the effect of prohibiting community solar*
108 *facilities or subscriber organizations.*

109 **2. That the State Corporation Commission (Commission) shall conduct a single docketed**
110 **proceeding to implement the provisions of this act. The proceeding shall be initiated between**
111 **August 1, 2018, and December 1, 2018. The proceeding shall provide notice to the public and an**
112 **opportunity for public comment. A final order amending or adopting regulations that the**
113 **Commission deems necessary to effectuate the provisions of this act shall be issued not later than**
114 **June 1, 2019. Utilities shall be required to each make a compliance filing, containing a schedule to**
115 **accommodate subscriber organizations, to the Commission for administrative approval not sooner**
116 **than three months following the issuance of the Commission's order amending or adopting**
117 **regulations under this enactment. Utilities shall not be required to undergo rate proceedings or**
118 **individual proceedings of any kind to implement the provisions of this act.**