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HOUSE BILL NO. 1634

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on February 24, 2020)

(Patron Prior to Substitute—Delegate Jones)

A BILL to amend the Code of Virginia by adding a section numbered 56-594.3, relating to electric utility regulation; shared solar programs.

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. Shared solar programs.

A. As used in this section:

"Applicable bill credit rate" means the dollar-per-kilowatt-hour rate used to calculate the subscriber's bill credit. The applicable bill credit rate shall be such that the shared solar program results in robust project deployment and shared solar program access for all customer classes.

"Bill credit" means the monetary value of the electricity, in kilowatt-hours, generated by the shared solar facility allocated to a subscriber to offset that subscriber's electricity bill.

"Low-income customer" means an individual or household with an income of not more than 80 percent of the area median income based on U.S. Department of Housing and Urban Development guidelines.

"Low-income service organization" means a nonresidential customer of an investor-owned utility whose primary purpose is to serve low-income individuals and households.

"Low-income shared solar facility" means a shared solar facility at least 50 percent of the capacity of which is subscribed by low-income customers or low-income service organizations.

"Shared solar facility" means a facility that:

1. Generates electricity by means of a solar photovoltaic device with a nameplate capacity rating that does not exceed 5,000 kilowatts of alternating current;

2. Is located in the service territory of an investor-owned electric utility;

3. Is connected to the electric distribution grid serving the Commonwealth;

4. Has at least three subscribers;

5. Has at least 40 percent of its capacity subscribed by customers with subscriptions of 25 kilowatts or less; and

6. Is located on a single parcel of land.

"Shared solar program" or "program" means the program created through the adoption of rules to allow for the development of shared solar facilities.

"Subscriber" means a retail customer of a utility that (i) owns one or more subscriptions of a shared solar facility that is interconnected with the utility and (ii) receives service in the service territory of the same utility in whose service territory the shared solar facility is located.

"Subscriber organization" means any for-profit or nonprofit entity that owns or operates one or more shared solar facilities. A subscriber organization shall not be considered a utility solely as a result of its ownership or operation of a shared solar facility.

"Subscription" means a contract or other agreement between a subscriber and the owner of a shared solar facility. A subscription shall be sized such that the estimated bill credits do not exceed the subscriber's average annual bill for the customer account to which the subscription is attributed.

"Utility" means any investor-owned electric utility.

B. The Commission shall establish by regulation a program that affords customers of investor-owned electric utilities the opportunity to participate in shared solar projects. Under its shared solar program, each investor owned utility shall provide a bill credit to a subscriber's subsequent monthly electric bill for the proportional output of a shared solar facility attributable to that subscriber. The shared solar program shall be administered as follows:

1. The value of the bill credit for the subscriber shall be calculated by multiplying the subscriber's portion of the kilowatt-hour electricity production from the shared solar facility by the applicable bill credit rate for the subscriber. Any amount of the bill credit that exceeds the subscriber's monthly bill shall be carried over and applied to the next month's bill in perpetuity.

2. The utility shall provide bill credits to a shared solar facility's subscribers for not less than 25 years from the date the shared solar facility becomes commercially operational.

3. The subscriber organization shall, on a monthly basis and in a standardized electronic format, provide to the investor-owned utility a subscriber list indicating the kilowatt-hours of generation attributable to each of the retail customers participating in a shared solar facility in accordance with the subscriber's portion of the output of the shared solar facility.

60 4. Subscriber lists may be updated monthly to reflect canceling subscribers and to add new
61 subscribers. The investor-owned utility shall apply bill credits to subscriber bills within one billing cycle
62 following the cycle during which the energy was generated by the shared solar facility.

63 5. Each utility shall, on a monthly basis and in a standardized electronic format, provide to the
64 subscriber organization a report indicating the total value of bill credits generated by the shared solar
65 facility in the prior month, as well as the amount of the bill credit applied to each subscriber.

66 6. A subscriber organization may accumulate bill credits in the event that all of the electricity
67 generated by a shared solar facility is not allocated to subscribers in a given month. On an annual
68 basis, the subscriber organization shall furnish to the utility allocation instructions for distributing
69 excess bill credits to subscribers.

70 7. All environmental attributes associated with a shared solar facility, including renewable energy
71 certificates, shall be considered property of the subscriber organization. At the subscriber organization's
72 discretion, such environmental attributes may be distributed to the subscribers, sold to load-serving
73 entities with compliance obligations, or other buyers, accumulated, or retired.

74 C. Each subscriber shall receive an applicable bill credit based on the subscriber's customer class of
75 residential, commercial, or industrial. Each class's applicable credit rate shall be calculated by the
76 Commission annually by dividing revenues to the class by sales, measured in kilowatt-hours, to that
77 class to yield a bill credit rate for the class (\$/kWh). Upon the interconnection of a cumulative quantity
78 of shared solar facilities with a nameplate capacity equivalent to 25 percent of peak electric demand for
79 the year, the Commission, in collaboration with the Department of Mines, Minerals and Energy, may
80 adopt, following public stakeholder review and comment, adjustments to the applicable bill credit rate
81 calculation methodology that reflect an updated understanding of the transmission, distribution, and
82 other benefits of shared solar projects that accrue to ratepayers. Any adjustments to the applicable bill
83 credit rate shall apply to new projects that begin development after the issuance of an order by the
84 Commission approving such revised bill credit rate methodology.

85 D. The Commission shall establish by regulation a shared solar program that complies with the
86 provisions of subsections B and C by January 1, 2021, and shall require each utility to file any tariffs,
87 agreements, or forms necessary for implementation of the program. Any rule or utility implementation
88 filings approved by the Commission shall:

89 1. Reasonably allow for the creation and financing of shared solar facilities;

90 2. Allow all customer classes to participate in the program and ensure participation opportunities for
91 all customer classes;

92 3. Create a stakeholder working group including low-income community representatives and
93 community solar providers to facilitate low-income customer and low-income service organization
94 participation in the program;

95 4. Encourage public-private partnerships to further the Commonwealth's clean energy and equity
96 goals, such as state agency and affordable housing provider participation in the program as anchor
97 customers of shared solar projects;

98 5. Not remove a customer from its otherwise applicable customer class in order to participate in a
99 shared solar facility;

100 6. Reasonably allow for the transferability and portability of subscriptions, including allowing a
101 subscriber to retain a subscription to a shared solar facility if the subscriber moves within the same
102 utility's service territory;

103 7. Establish uniform standards, fees, and processes for the interconnection of shared solar facilities
104 that allow the utility to recover reasonable interconnection costs for each shared solar facility;

105 8. Adopt standardized consumer disclosure forms;

106 9. Allow each utility the opportunity to recover reasonable costs of administering the program;

107 10. Ensure nondiscriminatory and efficient requirements and utility procedures for interconnecting
108 projects;

109 11. Address the co-location of two or more shared solar facilities on a single parcel of land and
110 provide guidelines for determining when two or more facilities are co-located;

111 12. Include a program implementation schedule; and

112 13. Prohibit credit checks as a means of establishing eligibility for residential customers to become
113 subscribers.

114 E. Within 180 days of finalization of the Commission's adoption of regulations for the shared solar
115 program, utilities shall begin crediting subscriber accounts of each shared solar facility interconnected
116 in its service territory.