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SENATE BILL NO. 311

Offered January 10, 2018

Prefiled January 8, 2018

A BILL to amend the Code of Virginia by adding a section numbered 56-585.1:4, relating to electric utilities; community solar gardens.

Patron—Edwards

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 a section numbered 56-585.1:4 as follows:****§ 56-585.1:4. Community solar gardens.****A. As used in this section:**

"Community solar garden" means a facility or energy system that uses a solar photovoltaic device to generate electricity that:

1. Has a nameplate capacity of not more than 20 megawatts; and

2. Is owned or operated by a subscriber organization.

"Subscriber" means a customer of a utility who subscribes to a community solar garden that is located in the service territory of the utility.

"Subscriber organization" means an entity that owns or operates a community solar garden.

"Subscription" means a contract between a subscriber organization and a subscriber setting forth the subscriber's proportional interest in a community solar garden.

"Unsubscribed electricity" means electricity, measured in kilowatt hours, generated by a community solar garden that is not allocated to a subscriber.

"Utility" means an investor-owned electric utility or cooperative electric utility.

B. The Commission shall adopt regulations establishing standards for the operation of community solar gardens. The regulations shall:

1. Establish goals for the procurement of electricity from community solar gardens in the Commonwealth, including:

a. A goal that by 2023, community solar gardens in the Commonwealth generate at least five percent of the amount of the peak demand for electric energy in the Commonwealth, as calculated for the 2016 calendar year.

b. A goal for the percentage of the peak demand for electric energy in the Commonwealth to be generated by community solar gardens in each year after 2023.

2. Establish requirements for subscriber organizations, which shall:

a. Require a subscriber organization to have at least 10 subscribers;

b. Prohibit a subscriber organization from allowing a subscriber to have a subscription that exceeds 40 percent of a proportional interest in a community solar garden owned or operated by the subscriber organization; and

c. Prohibit a subscriber organization from allowing subscriptions to a community solar garden that are more than 25 kilowatts to account for more than 40 percent of the total generating capacity of the community solar garden.

3. Authorize a subscriber organization to enter into leases, sale-and-leaseback transactions, operating agreements, and ownership arrangements with third parties.

4. Require that at least 10 percent of the total generating capacity of community solar gardens in the Commonwealth be available for use by low-income residential customers of a utility or by persons providing services that benefit low-income customers, including homeless shelters, low-income housing developments, and schools with a significant population of low-income pupils.

5. Authorize any customer of a utility in any rate class of a utility to be a subscriber.

6. Prohibit a utility from placing a subscriber into a different rate class because the subscriber has subscribed to a community solar garden.

7. Provide for the transferability of subscriptions.

8. Establish standards, charges, fees, and processes for the interconnection of a community solar garden that allow the utility to recover reasonable interconnection costs for each community solar garden.

9. Ensure that subscribing customers and participating generating facilities that participate in a pilot program established pursuant to § 56-585.1:3 are ineligible to participate in community solar gardens operated pursuant to this section.

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SB311

59 C. The regulations adopted by the Commission pursuant to subsection B shall not impose different
60 requirements for a community solar garden that is not owned or operated by a utility than the
61 requirements imposed for a community solar garden owned or operated by a utility.

62 D. For a period of 25 years after a community solar garden owned or operated by a subscriber
63 organization begins generating electricity, a subscriber is entitled to a credit on the subscriber's monthly
64 utility bill for the proportional output of the community solar garden attributable to that subscriber for
65 the preceding month. Except as otherwise required by the Commission, a utility may apply the credit to
66 the subscriber's monthly utility bill as a reduction in metered use or a credit to the total amount due for
67 the bill. Any excess credit shall be carried over to subsequent billing periods.

68 E. A subscriber organization shall, on a monthly basis and at other reasonable times determined by
69 the utility in the service territory in which the community solar garden owned or operated by the
70 subscriber organization is located, provide to the utility information necessary to determine the
71 proportional share of each subscriber.

72 F. Each utility shall submit a plan to the Commission for the purchase of unsubscribed electricity
73 generated by a community solar garden within the service area of the utility. The plan shall include a
74 rate at which the utility will purchase unsubscribed electricity generated by a community solar garden
75 within the service area of the utility and a requirement that the utility purchase such unsubscribed
76 electricity for a period of 25 years after a community solar garden begins generating electricity.

77 G. The Commission shall, after a hearing, review and accept or modify a plan submitted pursuant to
78 subsection F. In considering whether to accept or modify the plan, the Commission shall consider the
79 cost savings to the utility for the purchase of unsubscribed electricity pursuant to this section.

80 H. Any renewable energy certificates and other environmental attributes associated with the energy
81 generated by a community solar garden shall be the property of the subscriber organization unless a
82 subscription contract provides otherwise.

83 I. Notwithstanding any other provision of law, a community solar garden, subscriber organization, or
84 subscriber is not a public utility and is not subject to regulation by the Commission unless the
85 community solar garden, subscriber organization, or subscriber constitutes a public utility and is subject
86 to regulation by the Commission under the provisions of this title other than this section.