

# VIRGINIA ACTS OF ASSEMBLY -- 2020 RECONVENED SESSION

## CHAPTER 1238

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

[H 1634]

Approved April 22, 2020

**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.*

*"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 any person or household whose income is no more than 80 percent of the median income of the locality in which the customer resides. The median income of the locality is determined by the U.S. Department of Housing and Urban Development.*

*"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 30 percent of the capacity of which is subscribed by low-income customers or low-income service organizations.*

*"Minimum bill" means an amount determined by the Commission under subsection D that subscribers are required to, at a minimum, pay on their utility bill each month after accounting for any bill credits.*

*"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.*

*"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 a Phase II Utility.*

*B. The Commission shall establish by regulation a program that affords customers of a Phase II Utility the opportunity to participate in shared solar projects. Under its shared solar program, a utility shall provide a bill credit 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, minus the minimum bill, shall be carried over and applied to the next month's bill.*

*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, in a standardized electronic format, and pursuant to guidelines established by the Commission, provide to the utility a subscriber list indicating the kilowatt-hours of generation attributable to each of the subscribers participating in a shared solar facility in accordance with the subscriber's portion of the output of the shared solar facility.*

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

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

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

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

C. Each subscriber shall pay a minimum bill, established pursuant to subsection D, and shall receive an applicable bill credit based on the subscriber's customer class of residential, commercial, or industrial. Each class's applicable credit rate shall be calculated by the Commission annually by dividing revenues to the class by sales, measured in kilowatt-hours, to that class to yield a bill credit rate for the class (\$/kWh).

D. The Commission shall establish a minimum bill, which shall include the costs of all utility infrastructure and services used to provide electric service and administrative costs of the shared solar program. The Commission may modify the minimum bill over time. In establishing the minimum bill, the Commission shall (i) consider further costs the Commission deems relevant to ensure subscribing customers pay a fair share of the costs of providing electric services and (ii) minimize the costs shifted to customers not in a shared solar program. Low-income customers shall be exempt from the minimum bill.

E. The Commission shall approve a shared solar facility program of 150 megawatts with a minimum requirement of 30 percent low-income customers. The Commission shall approve an additional 50 megawatts of capacity upon determining that at least 45 megawatts of the aggregated shared solar capacity in the Commonwealth have been subscribed to by low-income customers. Subscriber organizations shall be allowed to demonstrate compliance with the low income requirement using either project capacity or project savings methodology. The Commission, in collaboration with the Department of Mines, Minerals and Energy, may adopt mechanisms to ensure low-income customer participation.

F. The Commission shall establish by regulation a shared solar program that complies with the provisions of subsections B, C, D, and E by January 1, 2021, and shall require each utility to file any tariffs, agreements, or forms necessary for implementation of the program within 60 days of the utility's full implementation of a new customer information platform or by July 1, 2023, whichever occurs first. Any rule or utility implementation filings approved by the Commission shall:

1. Reasonably allow for the creation of shared solar facilities;
2. Allow all customer classes to participate in the program;
3. Create a stakeholder working group including low-income community representatives and community solar providers to facilitate low-income customer and low-income service organization participation in the program;
4. Encourage public-private partnerships to further the Commonwealth's clean energy and equity goals, such as state agency and affordable housing provider participation in the program as subscribers of shared solar projects;
5. Not remove a customer from its otherwise applicable customer class in order to participate in a shared solar facility;
6. Reasonably allow for the transferability and portability of subscriptions, including allowing a subscriber to retain a subscription to a shared solar facility if the subscriber moves within the same utility's service territory;
7. Establish standards, fees, and processes for the interconnection of shared solar facilities that allow the utility to recover reasonable interconnection costs for each shared solar facility;
8. Adopt standardized consumer disclosure forms;
9. Allow the utility the opportunity to recover reasonable costs of administering the program;
10. Ensure nondiscriminatory and efficient requirements and utility procedures for interconnecting projects;
11. Address the co-location of two or more shared solar facilities on a single parcel of land and provide guidelines for determining when two or more facilities are co-located;
12. Include a program implementation schedule;
13. Prohibit credit checks as a means of establishing eligibility for residential customers to become subscribers;
14. Require net crediting functionality as part of any new customer information platform approved by the Commission. Under net crediting, the utility shall include the shared solar subscription fee on the

*customer's utility bill and provide the customer with a net credit equivalent to the total bill credit value for that generation period minus the shared solar subscription fee as set by the subscriber organization. The net crediting fee shall not exceed one percent of the bill credit value. Net crediting shall be optional for subscriber organizations, and any shared solar subscription fees charged via the net crediting model shall be set to ensure that subscribers do not pay more in subscription fees than they receive in bill credits; and*

*15. Allow the utility to recover as the cost of purchased power pursuant to § 56-249.6 any difference between the bill credit provided to the subscriber and the cost of energy injected into the grid by the subscriber organization.*

*G. Within 180 days of finalization of the Commission's adoption of regulations for the shared solar program, a utility shall, provided that the utility has successfully implemented its customer information platform, begin crediting subscriber accounts of each shared solar facility interconnected in its service territory, subject to the requirements of this section and regulations adopted thereto.*