

23105797D

SENATE BILL NO. 1083

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on February 6, 2023)

(Patrons Prior to Substitute—Senators Edwards and Surovell)

A BILL to amend the Code of Virginia by adding a section numbered 56-594.4, relating to shared solar programs; Phase I Utility.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 56-594.4 as follows:

§ 56-594.4. Shared solar programs; Phase I Utility.

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.

"Gross bill" means the amount a customer would pay to the utility based on the customer's monthly energy consumption before any bill credits are applied.

"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, as 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.

"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.

"Net bill" means the resulting amount a customer is required to pay the utility after deducting the bill credit from the customer's monthly gross bill.

"Phase I 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) is in possession of 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 I Utility.

B. The Commission shall establish by regulation a program that affords customers of a Phase I 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

60 pursuant to guidelines established by the Commission, provide to the utility a subscriber list indicating
61 the percentage of shared solar capacity attributable to each of the subscribers participating in a shared
62 solar facility in accordance with the subscriber's portion of the output of the shared solar facility.

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

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

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

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

77 8. Projects shall be entitled to receive incentives when they are located on rooftops, brownfields, or
78 landfills; are dual-use agricultural facilities; or meet the definition of another category established by
79 the Department of Energy pursuant to this section.

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

85 D. The Commission shall establish a minimum bill, below which a subscriber's net bill cannot go.
86 The calculation of an individual customer's minimum bill each month shall be based on the kilowatt
87 hours billed by the utility rather than the subscriber's portion of shared solar utility generation. The
88 Commission may modify the minimum bill over time. In establishing the minimum bill, the Commission
89 shall (i) quantify the benefits that shared solar facilities provide, including (a) transmission system
90 benefits, (b) distribution system benefits, (c) purchased power benefits, (d) fuel factor benefits, (e)
91 economic benefits, and (f) environmental benefits; (ii) consider costs the Commission deems relevant to
92 ensure subscribing customers pay a fair share of the costs of providing electric services; and (iii)
93 minimize the costs shifted to customers not in a shared solar program. Low-income customers shall be
94 exempt from the minimum bill for up to 51 percent of the capacity for each shared solar facility.

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

102 F. The Commission shall establish by regulation a shared solar program that complies with the
103 provisions of subsections B, C, D, and E by January 31, 2024, and shall require each utility to file any
104 tariffs, agreements, or forms necessary for implementation of the program by March 31, 2024. Any rule
105 or utility implementation filings approved by the Commission shall:

106 1. Reasonably allow for the creation of shared solar facilities;

107 2. Allow all jurisdictional and nonjurisdictional customer classes to participate in the program;

108 3. Create a stakeholder work group, including low-income community representatives and community
109 solar providers, to facilitate low-income customer and low-income service organization participation in
110 the program;

111 4. Encourage public-private partnerships to further the Commonwealth's clean energy and equity
112 goals, such as state agency and affordable housing provider participation in the program as subscribers
113 of shared solar projects;

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

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

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

121 8. Adopt standardized consumer disclosure forms;

- 122 9. Allow the utility the opportunity to recover reasonable costs of administering the program;
123 10. Ensure nondiscriminatory and efficient requirements and utility procedures for interconnecting
124 projects;
125 11. Address the co-location of two or more shared solar facilities on a single parcel of land and
126 provide guidelines for determining when two or more facilities are co-located;
127 12. Include a program implementation schedule;
128 13. Prohibit credit checks as a means of establishing eligibility for residential customers to become
129 subscribers;
130 14. Prohibit early termination fees and credit reporting for any low-income customer;
131 15. Require net financial savings for low-income subscribers relative to the subscription fee;
132 16. Require a customer's affirmative consent by written or electronic signature before providing
133 access to customer billing and usage data to a subscriber organization;
134 17. Establish customer engagement rules and minimum rules for education, contract reviews, and
135 continued engagement;
136 18. Require a Phase I Utility to incorporate net crediting functionality as part of any major update
137 relating to its customer billing software. Under net crediting, the utility shall include the shared solar
138 subscription fee on the customer's utility bill and provide the customer with a net credit equivalent to
139 the total bill credit value for that generation period minus the shared solar subscription fee as set by
140 the subscriber organization. The net crediting fee shall not exceed one percent of the bill credit value.
141 Net crediting shall be optional for subscriber organizations, and any shared solar subscription fees
142 charged via the net crediting model shall be set to ensure that subscribers do not pay more in
143 subscription fees than they receive in bill credits; and
144 19. Allow the utility to recover as the cost of purchased power pursuant to § 56-249.6 any difference
145 between the bill credit provided to the subscriber and the cost of energy injected into the grid by the
146 subscriber organization.
147 G. Within 180 days of finalization of the Commission's adoption of regulations for the shared solar
148 program, a utility shall, provided that the utility has successfully implemented its customer information
149 platform, begin crediting subscriber accounts of each shared solar facility interconnected in its service
150 territory, subject to the requirements of this section and regulations adopted thereto.