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HOUSE BILL NO. 108

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Labor and Commerce
on February 8, 2024)

(Patron Prior to Substitute—Delegate Sullivan)

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

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:

"Administrative cost" means the reasonable incremental cost to the investor-owned utility to process subscribers' bills for the program.

"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.

"Dual-use agricultural facility" means agricultural production and electricity production from solar photovoltaic panels occurring simultaneously on the same property.

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

"Incremental cost" means any cost directly caused by the implementation of the shared solar program that would not have occurred absent the implementation of the shared solar program.

"Minimum bill" means an amount determined by the Commission under subsection D that a subscriber is required to, at a minimum, pay on the subscriber's utility bill each month after accounting for any bill credits.

"Net bill" means the resulting amount a customer must 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 interconnected with the distribution system of an investor-owned electric utility within the Commonwealth;

3. Has at least three subscribers;

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

5. 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 interconnected.

"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. A subscriber organization licensed with the Commission shall be eligible to own or operate shared solar facilities in more than one investor-owned utility service territory.

"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,

60 minus the minimum bill, shall be carried over and applied to the next month's bill.

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

63 3. The subscriber organization shall, on a monthly basis and in a standardized electronic format,
64 and pursuant to guidelines established by the Commission, provide to the utility a subscriber list
65 indicating the percentage of shared solar capacity attributable to each of the subscribers participating
66 in a shared solar facility in accordance with the subscriber's portion of the output of the shared solar
67 facility.

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

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

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

78 7. Any renewable energy certificates associated with a shared solar facility shall be distributed to a
79 Phase I Utility to be retired for compliance with such Phase I Utility's renewable portfolio standard
80 obligations pursuant to subsection C of § 56-585.5.

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

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

89 D. The Commission shall establish a minimum bill, which shall include the costs of all utility
90 infrastructure and services used to provide electric service and administrative costs of the shared solar
91 program. The Commission may modify the minimum bill over time. In establishing the minimum bill, the
92 Commission shall (i) consider further costs the Commission deems relevant to ensure subscribing
93 customers pay a fair share of the costs of providing electric services, (ii) minimize the costs shifted to
94 customers not in a shared solar program, and (iii) calculate the benefits of shared solar to the electric
95 grid and to the Commonwealth and deduct such benefits from other costs. The Commission shall
96 explicitly set forth its findings as to each cost and benefit, or other value used to determine such
97 minimum bill.

98 E. The Commission shall approve a shared solar program of 50 megawatts or six percent of peak
99 load, whichever is less.

100 F. The Commission shall establish by regulation a shared solar program that complies with the
101 provisions of subsections B, C, D, and E by January 1, 2025, and shall require each utility to file any
102 tariffs, agreements, or forms necessary for implementation of the program by July 1, 2025. Any rule or
103 utility implementation filings approved by the Commission shall:

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

105 2. Allow all customer classes to participate in the program;

106 3. Encourage public-private partnerships to further the Commonwealth's clean energy and equity
107 goals, such as state agency and affordable housing provider participation as subscribers of a shared
108 solar program;

109 4. Not remove a customer from its otherwise applicable customer class in order to participate in a
110 shared solar facility;

111 5. Reasonably allow for the transferability and portability of subscriptions, including allowing a
112 subscriber to retain a subscription to a shared solar facility if the subscriber moves within the same
113 utility's service territory;

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

116 7. Adopt standardized consumer disclosure forms;

117 8. Allow the utility the opportunity to recover reasonable costs of administering the program;

118 9. Ensure nondiscriminatory and efficient requirements and utility procedures for interconnecting
119 projects;

120 10. Allow for the co-location of two or more shared solar facilities on a single parcel of land and
121 provide guidelines for determining when two or more such facilities are co-located;

- 122 11. Include a program implementation schedule;
- 123 12. Prohibit credit checks as a means of establishing eligibility for residential customers to become
- 124 subscribers;
- 125 13. Require a customer's affirmative consent by written or electronic signature before providing
- 126 access to customer billing and usage data to a subscriber organization;
- 127 14. Establish customer engagement rules and minimum rules for education, contract reviews, and
- 128 continued engagement;
- 129 15. Require net financial savings for low-income customers, as that term is defined in § 56-594.3, of
- 130 at least ten percent, relative to the subscription fee throughout the life of the subscription; and
- 131 16. Allow the utility to recover as the cost of purchased power pursuant to § 56-249.6 any difference
- 132 between the bill credit provided to the subscriber and the cost of energy injected into the grid by the
- 133 subscriber organization.
- 134 G. Within 180 days of finalization of the Commission's adoption of regulations for the shared solar
- 135 program, a utility shall begin crediting subscriber accounts of each shared solar facility interconnected
- 136 in its service territory, subject to the requirements of this section and regulations adopted thereto.
- 137 **2. That, pursuant to subdivision B 8 of § 56-594.4 of the Code of Virginia, as created by this act,**
- 138 **the Department of Energy (the Department) shall convene a stakeholder work group to determine**
- 139 **the amounts and forms of project incentives and shall document the proceedings of the**
- 140 **stakeholder work group, submit a written report to the Chairs of the House Committee on Labor**
- 141 **and Commerce and the Senate Committee on Commerce and Labor no later than November 30,**
- 142 **2024, and make copies of such report publicly available on the Department's website at the same**
- 143 **time as submission to the House and Senate Committees. In establishing such project incentives,**
- 144 **the Department shall give special consideration to projects seeking to leverage funding from the**
- 145 **Virginia Brownfield and Coal Mine Renewable Energy Grant Program established pursuant to**
- 146 **Article 7 (§ 45.2-1725) of Chapter 17 of Title 45.2 of the Code of Virginia.**
- 147 **3. That the State Corporation Commission shall initiate a proceeding to recalculate the minimum**
- 148 **bill within 30 days of the determination of a final order in a proceeding establishing the value of a**
- 149 **solar renewable energy certificate as required by § 56-594 of the Code of Virginia.**