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SENATE BILL NO. 253

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on February 9, 2024)

(Patron Prior to Substitute—Senator Surovell)

A BILL to amend and reenact § 56-594.3 of the Code of Virginia, relating to shared solar programs; Phase II Utility; minimum bill; capacity.

Be it enacted by the General Assembly of Virginia:

1. That § 56-594.3 of the Code of Virginia is amended and reenacted as follows:

§ 56-594.3. Shared solar programs; Phase II 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.

"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 a subscriber is required to, at a minimum, pay on their 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 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 interconnected with a Phase II Utility's distribution system within the Commonwealth;

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

4. Has at least three subscribers;

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

6. 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 located 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.

"Subscribed" means, in relation to a subscription, that a subscriber has made initial payments or provided a deposit to the owner of a shared solar facility for such subscription.

"Subscription" means a contract or other agreement between a subscriber and the owner of a shared

60 solar facility. A subscription shall be sized such that the estimated bill credits do not exceed the
61 subscriber's average annual bill for the customer account to which the subscription is attributed.

62 "Utility" means a Phase II Utility.

63 B. The Commission shall establish by regulation a program that affords customers of a Phase II
64 Utility the opportunity to participate in shared solar projects. Under its shared solar program, a utility
65 shall provide a bill credit for the proportional output of a shared solar facility attributable to that
66 subscriber. The shared solar program shall be administered as follows:

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

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

73 3. The subscriber organization shall, on a monthly basis, *and* in a standardized electronic format, and
74 pursuant to guidelines established by the Commission, provide to the utility a subscriber list indicating
75 the kilowatt-hours of generation attributable to each of the subscribers participating in a shared solar
76 facility in accordance with the subscriber's portion of the output of the shared solar facility.

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

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

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

87 7. ~~All~~ *A subscriber organization that registers a shared solar facility in the program within the first*
88 *200 megawatts alternating current of awarded capacity shall own all environmental attributes associated*
89 *with a shared solar facility, including renewable energy certificates. At such subscriber organization's*
90 *direction, such environmental attributes may be distributed to subscribers, sold to load-serving entities*
91 *with compliance obligations or other buyers, accumulated, or retired. For a shared solar facility*
92 *registered in the program after the first 200 megawatts alternating current of awarded capacity, the*
93 *registering subscriber organization shall be distributed to the subscribers transfer renewable energy*
94 *certificates to a Phase II Utility to be retired for compliance with such Phase II Utility's renewable*
95 *portfolio standard obligations pursuant to subsection C of § 56-585.5.*

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

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

104 D. The Commission shall establish a minimum bill, which shall include the costs of all utility
105 infrastructure and services used to provide electric service and administrative costs of the shared solar
106 program. The Commission may modify the minimum bill over time. In establishing the minimum bill,
107 the Commission shall (i) consider further costs the Commission deems relevant to ensure subscribing
108 customers pay a fair share of the costs of providing electric services and *generation sufficient to meet*
109 *customer needs at all times*, (ii) minimize the costs shifted to customers not in a shared solar program,
110 *and (iii) calculate the benefits of shared solar to the electric grid and to the Commonwealth and deduct*
111 *such benefits from other costs. The Commission shall explicitly set forth its findings as to each cost and*
112 *benefit, or other value used to determine such minimum bill.* Low-income customers shall be exempt
113 from the minimum bill.

114 E. The Commission shall approve *part one of* a shared solar facility program *with an aggregate*
115 *capacity of 150 200 megawatts with a minimum requirement of 30 percent low-income customers. The*
116 *Upon a determination that at least 90 percent of the megawatts of the aggregate capacity of such*
117 *program have been subscribed and that project construction is substantially complete, the Commission*
118 *shall approve up to an additional 50 150 megawatts of capacity as part two of such program, upon*
119 *determining that at least 45 75 megawatts of the aggregated shared solar capacity in the Commonwealth*
120 *have been subscribed to by which shall serve no more than 51 percent low-income customers.*
121 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 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~~ *March 1, 2024* ~~2025~~, 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~~ *December 1, 2023*, ~~whichever occurs first~~ *2025*. *Any tariffs, agreements, and forms currently in effect at the time of enactment shall remain in effect until such revisions are approved by the Commission.* 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 a shared solar ~~projects~~ *program*;

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 *such* 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. *Prohibit early termination fees and credit reporting for any low-income customer;*

15. *Require a customer's affirmative consent by written or electronic signature before providing access to customer billing and usage data to a subscriber organization;*

16. *Establish customer engagement rules and minimum rules for education, contract reviews, and continued engagement;*

17. 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-~~ 18. 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.

2. That, pursuant to subdivision B 8 of § 56-594.3 of the Code of Virginia, as amended by this act, the Department of Energy (the Department) shall convene a stakeholder work group to determine the amounts and forms of project incentives and shall document the proceedings of the stakeholder work group, submit a written report to the Chairmen of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor no later than November 30, 2024, and make such report publicly available on the Department's website at the same time as its submission to the House and Senate Committees. In establishing such project incentives, the Department shall give special consideration to projects seeking to leverage funding

183 from the Virginia Brownfield and Coal Mine Renewable Energy Grant Program established
184 pursuant to Article 7 (§ 45.2-1725) of Chapter 17 of Title 45.2 of the Code of Virginia.
185 3. That the State Corporation Commission shall initiate a proceeding to recalculate the minimum
186 bill in accordance with § 56-594.3 of the Code of the Virginia, as amended by this act, within 30
187 days of its final order in the proceeding required by § 56-594 of the Code of Virginia.