

## HOUSE BILL NO. 807

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Labor and Commerce

on \_\_\_\_\_)

(Patron Prior to Substitute—Delegate Sullivan)

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

**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.

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

33 "Net bill" means the resulting amount a customer must pay the utility after deducting the bill credit from  
34 the customer's monthly gross bill.

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

36 "Shared solar facility" means a facility that:

37 1. Generates electricity by means of a solar photovoltaic device with a nameplate capacity rating that does  
38 not exceed 5,000 kilowatts of alternating current;

39 2. Is interconnected with a Phase II Utility's distribution system within the Commonwealth;

40 3. Has at least three subscribers;

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

43 5. Is located on a single parcel of land.

44 "Shared solar program" or "program" means the program created through the adoption of rules to allow  
45 for the development of shared solar facilities.

46 "Subscriber" means a retail customer of a utility that (i) owns one or more subscriptions of a shared solar  
47 facility that is interconnected with the utility and (ii) receives service in the service territory of the same  
48 utility in whose service territory the shared solar facility is interconnected.

49 "Subscriber organization" means any for-profit or nonprofit entity that owns or operates one or more  
50 shared solar facilities. A subscriber organization shall not be considered a utility solely as a result of its  
51 ownership or operation of a shared solar facility. A subscriber organization licensed with the Commission  
52 shall be eligible to own or operate shared solar facilities in more than one investor-owned utility service  
53 territory.

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

56 "Subscription" means a contract or other agreement between a subscriber and the owner of a shared solar  
57 facility. A subscription shall be sized such that the estimated bill credits do not exceed the subscriber's  
58 average annual bill for the customer account to which the subscription is attributed.

59 "Utility" means a Phase II Utility.

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

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

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

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

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

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

80 6. A subscriber organization may accumulate bill credits in the event that all of the electricity generated  
81 by a shared solar facility is not allocated to subscribers in a given month. ~~On an annual basis and pursuant~~  
82 *Pursuant to guidelines established by the Commission, the subscriber organization shall furnish to the utility*  
83 *allocation instructions for distributing excess bill credits to subscribers. A subscriber organization may elect*  
84 *to distribute excess bill credits more frequently than once per year.*

85 7. A subscriber organization that registers a shared solar facility in the program within the first 200  
86 megawatts alternating current of awarded capacity shall own all environmental attributes associated with a  
87 shared solar facility, including renewable energy certificates. At such subscriber organization's direction, such  
88 environmental attributes may be distributed to subscribers, sold to load-serving entities with compliance  
89 obligations or other buyers, accumulated, or retired. For a shared solar facility registered in the program after

90 the first 200 megawatts alternating current of awarded capacity, the registering subscriber organization shall  
91 transfer renewable energy certificates to a Phase II Utility to be retired for compliance with such Phase II  
92 Utility's renewable portfolio standard obligations pursuant to subsection C of § 56-585.5.

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

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

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

109 E. The Commission shall approve part one of a shared solar program with an aggregate capacity of 200  
110 megawatts. Upon *the earlier of (i) a determination that at least 90 percent of the megawatts of the aggregate*  
111 *capacity of such program have been subscribed and that project construction is substantially complete or (ii)*  
112 *July 1, 2026, the Commission Phase II Utility shall approve up to release an additional 150 525 megawatts of*  
113 *capacity as part two of such program, 75 450 megawatts of which shall serve no more than 51 percent*  
114 *low-income customers and 75 megawatts of which may serve more than 51 percent low-income customers.*  
115 *On or before the substantial completion of 268 megawatts of capacity under part two of such program, the*  
116 *Phase II Utility shall petition the Commission to initiate a shared solar expansion proceeding to determine*  
117 *the capacity for part three of the shared solar program. Subscriber organizations shall be allowed to*  
118 *demonstrate compliance with the low income requirement using either project capacity or project savings*  
119 *methodology. The Commission, in collaboration with the Department of Energy, may adopt mechanisms to*

ensure low-income customer participation. *For the purposes of this subsection, "substantial completion" has the same meaning as provided in Commission regulations for shared solar programs.*

F. The Commission shall establish by regulation a shared solar program that complies with the provisions of subsections B, C, D, and E by March 1, 2025, and shall require each utility to file any tariffs, agreements, or forms necessary for implementation of the program by December 1, 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 as subscribers of a shared solar 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

149 subscribers;

150 14. Prohibit early termination fees and credit reporting for any low-income customer;

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

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

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

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

165 ~~G. Within 180 days of finalization of the Commission's adoption of regulations for the shared solar~~  
166 ~~program, a utility shall begin crediting subscriber accounts of each shared solar facility interconnected in its~~  
167 ~~service territory, subject to the requirements of this section and regulations adopted thereto~~ *In conducting the*  
168 *proceeding for part three of shared solar program capacity under subsection E, the Commission shall*  
169 *evaluate the costs and benefits of the shared solar program, including the aggregate impact of the shared*  
170 *solar program on the Phase II Utility's long-term marginal costs for generation, distribution, and*  
171 *transmission services; the impact of the shared solar program on compliance with renewable energy*  
172 *portfolio standard requirements under § 56-585.5; the direct and indirect economic impacts of the shared*  
173 *solar program on the Commonwealth; and any other information deemed relevant by the Commission,*  
174 *including environmental, resilience, fuel price risk, and other risk minimization benefits of the shared solar*  
175 *program. The Commission shall consider the results of such proceeding in determining any future allocations*  
176 *of shared solar capacity and changes in program design.*

177 **2. That the State Corporation Commission shall update its regulations on shared solar programs to**  
178 **comply with the provisions of this act by December 31, 2026, and shall require each participating**

179 utility to file any tariffs, agreements, or forms necessary for implementation of such shared solar  
180 programs by March 1, 2027.