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COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
DIVISION OF PUBLIC UTILITY REGULATION

STAFF REPORT

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SOLICITORS OFFICE
REGULATORY CONTROL CENTER

CASE NO. PUR-2020-00125

COMMONWEALTH OF VIRGINIA, *ex rel.* STATE CORPORATION
COMMISSION, *EX PARTE*: IN THE MATTER OF ESTABLISHING
REGULATIONS FOR A SHARED SOLAR PROGRAM PURSUANT TO
§ 56-594.3 OF THE CODE OF VIRGINIA

NOVEMBER 23, 2020

**Commonwealth of Virginia, ex rel. State Corporation Commission
Ex Parte: In the matter of establishing regulations for a shared solar program pursuant to
§ 56-594.3 of the Code of Virginia**

CASE NO. PUR-2020-00125

INTRODUCTION

During its 2020 Session, the Virginia General Assembly enacted Chapters 1238 (HB 1634) and 1264 (SB 629) of the 2020 Virginia Acts of Assembly. These Acts of Assembly amend the Code of Virginia ("Code") by adding a section numbered 56-594.3, effective July 1, 2020. Code § 56-594.3 (the "Statute") requires that by January 1, 2021, the State Corporation Commission ("Commission") establish by regulation a program affording Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion") customers the opportunity to participate in shared solar projects.

Under the Statute, customers may purchase subscriptions in a shared solar facility, which the Statute defines as a facility that, among other things, generates electricity by means of a solar photovoltaic device with a nameplate capacity rating that does not exceed 5,000 kilowatts.¹ Each subscriber then receives a bill credit for the proportional output of the shared solar facility attributable to that subscriber.²

Under the Statute, subscribers pay a minimum bill that includes the costs of all utility infrastructure and services used to provide electric service and administrative costs of the

¹ See Code § 56-594.3 A (2020).

² Code § 56-594.3 B (2020).

shared solar program.³ The Statute directs the Commission to establish the minimum bill, from which low-income customers shall be exempt.⁴

The Statute further directs the Commission to approve a shared solar program of 150 megawatts with a minimum requirement of 30 percent serving low-income customers.⁵ Moreover, 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.⁶ The Commission, in collaboration with the Department of Mines, Minerals and Energy, may adopt mechanisms to ensure low-income customer participation.⁷

On July 1, 2020, the Commission entered an Order Directing Comment in this proceeding that sought comments on the shared solar program and associated regulations. The Commission's Order Directing Comment directed Dominion, and invited interested persons or entities, to file comments by July 24, 2020. The Order also permitted commenters to propose specific regulations by July 24, 2020.

Based on comments and draft regulations filed in this proceeding, the Commission's Staff ("Staff") prepared draft rules ("Proposed Rules"). On September 21, 2020, the Commission appended the Proposed Rules to an Order for Notice and Comment ("Order") giving interested persons an opportunity to file written comments on, propose modifications or supplements to, or request a hearing on the Proposed Rules. Further, a copy of the Proposed Rules was sent to the Registrar of Regulations for publication in the *Virginia Register of Regulations*. Among other

³ Code § 56-594.3 B, C, D (2020).
⁴ Code § 56-594.3 D (2020).
⁵ Code § 56-594.3 E (2020).
⁶ *Id.*
⁷ *Id.*

things, the Order also directed the Staff to file on or before November 16, 2020, a report on or a response to any comments, proposals, or requests for hearing submitted to the Commission on the Proposed Rules.

On November 12, 2020, Staff filed a Motion for One-Week Extension to File Staff Report, for Waiver of Rule 230, and for Expedited Treatment ("Motion"). In its Motion, Staff requested that the Commission extend the deadline for filing the Staff Report by one week from November 16, 2020, to November 23, 2020. In support of its Motion, Staff stated that numerous stakeholders had requested a meeting with Staff prior to the filing of the Staff Report. Staff further stated that these requests, among other things, led it to realize that holding a stakeholder meeting prior to the filing of the Staff Report would provide stakeholders an opportunity to discuss their proposals collectively and would ultimately result in a more fully developed Staff Report. On November 13, 2020, the Commission issued its Order Granting Motion accepting the Staff's request.

With the help of the Virginia Department of Mines, Minerals and Energy ("DMME"), a virtual stakeholder meeting was held on November 16, 2020, inviting all those providing comments and all stakeholders who had indicated interest in such a meeting with Staff an opportunity to further discuss the various viewpoints of issues raised within those submitted comments. This virtual meeting had 62 participants attending.

This Staff Report is filed in response to the Commission's Order. Attachment A contains certain revisions to the Proposed Rules ("Revised Proposed Rules") recommended by Staff after reviewing the submitted comments and hearing the discussion from interested persons during the virtual stakeholder meeting.

COMMENTS RECEIVED

In response to the Commission's Order, comments were received from the following eight entities: Virginia Clean Energy Advisory Board ("VCEAB"); Sierra Club; joint comments of the Southern Environmental Law Center and the Appalachian Voices (together "Environmental Advocates"); joint comments of the Maryland-DE-Delaware-Virginia Solar Energy Industries Association ("MDV-SEIA") and the Coalition for Community Solar Access ("CSSA"); DMME; and Dominion. Comments were also received jointly from the following members of the Virginia General Assembly: Senator Jennifer McClellan, Senator Scott Surovell, Delegate Rip Sullivan, Delegate Jay Jones, Delegate Mark Keam, and Delegate Alfonso Lopez ("GA Members"). Additionally, 38 public comments were submitted via the Commission's website. Four requests for hearing were received by the due date. The following is a discussion of certain pertinent comments.⁸

Section 10: Applicability

Concerns were raised regarding the allowed expansion of an additional 50 megawatts of shared solar capacity upon achieving the requirement to fulfill the program with 30% low-income customers pursuant to Code § 56-594.3(E). These concerns included what mechanism would track the original 30%, how the trigger would be determined and announced, and how the additional capacity would be allotted. Staff recognizes the importance of these concerns and the need to establish such parameters, but does not believe these parameters should be prescribed within the Revised Proposed Rules.

⁸ Given the breadth of comments received and timing of the Staff Report, Staff will not address every comment made by each commenting participant. This necessary omission implies neither endorsement nor rejection of any such comment.

Consistent with other utility programs, Staff believes that as a practical matter, particularly when a program limits available participation, that a customer should not be able to subscribe to multiple programs of similar nature at the same time. In other words, a customer may only participate in one of the shared solar or net metering programs offered by the utility.

Staff agrees with most comments that the Statute envisions customers having the ability to enroll and receive benefits of the shared solar program by the earlier of Dominion completing its customer information system or July 1, 2023. Any pre-development preparation may begin as soon as practicable. Staff appreciates the suggested input regarding an implementation schedule, but Staff believes any detailed implementation schedule should be at the Commission's discretion, rather than prescribed by rule.

Similarly, Staff appreciates the helpful suggestions to consider for a low-income stakeholder group, but believes the creation of and instruction to a stakeholder working group regarding low-income participation is also better served at the discretion of the Commission, rather than prescribed by rule.

Based on the comments received, Staff has modified certain provisions as shown in the Revised Proposed Rules.

Section 20: Definitions

In the attempt to clarify understanding of some aspects of the shared solar program, suggestions were made to add terms to the definitions as shown in the Revised Proposed Rules.

Section 30: Licensing of subscriber organizations

It is generally believed that the Statute envisions larger business entities to develop utility-scale projects to serve subscribers of the shared solar program. With that in mind, shared solar projects are typically incorporated under their own legal entity (e.g., a limited liability corporation) which is in turn owned by a larger parent entity. This parent entity may be a project developer who will bring the project to the point of construction or an entity that will own the project for the operating life of the project. The subscriber organization that owns the projects (whether in development or in operation) or that subscribes customers should be the applicants to be licensed. The individual projects should each demonstrate that it is owned by a licensed entity when it registers with the utility. The utility will then qualify the project for the program and allocate capacity within the program limit, or if over the program limit, place the project on the wait list.

It was also pointed out that the Commission approval of transfer of licenses among entities is appropriate for entities that own projects or subscribe customers. However, commenters state that physical projects are frequently sold from developers to long term owners and that Commission approval of every transfer could be onerous on the Commission. Staff does not necessarily agree and believes knowing such information is important to the Commission and the public.

Non-utility comments preferred that an investor-owned utility not be permitted to be a subscriber organization. Staff does not interpret anything in the statute to prohibit the utility from being a subscriber organization, but believes as a practical matter, that if the utility decides to participate, it would be better for an affiliate of the utility to participate, subject to the same regulations, rather than the utility itself.

Concerns were raised regarding the proposed licensing requirements as unnecessarily onerous, particularly for small projects owned by the residents or property owner, or owned by a

non-profit entity, or owned by small companies (collectively "small projects") to participate as project developers or operators. Suggestions to lessen the licensing requirements or provide for a waiver or exemption for small projects were addressed in some of the comments to distinguish these from larger corporate entities to ease the burden of meeting certain financial and technical requirements in order to participate. For example, the Proposed Rules require subscriber organizations to demonstrate "financial fitness," 20VAC5-342-30(A)(10), and "technical fitness," 20VAC5-342-30(A)(1). The shared solar program could have small projects which may be owned or managed by the residents or owners of a building complex or subdivision, a homeowner's association, an industrial park and the like. The comments suggest such persons should not have to demonstrate financial fitness for a project for which they are ultimately the beneficiaries or be expected to achieve high standards for "financial fitness" that may be appropriate for a larger corporate entity.

Additionally, it was suggested that bona fide nonprofits should be exempt from financial security requirements and bonding requirement for the first megawatt of shared solar project capacity. Staff does not oppose this concept but believes the threshold should be the first 500 kilowatts.

The Statute allows for projects up to 5 megawatts with a program limit of 150 megawatts, expandable to 200 megawatts when certain conditions are satisfied. Staff believes this Statute will attract the larger business entities. The Proposed Rules are necessary for corporate entities in the business of solar development, as well as those interested in development of a small project to meet the needs or desires of a certain location or group of customers. The GA Members stated that they envisioned policies and program rules to unleash a competitive clean energy market to create local jobs and attract investment in Virginia. Consistent with that sentiment, it generally

appears that most of the interested persons responding in this case expect the shared solar program to attract the larger business entities. Staff agrees and believes the rules for licensure should stand as revised for all applicants.

Section 20VAC5-342-10(E) of the Proposed Rules provides the opportunity for an applicant to request a waiver of any of the provisions of the Proposed Rules in its application and offer any justification for its request. The Commission could exempt certain applicants from the licensing requirements, or the Commission could lessen the licensing requirements to an administrative notice for certain applicants. These certain applicants could be, for example, for those of small projects, less than 500 kilowatts, or owned or managed by the residents or owners of a multi-family facility, such as members of a homeowner association, apartment building owner, or condo owner or a non-profit entity and the like.

Should the Commission decide to differentiate between certain applicants, the Staff would prefer offering a simplified administrative notice to the Commission's Division of Public Utility Regulation for small projects in lieu of licensure. Such administrative notice could reflect similar elements as discussed in Staff's report regarding the multi-family shared solar program.⁹ However, Staff maintains that each project, regardless of size, should still be required to register with the utility.

Comments pointed out that there was little mention of a low-income subscription plan in the rules. Staff believes this to be an area that the upcoming low-income stakeholder group could help develop without prescribing specific parameters in the rules. The suggestions of such a stakeholder group and the types of elements to include will prove very helpful in that endeavor.

⁹ *Commonwealth of Virginia, ex rel. State Corporation Commission Ex Parte: In the matter of establishing regulations for a multi-family shared solar program pursuant to § 56-585.1:12 of the Code of Virginia, Case No. PUR-2020-00124, Staff Report at 9, November 23, 2020.*

Based on the comments received, Staff has modified certain provisions as shown in the Revised Proposed Rules.

Section 40: Registration with the utility

Regardless of the Commission's determination of which subscriber organization type requires licensing, it is clear and imperative that each shared solar facility register with the utility to ensure proper electrical interconnection to the power grid and to establish the necessary communication protocols amongst the utility, the subscriber organization, and the subscribing customer.

CCSA/MDV-SEIA recommends that the registration include the amount of capacity to be subscribed by low-income subscribers and proof that the non-ministerial permits have been obtained. It also suggests that the shared solar project provide its low-income subscription plan.

Several concerns address the financial security requirements. Such comments suggest the utility should not hold an unbounded financial security defined by the utility. The comments further suggest that any security should be held by the Commission, not the utility, as is the case in the third-party power purchase program established by PUR-2019-00119 pursuant to § 56-594 also found in the Virginia Electric Utility Regulation Act, Chapter 23 (§ 56-576 *et seq.*) of Title 56 of the Code.

It was suggested the queue deposit to be submitted should be held to ensure that projects reach commercial operation and satisfy the commitment to serve low-income subscribers. This also clarifies that the utility will only award capacity to projects serving low-income customers until the program's 45 megawatt target is reached. CCSA and MDV-SEIA continue to recommend that bona fide non-profits should be exempt from the project deposit should they demonstrate they are bona fide non-profits.

The tracking of the 45 megawatts low-income target should be public information and the utility should not determine how capacity is allocated given the process for qualifying projects

and a wait list. This process is described in the Revised Proposed Rule 20VAC5-340-40, subsections I, J, K, L and M.

Based on the comments received, Staff has modified certain provisions as shown in the Revised Proposed Rules.

Section 50: Marketing and enrollment

It has been expressed that subscriber organizations represent a diversified industry in which different companies perform one or more of the functions of developing, owning/operating, or subscribing projects. A subscriber organization may very well not be developing a project and therefore not applying for interconnection. A subscriber organization may have numerous projects that it manages subscriptions to or owns. The limitations on subscriber organizations for marketing and enrollment should apply when the project has been qualified and therefore has received an executed interconnection agreement.

Comments suggested that subscription contracts must size subscriptions on a kilowatt basis rather than a kilowatt-hour basis. Commenters claim that since the kilowatt-hour output of a facility is not known in advance, subscribers are contracting for a portion of the output of a facility on a per kilowatt basis. The amount of actual generation from the facility in kilowatt-hour will not be known in advance and therefore cannot be included in the contract. Understanding this concern, Staff does not support the suggested change, but rather believes the contract must clarify the terms used and the relationship between the stated contract amount and the actual energy usage applicable to the subscriber bill charges and credits.

The Proposed Rules do not include the manner for how low-income customers will be verified as low-income. As recommended by numerous stakeholders in the docket, these methods would offer a clear process and flexibility for subscribers to ensure that the verification process

does not deter low-income participation in the program. Staff suggests that this topic area be developed more fully with the help of the stakeholder group to be established under Code § 56-594.3(F)(3). Should the Commission determine to include language in these rules regarding low-income verification, a suggested rule has been added to the Revised Proposed Rules.

As required by Code § 56-594.3(F)(8), the commenters agree that a standardized consumer disclosure form needs to be provided to each prospective customer before subscribing to a shared solar facility. Staff prefers that this standardized form be developed with the help of the stakeholder group to be established under the shared solar program envisioned by the Statute. Should the Commission determine to include language in these rules regarding such a disclosure form, suggested language was added to the Revised Proposed Rule 20VAC5-340-50(M).

Comments also addressed the idea of permitting the portability and transferability of a subscriber's subscription in the event such subscriber moves to another location. Most comments argued that a subscriber should be permitted to retain its solar subscription and bill credits from one home to any other home within the same service territory of the utility without having to re-subscribe or re-enroll. The comments assert that the bill credit determined for each rate class is the same across all of the service territory, only the consumption would vary to which the bill credit is applied. Suggested language was added to the Revised Proposed Rules pursuant the requirement in Code § 56-594.3(F)(6) that the Commission's regulations reasonably allow for the transportability and portability of subscriptions.

Based on the comments received, Staff modified certain provisions as shown in the Revised Proposed Rules.

Section 60: Billing and payment

CCSA/MDV-SEIA suggested the subscriber organization have the flexibility to provide the utility the subscriber's portion of generation from the shared solar project as a kilowatt-hour value or as a portion (*i.e.*, percentage) of the facility's output, for which the subscriber has contracted. They explain that because the specific output of the facility is not known in advance, subscribers are generally contracting for a portion of the output of the facility, rather than a specific amount of generation output. However, the billing provisions of the Proposed Rules envision known data from the actual meter reads, in kilowatt-hours, which should be readily available for the facility and each subscriber. The subscriber's bill credit as envisioned by the Revised Proposed Rules will depend on the kilowatt-hour usage.

Staff modified Proposed Rule 20VAC5-340-60(A)(2) for consistency with Code § 56-594.3 (B)(4) to state the subscriber list may be updated monthly. In practice, commenters stated that such a list does not need to be updated monthly. However, Staff believes such list should be updated on a regular, periodic basis, no less frequently than quarterly to maintain an accurate accounting of subscribers. This would be consistent regarding the subscriber's bill credit to be applied within two billing cycles after the cycle in which the energy was generated by the shared solar project.

Non-utility comments assert that bill credits must be able to roll over more than to just the next month. The Proposed Rules currently could be interpreted to allow bill credits to be rolled over just one month. Staff modified Proposed Rule 20VAC5-340-60(F)(2) for the bill credit to roll over until it is satisfied, or up to 12 months.

Similar to arguments presented in the multi-family shared solar program, non-utility commenters expressed views that an annual proceeding is unnecessary as the bill credit calculation

can be done without a proceeding. Comments claim the approach to be consistent with the statutory calculation of class revenues divided by class sales to yield \$/kilowatt-hour credit values. The Commission could, in December of each year, establish and publish the bill credit value. Information published on the Energy Information Administration's Form 861 database for the sales and revenue data for bundled customers could be used to calculate the applicable bill credit rate for the following year for each rate class of customers. The Commission could annually divide all revenues to the class by all sales, measured in kilowatt-hours, to that class to yield a bill credit rate for the class in dollars per kilowatt-hour. In the Commission's publication of the annual bill credit rates, the Commission could indicate which of the utility's rate schedules correspond to the Residential, Commercial, or Industrial classes under the shared solar program. Staff does not oppose such a type of calculation using whatever basis the Commission may choose in lieu of a formal proceeding. Therefore, Staff modified Proposed Rule 20VAC5-340-60(F)(4).

Comments recommend that initially, the appropriate cost components of the minimum bill be determined by a Commission proceeding in early 2021, and further suggest that, in practice, the minimum bill does not necessarily change annually. CCSA/MDV-SEIA recommends that after consideration of cost proposals in such a proceeding, the Commission establish a formula for the minimum bill based on the incremental costs of the shared solar program, not otherwise recovered by the utility, and consistent with the minimum bill requirements in Code § 54-593.4.

Comments were also shared stating that shared solar facility interconnection costs are addressed in the Commission's Regulations Governing Interconnection of Small Electric Generators and Storage (20VAC5-314). If there is ongoing electricity usage at the generator site for station loads, that usage will be metered and charged to the facility through existing tariff procedures. Interested persons recommend the duplicative proposed monthly administrative

charge for subscriber organization interconnection costs be removed from the Proposed Rule. Administrative costs for the program are separately charged to subscribers as a component of the minimum bill. Staff does not oppose the suggestion and modified Proposed Rule 20VAC5-340-60(I).

Based on the comments received, Staff has modified certain provisions as shown in the Revised Proposed Rules.

Section 70: Disputes

Based on the comments received, Staff did not modify any provision of the Proposed Rules in this section.

Section 80: Annual proceeding

Several interested persons recommend that the Commission convene an evidentiary proceeding following adoption of the shared solar regulations to receive proposals from Dominion and other interested persons regarding the appropriate cost components and methodology to include in the minimum bill calculation. Just as importantly, commenters also suggest that the Commission avoid prescribing cost categories in these regulations absent an evidentiary proceeding. In addition to establishing the minimum bill components and methodology, the commenters suggest that the Commission should determine how costs of bill credits, minus offsetting value will be calculated, as well as determine how the minimum bill charges for exempt low-income customers shall be recovered by the utility, and address the frequency of such proceedings, as many do not believe an annual proceeding is necessary.

Based on the comments received, Staff has modified certain provisions as shown in the Revised Proposed Rules.

Section 90: Record keeping and reporting requirements

Comments suggested that Proposed Rule 20VAC5-340-90(C) be deleted entirely as it unnecessarily replicates the reporting requirements from the Chapter 314 net metering rules. Commenters believe the Proposed Rules would likely create the risk of confusion, particularly as this section of the rules may not be updated as the Chapter 314 rules are periodically revised. Staff understands the points raised and agrees.

Based on the comments received, Staff has modified certain provisions as shown in the Revised Proposed Rules.

OTHER ISSUES

Following several requests for hearing, Staff does not oppose a hearing early next year following adoption of the Revised Proposed Rules as may be amended by the Commission.

As pointed out by most commenters, the Proposed Rules did not proscribe rules establishing a low-income stakeholder working group as directed by Code § 56-594.3(F)(3). Several commenters, including those of the GA Members, stress the importance of addressing the applicability to low-income customers. Staff understands the importance of this directive and thought it better for such an endeavor to be undertaken at the discretion of the Commission, and not be limited to prescriptive rules at this stage of development of the shared solar program in Virginia. However, should the Commission decide to prescribe this endeavor, the Environmental Advocates offered a new section to the Proposed Rules to initiate a stakeholder process in this case. Staff has included the new section 20VAC5-340-100 for the Commission's consideration.

Additionally, the Proposed Rules did not prescribe rules addressing the savings methodology for measuring low-income participation nor the components of a low-income subscription plan. Such provisions, according to stakeholders, could ensure there is a clear process

and methodology in place for subscriber organizations to use, while also protecting against the possibility of gaming which could lead to lower overall numbers of participating low-income subscribers. CCSA/MDV-SEIA offered language to address such a process. Staff believes such a process could be better developed through the work of the upcoming low-income stakeholder group but has included a new section 20VAC5-340-110, for the Commission's consideration.

CONCLUSION

In response to the Commission's September 21, 2020 Order, Staff has analyzed the comments submitted by the responding participants, as well as those expressed during the virtual stakeholder meeting on November 16, 2020. Staff appreciates the comments, issues and suggestions raised by all interested persons. Staff's analysis included review of the suggested amendments to the Proposed Rules. As previously stated, Staff believes that certain comments addressed in this Report could be more fully developed and considered by the low-income stakeholder group directed by Code § 56-594.3(F)(3).

Staff considers the Revised Proposed Rules to be a reasonable initial attempt to develop sensible regulations that encourage a robust deployment of shared solar among within the service territory of Dominion, especially within the relatively short timeframe directed by the underlying statute. Finally, Staff believes there will be opportunities to learn as the deployment unfolds and experience is gained, particularly as the low-income stakeholder group engages next year.

For the reasons discussed in this Report, Staff respectfully requests that the Commission adopt the Revised Proposed Rules, with consideration of the issues identified herein, including that some of the Revised Proposed Rules need not necessarily be adopted but are provided for the Commission's consideration only.

Attachment A

Revised Proposed Rules

For a Shared Solar Program pursuant
to Code § 56-594.3

Project 6400—Revised Proposed

State Corporation Commission

Chapter 340 Rules Governing Shared Solar Program

Chapter 340

CHAPTER 340 REGULATIONS GOVERNING SHARED SOLAR PROGRAM

20VAC5-340-10. Applicability.

A. This chapter is promulgated pursuant to § 56-594.3 of the Code of Virginia. The provisions of this chapter apply to Phase II Utilities, subscriber organizations, and subscribers. The provisions of this chapter govern the development of shared solar facilities and participation in the shared solar program.

B. The maximum cumulative size of the shared solar program initially shall not exceed 150 megawatts, at least 30% of which must be comprised of low-income customers. The program shall be expanded by 50 megawatts upon qualification of satisfying the 30% requirement of low-income participation.

C. Any shared solar facility may collocate on the same parcel of land as another shared solar facility only if such facilities are owned by the same entity and do not exceed an accumulative maximum capacity of 5,000 kilowatts among all such facilities. Such facilities will also be responsible for any special interconnection arrangements with the utility.

D. Customers participating in this program shall remain in their present customer class but may not participate in the multi-family solar program, pursuant to Chapters 1187, 1188, 1189, and 1239 of the 2020 Acts of Assembly, or the net metering program, pursuant to 20VAC5-315, while participating in this program.

E. Implementation of the shared solar program shall not commence until the earlier of July 1, 2023, or within 60 days of the Phase II Utility's full implementation of a new customer information platform. Each utility must 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, to process customer subscriptions. Subscriber organizations may apply for licenses, register projects, interact with potential customers, and otherwise develop shared solar projects beginning in 2021.

F. The provisions of this chapter shall be deemed not to prohibit the Phase II Utility, in emergency situations, from taking actions it is otherwise authorized to take that are necessary to ensure public safety and reliability of the distribution system. The commission, upon a claim of inappropriate action or its own motion, may investigate and take such corrective actions as may be appropriate.

G. A request for a waiver of any of the provisions in this chapter shall be considered by the State Corporation Commission on a case-by-case basis and may be granted upon such terms and conditions as the State Corporation Commission may impose.

20VAC5-340-20. Definitions.

The following terms shall have the following meanings, unless the context clearly indicates otherwise:

"Affordable housing provider" means any multi-family residential housing project that is one or more of the following:

- (1) A federal, state or local financing program requiring that the real estate remains subject to land use restriction and rental housing affordability covenants that limit allowable rents charged to individuals or families;:

(2) A federal low-income housing tax credit project, as defined in Section 42 of the Internal Revenue Code of 1986, as amended;

(3) A project funded with federal grants made to states for low-income housing tax credits under Section 1602 of the American Recovery and Reinvestment Act of 2009;

(4) A rental assistance demonstration public housing conversion under the federal Consolidated and Further Continuing Appropriations Act of 2020, as amended; or

(5) Affordable housing meeting the applicable requirements of another federal, state, or local 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.

"Low-income customer" means any person or household whose income is no more than 80% 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% of the capacity of which is subscribed by low-income customers or low-income service organizations.

"Low-income subscription plan" means a plan submitted to the commission by an applicant providing a commitment for low-income subscription and demonstrating the ability to subscribe low-income customers.

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"Minimum bill" means an \$/month amount determined by the commission under Va. Code § 56-594.3(D) as described in 20VAC 340-80 that subscribers are required to, at a minimum, pay on their utility bill each month after accounting for any bill credits.

"Non-ministerial permit" means all necessary governmental permits and approvals to construct the project (other than ministerial permits, such as electrical and building permits), notwithstanding any pending legal challenge(s) to one or more permits or approvals.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other private legal entity, and the Commonwealth or any municipality.

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

"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% 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 this chapter 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.

20VAC5-340-30. Licensing of subscriber organizations.

A. ~~Other than a utility,~~ Each entity seeking to conduct business as a subscriber organization shall obtain a license from the commission prior to commencing business operations. Each entity applying for a license to conduct business as a subscriber organization shall file an application with the clerk of the commission and contemporaneously provide a copy of the application to the utility. Applications for licensure shall be filed by the legal entity with control of, or prospective control of, community solar projects rather than each individual project needing a separate license.

If the applicant becomes aware of any material changes to any information while the application is still pending, the applicant shall inform the commission within 10 calendar days.

Applications shall include the following information:

1. Legal name of the applicant, as well as any trade names.

2. Physical business addresses and telephone numbers of the applicant's principal office and all offices in Virginia.
3. A description of the applicant's authorized business structure, identifying the state authorizing such structure and the associated date (e.g., if incorporated, the state and date of incorporation; if a limited liability company, the state issuing the certificate of organization and the date of issuance).
4. Name and business address of all principal corporate officers and directors, partners, and limited liability company (LLC) members, as appropriate.
5. If a foreign corporation, a copy of the applicant's authorization to conduct business in Virginia from the commission or if a domestic corporation, a copy of the certificate of incorporation from the commission.
6. A list of the states in which the applicant and the applicant's affiliates conduct business related to participation in a shared solar program, the names under which such business is conducted, and a description of the business conducted.
7. The applicant shall disclose if it is an affiliate of the incumbent utility. If it is, it shall further provide a description of internal controls the applicant has designed to ensure that it and its employees, contractors, and agents that are engaged in the (i) merchant, operations, transmission, or reliability functions of the electric generation systems; or (ii) customer service, sales, marketing, metering, accounting, or billing functions, do not receive information from the utility or from entities that provide similar functions for or on behalf of the utility as would give the affiliated subscriber organization an undue advantage over nonaffiliated subscriber organizations.
8. Name, title, and address of the applicant's registered agent in Virginia for service of process.

9. Name, title, address, telephone number, and email address of the applicant's liaison with the commission.

10. Sufficient information to demonstrate, for purposes of licensure with the commission, financial fitness commensurate with the services proposed to be provided. Applicant shall submit the following information related to general financial fitness:

a. Proof of a minimum bond rating or other senior debt of at least "BBB-" or an equivalent rating by a major rating agency, or a guarantee with a guarantor possessing a credit rating of "BBB-" or higher from a major rating agency. If not available, other evidence that will demonstrate the applicant's financial responsibility; ~~or~~

b. The applicant's audited balance sheet, income and cash flow statements for the most recent fiscal year, or published financial information such as the most recent Securities and Exchange Commission forms 10-K and 10-Q. If not available, other financial information for the applicant or any other entity that provide financial resources to the applicant may be provided; or

c. A continuous or renewable performance or surety bond, an irrevocable letter of credit, or an irrevocable guaranty from a creditworthy corporate parent of the applicant in a minimum amount of ~~\$50,000~~ \$10,000 for the first megawatt^{MW} of shared solar project capacity plus an additional \$25,000 for each additional megawatt^{MW} of shared solar project capacity the subscriber organization plans to own or operate, -in a form to be prescribed by the commission staff. A certified copy of the bond, letter of credit, or guaranty shall be provided to the State Corporation Commission's Division of Utility Accounting and Finance within 30 days of the issuance of a license to the applicant by the commission. Non-profit subscriber organizations shall not be required to post a bond, letter of credit, or parental guarantee for the first 500 kilowatts of shared solar project capacity.

11. Sufficient information to demonstrate technical fitness commensurate with the service to be provided, to include:

a. A description of the applicant's experience developing solar facilities and engaging as a subscriber organization or other relevant services. Provide a discussion of the applicant's qualifications, including a summary of other projects developed and managed by the applicant with location, status, and operational history.

b. The names and a description of the managerial and technical experience of each principal officer and appropriate senior management person with direct responsibility for the business operations conducted in Virginia. Include a description of their experience related to developing solar facilities and providing shared solar services.

c. Billing service options the applicant intends to offer and a description of the applicant's billing capability including a description of any related experience.

12. A copy of the applicant's dispute resolution procedure, including the toll-free number for the customer service department.

13. A copy of the applicant's proposed standard agreement it plans to use with prospective subscribers.

14. A \$250 registration fee payable to the commission.

15. An attestation that at least 30% of the shared solar facility's capacity will serve low-income customers.

156. The following information related to the applicant's fitness to operate as a subscriber organization:

a. Disclosure of any (i) civil, criminal, or regulatory sanctions or penalties imposed or in place within the previous five years against the applicant, any of its affiliates, or any officer, director, partner, or member of an LLC or any of its affiliates, pursuant to any state or federal law or regulation; and (ii) felony convictions within the previous five years that relate to the business of the company or to an affiliate thereof, of any officer, director, partner, or member of an LLC.

b. Disclosure of whether any application for license or authority to conduct a similar type of business as it proposes to offer in Virginia has ever been denied, and whether any license or authority issued to it or an affiliate has ever been suspended or revoked and whether other sanctions have been imposed.

B. An officer with appropriate authority shall attest that all information supplied on the application for licensure is true and correct and that, if a license is granted, the applicant will abide by all applicable laws of the Commonwealth and regulations of the commission.

C. Any application that fails to provide all required information in this section shall be regarded as incomplete. No action shall be taken on any application until deemed complete and filed.

D. Upon receipt of an application for a license to conduct business as a subscriber organization, the commission shall enter an order providing notice to appropriate persons and an opportunity for comments on the application. The commission shall issue a license to conduct business as a subscriber organization upon finding the applicant satisfies the requirements established by this chapter.

E. A license granted pursuant to this chapter is valid until revoked or suspended by the commission after providing due notice and an opportunity for a hearing, or until the subscriber organization abandons its license.

F. Commission approval is required for transfer or assignment of a license issued under this section to any third party. The commission may condition its approval on any terms it determines appropriate to protect customers.

20VAC5-340-40. Registration with the utility.

A. Licensed subscriber organizations shall register each proposed shared solar facility with the utility by entering into an agreement containing information as prescribed in this section.

B. A subscriber organization shall provide proof of licensure by the commission.

C. A subscriber organization shall submit to the utility the full name of the subscriber organization, address, and type of entity (e.g. partnership, corporation, etc.).

D. Subscriber organizations shall provide the identity of the shared solar facility participating in the shared solar program, including an address of record and a copy of the executed interconnection agreement for the shared solar facility. Subscriber organizations shall also state the amount of capacity for the facility, meeting or exceeding the minimum of 30%, that will be subscribed by low-income subscribers and provide proof that non-ministerial permits have been obtained for the shared solar facility.

E. ~~Subscriber organizations shall include the above documentation and, in the case of~~ For a low-income shared solar facility, the subscriber organization shall provide further documentation that includes a copy of its low-income subscription plan, as applicable.

FE. Subscriber organizations and the utility shall exchange the names, telephone numbers, and email addresses of appropriate internal points of contact to address operational, business coordination, and customer account issues, and the names and addresses of their registered agents in Virginia.

GF. In the event a license granted under 20VAC5-340-30 is transferred to another entity with approval from the commission, the subscriber organization must notify the utility within five business days of approval by the commission.

HG. The utility may require reasonable financial security from the subscriber organization to safeguard the utility and its customers from the reasonably expected net financial impact due to the nonperformance of the subscriber organization. The amount of such financial security shall be commensurate with the level of risk assumed by the utility. Such financial security may include a letter of credit, a deposit in an escrow account, a prepayment arrangement, a surety bond, or other arrangements that may be mutually agreed upon by the utility and the subscriber organization.

IH. The utility shall notify the subscriber organization within 30 days after the subscriber organization submits a shared solar facility registration to the utility ~~of the commission's issuance of a subscriber organization's licensure~~ whether the shared solar facility has been awarded capacity in the program queue or placed on a waiting list. When awarded capacity in the program queue, the subscriber organization shall pay to the utility a security deposit in the amount of \$50 per kilowatt (kW) of alternating-current rated capacity of the shared solar facility within 10 days. This deposit shall be held by the utility in an interest-bearing account. Deposits shall be returned in full, including interest, upon commercial operation of the shared solar facility and demonstration that low-income subscription requirements have been met. As program capacity is awarded, the utility shall ensure that the cumulative capacity of such projects meet or exceed 30% of project capacity (for savings equivalent) for low-income customers as demonstrated by approved low-income subscription plans. Subscriber organizations deemed bona fide nonprofits and exempted from the bonding requirements in the licensing process shall also be exempt from the \$50/kW-ac deposit.

J. If a project fails to reach mechanical completion within 24 months of the date it was awarded capacity, the utility shall remove the project from the program queue unless the subscriber organization of the project provides to the utility an additional deposit of \$25 per kW to maintain its position within the program queue. If, after paying the additional deposit, the project still fails to reach mechanical completion within an additional 12 months, the utility shall remove the project from the program queue.

K. The utility shall maintain, on a publicly available website, a list of projects accepted into the program queue and those projects that are on the wait list. This project list shall rank projects primarily by the date of the awarded capacity and secondarily by the date of a fully executed interconnection agreement. The utility shall update the list within two business days of any change to the projects in the program queue. The list shall include project applicant name, project location, the alternating current capacity rating of the project, the date the application was accepted into the program queue, and whether the project is a low-income shared solar facility.

L. Any project on the wait list that is moved off the wait list and receives a capacity award in the program queue shall have 10 business days to make the required deposit of \$50 per kW of alternating-current rated capacity to retain the project's award.

M. As part of its public program queue, the utility shall monitor and report the amount of capacity that has been allocated to low-income customers, which shall also be published on the utility's website. Upon qualification of 45 megawatts (MW) of alternating current (AC) of capacity committed to low-income subscribers as demonstrated by the approved low-income subscription plans of projects that have secured capacity in the program, the utility shall submit a request to the commission to release an additional 50 MW of capacity for the program, which shall be released without undue delay and allocated first to projects on the wait list and, if capacity remains, to new applicants on a first-come, first-served basis following the registration requirements and process herein.

and address how the expansion shall be allocated.

20VAC5-340-50. Marketing and enrollment.

A. A subscriber organization shall not conduct any marketing activities related to participation in the shared solar program until after the subscriber organization (i) receives a license from the commission; and (ii) has begun the interconnection process with the utility pursuant to Regulations Governing Interconnection of Small Electrical Generators (20VAC5-314); and (iii) has begun completed registration with the utility, as set forth in 20VAC5-340-40.

B. A subscriber organization shall not enroll subscribercustomers until after the earlier of when the utility's customer information system is operating, or July 1, 2023, and the project receives the executed Small Generator Interconnection Agreement pursuant to 20VAC5-314-40 through 20VAC5-314-70 and any other applicable local and state permits for the shared solar facility.

C. A subscriber organization shall not use credit checks as a means to establish the eligibility of a residential customer to become a subscriber.

D. A subscriber organization shall maintain adequate records allowing it to verify the customer's enrollment authorization. Authorization shall be in the form of a written contract with affirmed written signature, electronic signature, or recorded verbal affirmation. The subscriber organization shall maintain a copy of the contract for at least one year after the date of expiration. Such enrollment contracts shall be provided within five business days to the customer, the utility, or the commission staff upon request.

E. A subscriber organization shall provide accurate and understandable information in any advertisements, solicitations, marketing materials, or customer service contracts. All such materials shall, in a manner that is not misleading, include a statement that price for the subscription does not include charges to be billed by the utility.

F. A subscriber organization shall provide to prospective subscribers, prior to executing a written contract, a description of how the shared solar program will function. Such description shall include explanations of the respective roles of the subscriber organization and the utility, and a detailed description of how customers will be billed.

G. Subscriber contracts shall include, at a minimum, the following information:

1. Contract price expressed in per kilowatt-hour, or if price is not easily specified, an explanation of how the subscription price will be calculated.
2. Size of the subscriber subscription in kilowatt-hours. The contract must address modification of subscriptions in the event a shared solar facility underperforms during a period.
3. Length of the contract.
4. Provisions for terminating the contract, including any termination fees.
5. Location of the shared solar facility.
6. Size of the shared solar facility.
7. Description of billing terms and conditions.
8. List of applicable fees, including start up fees, cancellation fees, late payment fees, and fees for returned payments for insufficient funds.
9. Clear descriptions of the responsibilities of the subscriber organization and the utility, consistent with this chapter.
10. Toll-free number and address for complaints and inquiries.
11. A clear statement that (i) the maximum size of the subscriber's subscription shall not exceed their estimated annual usage; (ii) each customer may only participate in one

shared solar facility or one multi-family solar facility; and (iii) a net metering customer may not participate in this program.

12. In a conspicuous location, confirmation of the customer's authorization for the utility and subscriber organization to exchange, at a minimum, the following billing information:

a. Customer name;

b. Billing address and premise address;

c. Utility account number; and

d. Share solar subscription information, including, at a minimum:

(1) Pricing;

(2) Subscription size;

(3) Contract start date and length; and

(4) Terms of subscription.

13. In a conspicuous location, signatures confirming the customer's request to enroll and the approximate date the enrollment will be effective.

H. Upon a subscriber's customer's request, the subscriber organization may transfer the subscription to reenroll a subscriber at a new address under the existing contract without the need to acquire a new authorization record, restriction provided the new address is also located in the utility's service territory. -but- The subscriber organization must provide the utility with updated billing information set forth in subdivision F 12 of this section.

I. At least 60 days prior to the commercial operation of a shared solar facility, the subscriber organization shall provide to the utility, in a format acceptable to the utility, a list of subscribers enrolled in the shared solar facility and their subscription information.

J. In the event multiple enrollment requests are submitted for the same customer, the utility shall process the request with the earliest dated contract and shall notify the customer within five business days of receipt of the enrollment request of such enrollment. The utility shall only terminate enrollment with sufficient proof of termination presented by either the customer or the subscriber organization.

K. At least 60 days prior to the termination or abandonment of a shared solar facility, a subscriber organization must provide advanced written notice to the customer, the utility, and the commission.

L. A subscriber organization shall safeguard adequately all customer information and shall not disclose such information unless the customer authorizes disclosure or unless the information to be disclosed is already in the public domain. This provision, however, shall not restrict the disclosure of credit and payment information as permitted currently or required by federal and state statutes.

M. Subscribers may be qualified by the subscriber organization as low-income using any of the following methods. Once qualified as low income, the subscriber remains qualified as long as they remain subscribed to the same low-income shared solar facility.

1. Documentation that the subscriber's utility account is at an address located within a census tract where the median income is below 80% of the income of the locality;

2. Attestation from the subscriber of their income;

3. Documentation of eligibility for the Supplemental Nutrition Assistance Program, a low-income electricity rate schedule, the Low-Income Heating Assistance Program, or any other program where the income threshold is equal to or lower than the definition of low-income for the program;

4. Documentation that the subscriber is a tenant of an affordable housing provider; or

5. Documentation that the customer acquisition organization is a low-income service organization and the project's low-income subscription plan includes a benefit flow plan for the allocation of benefits to low-income.

N. The commission shall publish, and may amend from time to time, a consumer disclosure form which shall be used by all subscriber organizations when a prospective residential subscriber is presented with a subscription contract. The commission may approve modifications for individual subscriber organizations if the modified form provides equal or greater levels of consumer disclosures. The consumer disclosure form shall summarize the subscriber contract information 20VAC5S-340-50(O). In addition, the disclosure form shall include:

1. A statement that a subscriber may not, by law, be qualified for participation through use of a credit score; and
2. A statement that the subscriber will realize, on at least an annual net basis, savings for participation in the shared solar program and that low-income customers must realize savings on a monthly net basis.

N. A subscriber may remain subscribed to the program even if they move to another location within the utility's territory and may transfer their subscription to a new subscriber so long as the new subscriber meets applicable requirements established by the utility and subscriber organizations that exist at the time of transfer.

20VAC5-340-60. Billing and payment.

A. Subscriber organizations shall provide subscriber information to the utility as follows:

1. Subscriber organizations must provide, on a monthly basis and in a standard electronic format and pursuant to this chapter, 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.

2. Subscriber lists may~~ust~~ be updated monthly to reflect canceling subscribers and to add new subscribers.

3. Monthly information must be provided by the fifth business day of the month.

4. Data transfer protocols for exchange of data between the subscriber organization and the utility shall be established to include:

a. Data components;

b. Data format;

c. Timing of monthly data exchanges;

d. Encryption level; and

e. Channel of data submission.

B. A subscriber organization may offer separate billing or consolidated billing service (net crediting) in which the utility will be the billing party to the customer.

1. Where a subscriber organization chooses to use consolidated billing, the subscriber organization's marketing materials and contracts must identify clearly that the utility may charge a net crediting fee not to exceed 1.0% of the bill credit value.

2. Where a subscriber organization chooses to use net crediting, 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.

3. All billing of the customer shall occur and comply with the utility's normal billing and credit cycles.

C. Credits to subscriber's bills shall occur within two billing cycles following the cycle during which energy was generated by the shared solar facility.

D. Each utility shall, on a monthly basis and in a standardized electronic format, provide 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.

E. Failure of subscriber to pay any regulated charges shall subject the subscriber to the same credit consequences set forth in the utility's commission-approved terms and conditions of service, including the potential requirement to post a security or disconnection of service. The utility shall advise the subscriber directly of any pending disconnection action for nonpayment consistent with current practice, separate from the customer bill. Such notice shall identify clearly the amount that must be paid and the date by which such amount must be received and provide instructions for direct payment to the utility to avoid disconnection. A subscriber may not be disconnected for nonpayment of unregulated service charges.

F. Bill credits.

1. Bill credits shall be for a particular calendar month, regardless of the billing period or billing cycle of the individual customer's account.

2. Bill credits 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 portion of a bill credit that exceeds the subscriber's monthly bill, minus the minimum bill, shall be carried over and applied to subsequent bills until the earlier of when the credit is satisfied, or up to 12 months the next month's bill. Such carry over plus the next month's credit cannot exceed the next month's bill, minus the minimum bill.

3. In the event that all of the electricity generated by a shared solar facility is not allocated to subscribers in a given month, a subscriber organization may accumulate bill credits.

The subscriber organization shall provide the utility allocation instructions for distributing excess bill credits to subscribers on an annual basis.

4. In an annual proceeding, the commission shall establish set the yearly applicable bill credit rate for based upon the subscriber's class of either residential, commercial or industrial rate class.

5. 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.

6. The bill credits associated with the shared solar program shall be applied through the utility's fuel factor.

G. Minimum bill.

1. In an annual proceeding, to be convened upon adoption of these regulations as prescribed in 20VAC5-340-80, the commission will set determine the specific costs and formula to determine the a minimum bill for program participants.

2. Low-income customers shall be exempt from the minimum bill. Costs associated with such customers' participation shall be recovered by the utility in a manner to be determined by the commission in the annual proceeding set forth in 20VAC5-340-80.

H. Net crediting.

1. Net crediting functionality shall be part of any new customer information platform approved by the commission.

2. 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.

3. The net crediting fee shall not exceed 1.0% of the bill credit value.

4. 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.

I. Shared solar facility requirements.

1. Regardless of whether a subscriber organization uses net crediting, a utility may bill the subscriber organization a monthly administrative charge, as approved by the commission in the annual proceeding set forth in 20VAC5-340-80, for the costs attributed to the interconnection of the shared solar facility to the utility grid to cover the costs of providing electric services to the facility.

12. A shared solar facility must have a utility-provided meter capable of measuring output of the facility on a 30-minute interval basis.

a. The shared solar facility's meter shall not be located behind another utility customer account.

b. Costs of installation, maintenance, and reading of the meter shall be part of the administrative costs of the shared solar program billed to the subscriber organization.

20VAC5-340-70. Disputes.

A. The parties agree to attempt to resolve all disputes arising out of the shared solar program process according to the provisions of this section.

B. A subscriber organization shall establish an explicit dispute resolution procedure that identifies clearly the process that shall be followed when resolving customer disputes. A copy of such dispute resolution procedure shall be provided to a customer or the commission upon request.

C. If the dispute remains unresolved, either party may petition the commission to handle the dispute as a formal complaint or may exercise whatever rights and remedies it may have in equity or law.

D. A subscriber organization shall furnish to customers an address and 24-hour toll-free telephone number for customer inquiries and complaints regarding services provided by the subscriber organization. The 24-hour toll-free telephone number shall be stated on all customer-billing statements and shall provide customers the opportunity to speak to a customer representative during normal business hours. Outside of normal business hours, a recorded message shall direct customers how to obtain customer assistance.

E. A subscriber organization shall direct a customer to contact the utility immediately if the customer has a service emergency. Such direction may be given either by a customer service representative or by a recorded message on its 24-hour toll-free telephone number.

F. A subscriber organization shall retain customer billing and account records and complaint records for at least three years and provide copies of such records to a customer or the commission upon request.

G. In the event that a customer has been referred to the utility by a subscriber organization, or to a subscriber organization by the utility, for response to an inquiry or a complaint, the party that is contacted second shall (i) resolve the inquiry or complaint in a timely fashion or (ii) contact the other party to determine responsibility for resolving the inquiry or complaint.

H. In the event a subscriber organization and customer cannot resolve a dispute, the subscriber organization shall provide the customer with the toll-free number and address of the commission.

20VAC5-340-80. Annual proceeding Minimum bill composition.

A. The commission shall convene a proceeding upon adoption of these regulations annually to determine any the monthly administrative charge to subscriber organizations and the components of, the minimum bill. components and the calculation of each customer class's applicable bill credit rate for the following year.

With respect to the minimum bill:

1. Each subscriber shall pay a minimum monthly bill, which shall, as approved by the commission, 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 to the subscribers, and (ii) minimize the costs shifted to customers not in a shared solar program.

2. The minimum bill components established annually as set forth in subdivision 1 of this subsection, and updated as deemed necessary by the commission, shall be limited to such costs as determined by the commission to be just and reasonable based on evidence provided by the parties to the evidentiary hearing process. Such costs must reflect incremental costs of the shared solar program and not otherwise recovered by the utility from participating subscribers. The following factors shall be considered by the commission in determining whether costs proposed by the utility are incremental to the shared solar program and eligible for inclusion in the minimum bill:

a. The extent to which the costs are utility infrastructure and services used to provide electric service for the shared solar program:

b. The extent to which the costs are administrative costs of the shared solar program:

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c. Whether including the cost in the minimum bill is necessary to ensure subscribing customers pay a fair share of the costs of providing electric services to the subscribers;

d. Whether including the cost in the minimum bill will minimize the costs shifted to customers not in a shared program; and

e. Whether including the cost in the minimum bill is otherwise consistent with the requirements of § 56-594.3 of the Code of Virginia.

must include, at a minimum, the following four general categories of costs, to be demonstrated by the utility:

a. Transmission and distribution costs;

b. Standby generation and balancing costs;

c. Non-bypassable charges established by the commission or otherwise by law; and

d. Administrative costs.

3. As part of the annual proceeding, the commission shall also determine how the utility will recover the minimum bill charges for exempt low-income customers.

4. Certain of these costs, including transmission and distribution costs, as well as non-bypassable charges, shall be determined by reference to rates approved in parallel rate proceedings before the commission and shall be updated automatically for shared solar customers when those rates are adjusted for the broader customer population. Other charges, including those in the standby generation and balancing costs category and the administrative costs category, shall be evaluated and determined by the commission in the annual proceeding convened pursuant to this section.

B. The bill credit shall be calculated in accordance with 20VAC5-340-60 F.

20VAC5-340-90. Recordkeeping and reporting requirements.

A. Subscriber organizations. Prior to commercial operation of any shared solar facility, each subscriber organization shall report to the commission and the applicable utility its achievement of contracting with low-income customers. Thereafter, this report shall be updated and filed semi-annually with the commission by January 31 and July 31, respectively, of each calendar year for the previous calendar year, commencing in 2024. When making the annual report, the subscriber organization shall provide the following information:

1. Total number of subscribers and the amount of kilowatts subscribed to by each subscriber;
2. Total number of low-income customers and the amount of kilowatts subscribed to by each low-income customer;
3. Detailed plan for meeting its low-income customer target in the upcoming year if the target was not met for the annual period covered by the report; and
4. Certification that there is no subscriber whose subscription size exceeds the subscriber's average annual bill over the past 12 months for the customer account to which the subscription is attributed.

The utility shall maintain a consolidated list of active subscriber organizations, including the number of low-income customers for each organization.

Each subscriber organization shall retain a record of all disclosure forms, low-income customer proof of eligibility, and subscriber allocation lists for a period of at least three years. Each subscriber organization shall retain copies of subscriber contracts for a period of at least one year from the date of their expiration. Each of these documents must be made available immediately upon request from the commission or commission staff.

A subscriber organization shall retain customer billing and account records and complaint records for at least three years.

B. Affordable housing providers. Affordable housing providers subscribing on behalf of their low-income tenants shall annually, on or before January 31, commencing in 2024, submit a written report for the shared solar program to the commission staff describing how bill savings or other tangible benefits were provided to the tenants in the last year. The report shall include a detailed accounting and expense report for the bill savings achieved.

C. Utility. The utility shall maintain conformance ~~in accordance with the commission's Regulations Governing Interconnection of Small Electric Generators (20VAC5-314), and specifically, 20VAC5-314-130.:~~

~~1. The utility shall maintain, subject to audit, records for three years of (i) all interconnection requests received pursuant to this chapter, (ii) the times required to complete interconnection request approvals and disapprovals, and (iii) justification for the actions taken on the interconnection requests.~~

~~2. Each utility shall annually, on or before January 31, submit a written report to the commission staff that includes the utility's shared solar facility queue and a listing of those facilities interconnected during the preceding calendar year. This report shall include the following data for each shared solar facility:~~

~~a. Queue number.~~

~~b. The physical address or geographic coordinates (latitude and longitude) of the shared solar facility.~~

~~c. The capacity of the shared solar facility in terms of megawatts.~~

~~d. The substation and transformer to which the project will be interconnected.~~

- ~~e. The feeder or circuit to which the project will be interconnected.~~
- ~~f. The date of submission of final completed Interconnection Request Form, as provided in 20VAC5-314-170.~~
- ~~g. Interdependency status (e.g., Project A or Project B).~~
- ~~h. Status of the request in the interconnection process (e.g., interconnection agreement executed, connected, canceled).~~
- ~~i. The date of final completed signed interconnection agreement.~~

20VAC5-340-100. Low-income participation stakeholder process.

A. The Commission shall, upon the adoption of these rules, initiate a stakeholder process including low-income community representatives and community solar providers to facilitate low-income customer and low-income service organization participation in the program.

B. The stakeholder process shall address, at a minimum, the following issues:

1. Best practices for verifying a customer's low-income qualifications:
2. Best practices for outreach to and enrollment of low-income customer and low-income service organization;
3. How to encourage low-income service organizations to pass cost-savings on as tangible benefits to low-income customers:
4. How to ensure fair practices and the effective provision of services to low-income customers:
5. Additional concerns about the integration of low-income service organizations into

the shared solar program (public/private partnerships, HUD-assisted facilities, non-jurisdictional customers, and barriers to organization participation):

6. Guidelines that are required to be established by the Commission for distributing excess bill credits to subscribers:

7. Guidelines that are required to be established by the Commission regarding the communication of the subscriber list with the kilowatt-hours of generation attributable to each of the subscribers participating in the shared solar facility:

8. Any other process issues regarding billing:

9. Transparency and effectiveness of interconnection process:

10. Subscriber organization qualifications especially related to low-income customers; and

11. How the shared solar program should complement other renewable energy programs for customers, such as the multi-family shared solar program set forth in § 56.585.1:12 of the Code and the Virginia Clean Economy Act.

20VAC5-340-110. Savings based method for low-income shared solar capacity.

A. Upon registration, a subscriber organization shall elect either the capacity methodology or savings methodology for a low-income shared solar facility. This election can be changed at any time over the life of the facility, if the subscriber organization submits and receives approval for an updated low-income subscription plan and the capacity or savings-based capacity equivalent remain above 30% of the project's capacity.

B. For an applicant to select the savings methodology, the following requirements must be met as verified by the commission through review and approval of the applicant's low-income subscription plan:

1. As part of its low-income subscription plan, the applicant must submit a plan to the commission that demonstrates how the low-income shared solar facility will deliver verifiable savings to subscribers, and what percentage of those savings will be delivered to low-income subscribers. For this plan, savings is calculated as the total bill credits over the life of the low-income shared solar facility minus subscription fees and other mandatory fees paid by subscribers.
2. The plan must be accompanied by samples of subscriber contracts that will be used for the project.
3. To qualify for the savings methodology, plan must provide subscribers guaranteed savings on a monthly basis.
4. To qualify for the savings methodology, the percentage of savings delivered to low-income subscribers must be no greater than 5 times the percentage of total project subscribers who are low-income customers.
5. All plans that meet the requirements described herein shall be approved by the commission. as part of the low-income subscription plan.
6. For purposes of measuring overall program participation by low-income subscribers, the commission shall convert the savings methodology into a capacity value. To make this conversion, the commission shall multiply the percentage of project savings delivered to low-income subscribers (as described in an approved plan) by the project capacity. This capacity value shall be used to determine when the 45 MW of capacity has been subscribed by low-income customers.

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