COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, DECEMBER 23, 2020

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION CASE NO. PUR-2020-00124

*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

ORDER ADOPTING RULES

During its 2020 Session, the Virginia General Assembly enacted Chapters 1188 (HB 572), 1189 (HB 1184), 1239 (HB 1647), and 1187 (SB 710) of the 2020 Virginia Acts of Assembly. These Acts of Assembly amend the Code of Virginia ("Code") by adding a section numbered 56-585.1:12,[1] effective July 1, 2020. Code § 56-585.1:12 requires that by January 1, 2021, the State Corporation Commission ("Commission") establish by regulation a program affording eligible multi-family customers of Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion") and Kentucky Utilities Company d/b/a Old Dominion Power Company ("ODP") the opportunity to participate in shared solar projects. Code § 56-585.1:12 C 7 states: "All environmental attributes associated with a shared solar facility, including renewable energy certificates, shall be considered property of the subscriber organization. At the subscriber organization's discretion, those attributes may be distributed to subscribers, sold to investor-owned utilities or other buyers, accumulated, or retired."

On July 1, 2020, the Commission entered an Order Directing Comment in this proceeding that sought comments on the multi-family shared solar program and associated

[1] This section was added as § 56-585.1:11 but was renumbered pursuant to the direction of the Virginia Code Commission.

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regulations. The Commission's Order Directing Comment directed Dominion and ODP, and invited interested persons or entities, to file comments. The Order Directing Comment also permitted commenters to propose specific regulations.

The following parties filed comments: the Coalition for Community Solar Access and the Maryland-DC-Delaware-Virginia Solar Energy Industries Association (collectively, "CCSA/MDV-SEIA"); the Virginia Department of Mines, Minerals and Energy ("DMME"); the Virginia Clean Energy Advisory Board ("VCEA Board"); the Sierra Club; the Southern Environmental Law Center and Appalachian Voices (collectively, "Environmental Advocates"); Dominion; ODP; and GRID Alternatives Mid-Atlantic. On August 14, 2020, Dominion and CCSA/MDV-SEIA filed proposed regulations.

On September 21, 2020, the Commission entered an Order for Notice and Comment ("Procedural Order") in this docket that included proposed rules ("Proposed Rules") to be considered for adoption, which had been prepared by the Commission's Staff ("Staff"). The Commission's Procedural Order provided an opportunity for interested persons to file comments on the Proposed Rules, along with hearing requests and proposals. The Commission's Procedural Order also directed Staff to file a report ("Staff Report" or "Report") on, or a response to, any comments, proposals, or requests for hearing submitted to the Commission on the Proposed Rules. The Procedural Order further directed that a copy of the Proposed Rules be sent to the Registrar of Regulations for publication in the *Virginia Register of Regulations*.[2]

In response to the Commission's Procedural Order, comments were received from the following entities: VCEA Board; Sierra Club; Environmental Advocates; CCSA/MDV-SEIA; DMME; ODP; and Dominion. Comments were also received jointly from the following

[2] The Proposed Rules appeared in the October 12, 2020 issue of the *Virginia Register of Regulations*.

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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. Additionally, 38 public comments were submitted via the Commission's website. One request for hearing was received by the due date.[3]

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"). Through its Motion, Staff requested that the Commission extend the deadline for filing the Staff Report by one week. Staff indicated that numerous stakeholders had requested a meeting with Staff prior to the filing of the Staff Report. On November 13, 2020, the Commission issued its Order Granting Motion accepting the Staff's request.

On November 16, 2020, with the assistance of DMME, Staff conducted a virtual stakeholder meeting that invited all those providing comments and all stakeholders who had indicated interest in such a meeting with Staff. Staff represented that this virtual meeting included 62 participants.

Staff filed its Report on November 23, 2020, which included certain revisions to the Proposed Rules based on Staff's review of both written and oral comments provided through filings and the virtual stakeholder meeting.

NOW THE COMMISSION, upon consideration of this matter, finds that we should adopt the rules ("Rules") appended hereto as Attachment A effective January 1, 2021. As an initial matter, the Commission expresses appreciation to those who have submitted written comments for our consideration and have otherwise participated in this proceeding. We have carefully

[3] Staff has represented that the party requesting a hearing accepted the stakeholder meeting conducted on November 16, 2020, in lieu of any formal hearing.

reviewed and considered all comments filed in this matter. The Rules adopted today are intended to support the objectives of Code § 56-585.1:12, while also protecting the electric system and Virginia consumers. As experience is gained and lessons are learned, the Commission anticipates that these Rules may be updated and revised accordingly. In this regard, we further note that the Rules, as adopted herein, permit requests for waiver.[4]

The Rules we adopt herein contain modifications to those that were first proposed by Staff and published in the *Virginia Register of Regulations* on October 12, 2020. These modifications follow our consideration of further proposed changes made by the Staff in its Staff Report and the comments filed in this proceeding. Although we will not comment on each modification in detail, there are several issues that we will address further herein.

20 VAC 5-342-10

Various commenters expressed concerns that the Proposed Rules, as written, would not apply to ODP.[5] Staff revised the Proposed Rules to clarify their applicability to both Dominion and ODP. We agree that Code § 56-585.1:12 applies to ODP, and we have adopted revisions to clarify that point in the Rules.

20 VAC-342-20

Staff noted concerns that the definition of "multi-family customer" may not allow for customers in duplex-style homes.[6] Staff revised the Proposed Rules to address these concerns. We adopt a definition that includes utility customers of duplex-style homes with at least three

[4] 20 VAC 5-342-10 E.

[5] *See, e.g.*, Environmental Advocates Comments at 9; DMME Comments at 1-2.

[6] Staff Report at 5.

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subscribers to the shared solar facility, as is required by the definition of "shared solar facility" in Code § 56-585.1:12 A.

20 VAC 5-342-30

In its Report, Staff noted that some commenters viewed the subscriber organization requirements for licensing with the Commission as unnecessarily onerous, particularly for small projects owned by residents, property owners, non-profit entities, or small companies.[7] While asserting that most projects would likely be much smaller than the three megawatt size cap, Staff believes that licensing should be required for corporate entities in the business of solar development or applicants with projects greater than 500 kilowatts.[8] Staff suggested that the Commission could differentiate between these different types of entities in the licensing requirements.[9] We find that doing so is appropriate and have therefore added 20 VAC 5-342-100, which creates an exemption process for entities that provide less than a total of 500 kilowatts alternating current at any one location or multiple locations. Rather than licensing, such entities must provide notice to the Commission's Division of Public Utility Regulation prior to commencing business operations. We note, however, that each project, regardless of size, must register with the utility.

As part of the licensing process for subscriber organizations, the Proposed Rules contained a bonding requirement for purposes of demonstrating of financial fitness. That requirement has been removed from the Rules. Such financial security may, however, be required by the Commission as a condition of licensure and prescribed through the Commission's

[7] *Id.* at 6-7.

[8] *Id.* at 7-8.

[9] *Id.* at 8-9.

order granting a license to a subscriber organization. The Staff will evaluate each applicant's financial fitness and recommend that the Commission require financial security as appropriate. This modification allows applicants to be evaluated on an individual basis and for the Commission to consider nonprofit status or other facts relevant to financial fitness when granting a license.

Many commenters proposed that the Commission exclude the utilities and their affiliates from participating in the multi-family shared solar program.[10] Staff indicated that it believes nothing in the statute precludes utility participation but believes that as a practical matter, allowing affiliate participation, rather than utility participation, would better serve the program.[11] We agree with Staff's analysis and have added language to clarify that a utility may not participate as a subscriber organization. We find that the Proposed Rules otherwise provided adequate protections for addressing utility affiliate participation and that those provisions will be adopted as proposed.[12]

20 VAC 5-342-50

As drafted, subsection A of Section 50 of the Proposed Rules prohibits marketing activities until after, among other things, the subscriber organization has started the interconnection process with the utility pursuant to the Commission's Regulations Governing Interconnection of Small Electrical Generators and Storage, 20 VAC 5-314-10 *et seq.* ("Interconnection Rules"). Most comments received by the Commission agreed that the

[10] *See, e.g.*, CCSA/MDV-SEIA Comments at 6-7; DMME Comments at 3.

[11] Staff Report at 6.

[12] As always, contracts and/or arrangements between utilities and their affiliates are subject to the Affiliates Act, Code § 56-76 *et seq.*

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marketing requirements in Section 50 of the Proposed Rules need to be changed to align with how multi-family projects would be developed in practice.[13] Specifically, in the context of the multi-family shared solar program where the project must be located on the customers' site, a developer could not establish control over a site, as required by the Interconnection Rules,[14] without advertising to and communicating with potential customers.[15] As the Proposed Rules currently are structured, however, such marketing by a developer could not occur until after interconnection with the utility has begun. To eliminate this double bind, Staff deleted subsection A of Rule 50.[16] We find Staff's deletion appropriate in this context and adopt it in the Rules.

Many commenters agree that a standardized consumer disclosure form, as required by Code § 56-585.1:12 E 6, needs to be provided to each prospective customer before subscribing to a multi-family shared solar facility.[17] Staff prefers that this form be developed with the assistance of the low-income stakeholder working group to be established under the non-multi-family shared solar program being developed pursuant to different statute, specifically Code § 56-594.3.[18] Given the limited time for adopting these Rules and the collective expertise of the low-income stakeholder group, we agree with Staff and direct the working group to

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[13] Staff Report at 11.

[14] *See* 20 VAC 5-314-170, Schedule 1, § 5.

[15] Staff Report at 11.

[16] *Id.*

[17] *Id.* at 12.

[18] *Id.*

develop the disclosure form(s) to be adopted by the Commission for the multi-family shared solar program.[19]

20 VAC 5-342-60

Staff noted in its Report that non-utility commenters asserted that bill credits should roll over, in perpetuity, to future months when those credits exceed a customer's current monthly bill, in keeping with the language of Code § 56-585.1:12 C 1.[20] This Code provision reads, in pertinent part, "Any amount of the bill credit that exceeds the subscriber's monthly bill shall be carried over and applied to the next month's bill in perpetuity."[21] In its Report, Staff suggested a revision to the Proposed Rules to mirror this Code requirement.[22] We find Staff's revision appropriate and incorporate it into the Rules.

20 VAC 5-342-80

Section 80 addresses future Commission proceedings to determine the utility administrative charge and the calculation of subscriber bill credits. Many commenters stated that the administrative charge, as defined in the Proposed Rules, is inappropriate because it has the same cost components as the proposed minimum bill for the non-multi-family shared solar program.[23] For that program, Code § 56-594.3 requires subscribers to pay a minimum monthly bill, to be established by the Commission, to allow the utility to recover certain program-related

[19] This working group is being created pursuant to Code § 56-594.3 F 3 in *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.

[20] Staff Report at 12-13.

[21] Code § 56-585.1:12 C 1.

[22] *See* Staff Report at 13.

[23] *See id.* at 12.

costs. Code § 56-585.1:12 contains no such minimum bill provision for the multi-family shared solar program.[24] Thus, the need for and amount of any administrative charge is a determination made by the Commission in its discretion. The Staff proposed changes to Section 80 to incorporate this discretion, and we adopt these revisions.

The Commission also received comments asserting that the applicable bill credit rate does not require a proceeding; rather, in December of each year, the Commission could calculate an annual bill credit based on publicly available data and thereafter publish or post its calculation.[25] Staff revised the Proposed Rules to provide flexibility in this area. We adopt Staff's revisions and will calculate and publish the applicable bill credit rate accordingly.

20 VAC 5-342-100

As previously discussed, the Commission has adopted this section of the Rules to create an exemption process for subscriber organization licensing. We find that adding this section to the Rules addresses the concerns of many commenters that the licensing process as proposed would be too onerous for smaller subscriber organizations.[26] We nevertheless recognize the importance of certain protections that the licensing process contains and have incorporated those protections into the exemption process for smaller organizations. Specifically, instead of submitting to a full licensure process with the Commission, subscriber organizations that provide less than 500 kilowatts alternating current of solar energy at one location, or multiple locations, must instead provide a notice, as prescribed by Rule 100, to the Commission's Division of Public Utility Regulation and subject to review and approval prior to commencing business operations.

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[24] *Id.*

[25] *See id.* at 14.

[26] *See id.* at 6-7.

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Other matters

We also note that Code § 56-585.1:12 E 10 requires a program implementation schedule. To that end, the Commission will begin receiving applications for subscriber organization licensing and exemptions beginning on July 1, 2021. We also require that, by June 1, 2021, Dominion and ODP shall file with the Commission, and publish on their websites, any materials needed for project registration. On July 1, 2021, Dominion and ODP shall begin accepting applications for registration. By June 30, 2021, Dominion and ODP shall file any remaining tariffs, agreements, or forms necessary for the program.

Accordingly, IT IS ORDERED THAT:

(1) The Rules Governing Multi-Family Shared Solar Program, 20 VAC 5-342-10 *et seq.*, as shown in Attachment A to this Order, are hereby adopted and are effective as of January 1, 2021.

(2) The Commission's Division of Information Resources shall forward a copy of this Order, with Attachment A, to the Registrar of Regulations for appropriate publication in the *Virginia Register of Regulations*.

(3) An electronic copy of this Order with Attachment A shall be made available on the Division of Public Utility Regulation's section of the Commission's website: scc.virginia.gov/pages/Rulemaking.

(4) By June 1, 2021, Dominion and ODP shall file with the Commission, and publish on their websites, any materials needed for project registration.

(5) By June 30, 2021, Dominion and ODP shall file any remaining tariffs, agreements, or forms necessary for the program with the Clerk of the Commission and shall submit the same to the Commission's Division of Public Utility Regulation and Division of Utility Accounting and

Finance. The Clerk shall retain such filings for public inspection on the Commission's website: scc.virginia.gov/pages/Case-Information.

(6) Dominion and ODP shall begin accepting applications for registration on July 1, 2021.

(7) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.



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**Project 6402 - Proposed**

**State Corporation Commission**

**Chapter 342 Rules Governing Multi-family Shared Solar Program**

Chapter 342

RULES GOVERNING MULTI-FAMILY SHARED SOLAR PROGRAM

## 20VAC5-342-10. Applicability.

A. This chapter is promulgated pursuant to the provisions of § 56-585.1:12 of the Code of Virginia. The provisions of this chapter apply to [~~Phase II Utilities, including, notwithstanding subsection G of § 56-580 of the Code of Virginia, any investor-owned utility whose service territory assigned to it by the commission is located entirely within the Counties of Dickenson, Lee, Russell, Scott, and Wise~~ investor-owned utilities, as defined in 20VAC5-342-20], subscriber organizations, and subscribers, and govern the development of shared solar facilities and participation in the multi-family shared solar program.

B. Customers participating in this program shall remain in their present customer class but may not participate in the shared solar program, pursuant to Chapters 1238 and 1264 of the 2020 Acts of Assembly, or the net metering program, pursuant to 20VAC5-315-10, while participating in this program.

C. Any shared solar facility may colocate 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 kW alternating current in the aggregate. Such facilities will also be responsible for any special interconnection arrangements with the utility.

D. The provisions of this chapter shall not be deemed to prohibit the utility, in emergency situations, from taking actions it is otherwise authorized to take that are necessary to ensure

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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.

E. Any request for a waiver of any provision in this chapter shall be considered by the commission on a case-by-case basis and may be granted upon such terms and conditions as the commission may impose.

## 20VAC5-342-20. Definitions.

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

"Administrative charge" is the [~~total~~ reasonable incremental] cost to the investor-owned utility to administer the program [~~that is assessed to the subscriber organization~~ as determined by the commission].

"Applicable bill credit rate" means the dollar-per-kilowatt-hour rate (effective retail rate of the customer's rate class, expressed in dollars or cents per kilowatt-hour) inclusive of all supply charges, delivery charges, demand charges, fixed charges, and any applicable riders or other charges to the customer. The applicable bill credit rate shall be set such that the shared solar program results in robust project development and shared solar program access for all customer classes.

"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.

"Investor-owned utility" or "utility" means each investor-owned utility in the Commonwealth including, notwithstanding subsection G of § 56-580 of the Code of Virginia, any investor-owned utility whose service territory assigned to it by the commission is located entirely within the

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Counties of Dickenson, Lee, Russell, Scott, and Wise. "Investor-owned utility" does not include a Phase I Utility, as that term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia.

"Multi-family customer" means an investor-owned utility customer residing in an apartment [~~or~~ ,] condominium [, or duplex] complex with [~~at least three~~] individually metered residences [and at least three subscribers to the shared solar facility].

"Multi-family shared solar program" or "program" means the program created through this chapter to allow for the development of shared solar facilities described in subsection C of § 56-585.1:12 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 3,000 kW alternating current at any single location or that does not exceed 5,000 kW alternating current at contiguous locations owned by the same entity or affiliated entities;

2. Is operated pursuant to a program whereby at least three subscribers receive a bill credit for the electricity generated from the facility in proportion to the size of their subscription;

3. Is located in the service territory of an investor-owned utility;

4. Is connected to the electric distribution grid serving the Commonwealth; and

5. Is located on a parcel of land on the premises of the multi-family utility customer or adjacent thereto.

"Subscriber" means a multi-family customer of an investor-owned electric utility that owns one or more subscriptions of a shared solar facility that is interconnected with the utility.

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"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. [An investor-owned utility shall not be a subscriber organization.]

"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 over the past 12 months for the customer account to which the subscription is attributed.

## 20VAC5-342-30. Licensing of subscriber organizations.

A. [~~Other than an investor-owned utility, each~~ Each] entity seeking to conduct business as a subscriber organization [, unless otherwise exempt or granted a waiver,] 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 investor-owned utility. If the applicant becomes aware of any material changes to any information within the application, 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 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).

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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 the applicant and the applicant's 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. Description of the project to include the physical location and size (in kW AC) of the solar facility, expected in-service date, the identity of the complex being served, the expected number of subscribers to be served and any other pertinent information, as applicable.]

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[~~10.~~ 11.] 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~~ If available, proof] of a minimum bond rating or other senior debt of "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 [~~;~~.]

b. [~~The~~ If available, 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 provides 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 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.~~

c. If applicable, information to demonstrate that the applicant is a bona fide non-profit entity. The information provided shall establish that the applicant (i) has the status of a tax-exempt organization under § 501 (C)(3) of the Internal Revenue Code of 1986; (ii) conducts its activities in a manner that serves public or charitable purposes rather than commercial purposes; (iii) will apply for qualification of projects that serve

primarily or exclusively low-income customers; and (iv) was not created for the purpose of avoiding the financial fitness requirements or otherwise under the control of a for profit entity.]

[~~11.~~ 12.] 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 [supported by the utility of which] the applicant intends to offer and a description of the applicant's billing capability including a description of any related experience.

[~~12.~~ 13.] A copy of the applicant's dispute resolution procedure, including the [~~toll-free~~] number for the customer service department.

[~~13.~~ 14.] A copy of the applicant's proposed standard agreement it plans to use with prospective subscribers.

[~~14.~~ 15.] A $250 registration fee payable to the commission.

[~~15.~~ 16.] The following information related to the applicant's fitness to operate as a subscriber organization:

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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 consumer protection 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, 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 or until the subscriber organization abandons its license.

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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 are appropriate to protect customers.

**20VAC5-342-40. Registration with the utility.**

A. [~~Licensed~~ Each] subscriber [~~organizations~~ organization, licensed or otherwise,] 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 [, as applicable].

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 multi-family shared solar program, including an address of record and a copy of the executed interconnection agreement for the shared solar facility.

E. 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.

F. In the event a license granted under 20VAC5-342-30 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.

G. 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

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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. [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.]

## 20VAC5-342-50. Marketing and enrollment.

~~[A. A subscriber organization shall not conduct any marketing activities related to participation in the multi-family shared solar program until after the subscriber organization (i) receives a license from the commission; (ii) has begun the interconnection process with the utility pursuant to Regulations Governing Interconnection of Small Electrical Generators (20VAC5-314); and (iii) completed registration with the utility, as set forth in 20VAC5-342-40.~~

~~B.~~ A.] A subscriber organization shall not enroll customers until after it 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.~~ B.] 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.

[~~D.~~ C.] 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 the price for the subscription does not include charges to be billed by the utility.

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[~~E.~~ D.] A subscriber organization shall provide to prospective subscribers, prior to executing a written contract, [a standardized consumer disclosure form and] a description of how the multi-family 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.

[~~F.~~ E.] Subscriber contracts shall include, at a minimum, the following information:

1. Contract price expressed in per-kilowatt-hours, 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~~ Contact information] 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

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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.

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

[~~H. At least 60 days prior to the commercial operation of a shared solar facility, the~~ G. The] subscriber organization shall provide to the utility, in a format acceptable to the utility, [~~a~~ an initial] list of subscribers enrolled in the shared solar facility and their subscription information [at least 60 days prior to the shared solar facility supplying service to any customer].

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[~~I.~~ H.] 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 send notification to the customer within five business days of receipt of the enrollment request of such enrollment. The utility shall terminate enrollment only with sufficient proof of termination presented by either the customer or the subscriber organization.

[~~J.~~ I.] 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.

[~~K.~~ J.] 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 currently permitted by federal and state statutes.

**20VAC5-342-60. 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 [~~must~~ may] 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.

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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 [generated within a monthly billing cycle that exceed the month's bill] shall [~~occur within one billing cycle following the cycle during which energy was generated by the shared solar facility~~ be applied to subsequent bills without restriction].

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 balance charges shall subject the subscriber to the same credit consequences set forth in the utility's commission-approved terms and conditions of service, including potential requirement to post security deposit 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 shall be carried over and applied to the next month's bill [in perpetuity]. [~~Such carry-over plus the next month's credit cannot exceed the next month's 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.

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4. [~~In an annual proceeding, the commission shall set the~~ The] applicable bill credit [shall be determined by the commission] based upon the subscriber's [rate] class [~~of~~ as] either [a] residential, commercial, or industrial [customer].

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 multi-family shared solar program shall be applied through the utility's fuel factor.

[~~G. Administrative charge. In an annual proceeding, as prescribed in 20VAC5-342-80, the commission will set an administrative charge to be assessed to subscriber organizations.~~

~~H.~~ G.] 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 20VAC5-342-80, 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.~~]

[~~2.~~] A shared solar facility must have a utility-provided meter capable of measuring output of the facility on a 30-minute interval basis.

[~~a.~~ 1.] The shared solar facility's meter shall not [generally] be located behind another utility customer account.

[~~b.~~ 2.] 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.

**20VAC5-342-70. Disputes.**

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A. The parties agree 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 immediately direct a customer to contact the utility 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

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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.

**20VAC5-342-80. [~~Annual proceeding~~ Determination of bill credit rate and administrative charge].**

A. The commission shall [~~convene a proceeding annually to~~] determine [~~(i)~~] the [~~monthly~~ need for and amount of any appropriate] administrative charge [~~to subscriber organizations and (ii) the calculation of applicable bill credit rate of each customer class for the following year~~.

~~With respect to the administrative charge:~~].

1. [~~The~~ Any] administrative charge [~~established annually described in this subsection must~~ deemed necessary by the commission may] include [~~, at a minimum,~~ items such as] 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. Other administrative costs, including such as any banking, balancing, and storing fees related to the utility's processing and handling of the excess bill credits.

2. Certain of these costs [~~, including transmission and distribution costs, as well as non-bypassable charges, will~~ may] be determined by reference to rates approved in parallel rate proceedings before the commission and [~~shall~~ may] be updated automatically [~~for subscriber organizations~~] when those rates are adjusted for the utility's customer population. Other components of the administrative charge [~~, including those in the~~

~~standby generation and balancing costs category and the other administrative costs category, will~~ may] be [~~evaluated~~ reevaluated] and determined by the commission in [~~the annual~~ a] proceeding convened [at the commission's discretion] pursuant to this section.

B. The bill credit shall be calculated in accordance with [~~20VAC5-342-70 F~~ 20VAC5-342-60 F and § 56-585.1:12 D of the Code of Virginia.

**20VAC5-342-90. Recordkeeping and reporting requirements.**

A. Subscriber organizations. Each subscriber organization shall file a report annually with the commission by January 31 of each calendar year for the previous calendar year. 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; and

2. 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.

Each subscriber organization shall retain a record of all disclosure forms 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.

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B. Utility. [~~In accordance~~ The utility shall maintain conformance] 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.~~]

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**20VAC5-342-100. [Licensing exemption process for subscriber organizations.**

A. Each entity seeking to conduct business as a subscriber organization that provides less than a total of 500 kW AC solar at any one location, or multiple locations, shall provide notice to the commission prior to commencing any business operations. Each entity must notify the commission at PURUtilityReports@scc.virginia.gov and contemporaneously provide a copy of the information to the investor-owned utility. If the applicant becomes aware of any material changes to any information within the application, the applicant shall inform the commission within 10 calendar days. Notices 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.

4. Name and business address of all principal entity officers and directors.

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, if any, in which the applicant and the applicant's affiliates conduct business related to participation in a multi-family shared solar program, the names under which such business is conducted, and a description of the business conducted.

7. Name, title, and address of the applicant's registered agent in Virginia for service of process.

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

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9. Sufficient information to demonstrate viability to provide said service to its subscribers. (i.e., location and size of the solar installation, expected number of subscribers, expected in-service date, identity of solar developer and operator, contract term, facility maintenance agreement, revenue source, description of facility financing, non-profit certification, etc.)

10. A copy of the applicant's dispute resolution procedure, including a telephone number.

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

12. A $100 notice fee payable to the commission.

13. Disclosure of any civil, criminal, or regulatory sanctions or penalties imposed or in place within the previous five years against the applicant.

14. An affidavit from an appropriate officer of the applicant certifying that the applicant will indemnify and hold harmless any and all subscribers from and against claim, damage, loss, and expense arising out of the applicant's negligence or misconduct.

B. An officer with appropriate authority shall attest that all information supplied on the notice is true and correct and that the applicant will abide by all applicable laws of the Commonwealth and regulations of the commission.

C. Notification to the commission is required for transfer or assignment of said services to any third party.

D. The commission may impose conditions on any terms it determines are appropriate ~~to protect customers~~.]