

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. PUR-2020-00125

Ex Parte: In the matter of establishing regulations
for a shared solar program pursuant to
§ 56-594.3 of the Code of Virginia

REPORT OF D. MATHIAS ROUSSY, JR., HEARING EXAMINER

February 16, 2022

In 2020, the General Assembly directed the Commission to establish a Shared Solar Program for Dominion's customers. Through this program, customers will pay for subscriptions with third-party organizations that will construct and operate distribution-level solar generation facilities within Dominion's service territory. While these facilities will not directly serve subscribing customers, they will provide energy to Dominion's system. This program is limited to 150 megawatts, but could be expanded to 200 megawatts if a threshold for low-income customer participation is met. As directed by the Commission, this Report addresses two mandatory aspects of the Shared Solar Program: the bill credit rate and minimum bill.

Case participants offered two bill credit rate options, either of which would satisfy statutory requirements. I recommend the Commission exercise its discretion to approve Dominion's bill credit rate option, which I find more reasonable. This recommendation is also consistent with the option the Commission approved for a multi-family shared solar program.

For the minimum bill, statutory provisions need to be harmonized. The Commission's rules appear to have done this by establishing a multi-factorial test that includes five statutory considerations. Based on the record, different statutory considerations support different minimum bill proposals by the case participants, as summarized in the table below.

Hearing Examiner's Ranking of Case Participants' Minimum Bill Proposals by Statutory Considerations Incorporated as Factors in Commission Rule			
	CCSA (if legal) and Staff Alt A	Staff Alt B	Dominion
Extent to which costs reflect infrastructure and services for the program	1	2	3
Includes costs necessary to ensure fair share of cost of providing electric service to subscribers	3	2	1
Includes costs that will minimize costs shifted to nonparticipating customers	3	2	1
Includes costs that are otherwise consistent with statute (reasonably allowing for the creation of facilities)	1	2	3
Extent to which costs are administrative	No difference		

While I recommend Staff Alternative B because I find it best balances all the statutory considerations, the Commission could approve a different minimum bill depending on the weight the Commission gives to the various factors. For example, greater weight to the statutory cost shift and fair share considerations may support Dominion's proposal, while less weight to these considerations may support Staff Alternative A or CCSA's proposal.¹

HISTORY OF THE CASE

Effective July 1, 2020, Chapters 1238 and 1264 of the 2020 Virginia Acts of Assembly amended the Code of Virginia ("Code") by adding § 56-594.3. Code § 56-594.3 requires that, by January 1, 2021, the State Corporation Commission ("Commission") establish by regulation a program affording customers of Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or "Company") the opportunity to participate in a shared solar program ("Shared Solar Program").² The statute also directs the Commission to require Dominion "to file any tariffs, agreements, or forms necessary for implementation of the program within 60 days of the utility's full implementation of a new customer information platform or by July 1, 2023, whichever occurs first."³

Pursuant to Code § 56-594.3, the Commission must approve a Shared Solar Program of 150 megawatts ("MWs") with a minimum requirement of 30 percent low-income customers.⁴ Each subscriber in the Shared Solar Program will pay a minimum bill to Dominion and receive a bill credit based on the subscriber's customer class.⁵ The Commission must establish the minimum bill, which may be modified over time, and must set the bill credit rate annually.⁶

On December 23, 2020, after notice and comment, the Commission issued in this docket its Order Adopting Rules, which adopted the Rules Governing Shared Solar Program ("Rules").⁷ The Order Adopting Rules also, among other things, required Dominion to file a minimum bill proposal in this docket. The Order Adopting Rules further indicated that, pursuant to 20 VAC 5-340-80 ("Rule 80") of the Rules, the Commission would convene a proceeding to consider the components of the minimum bill to be applied by Dominion.

On March 1, 2021, Dominion filed a minimum bill proposal, as directed. On March 18, 2021, the Commission issued an Order directing Dominion to file supplemental information on this proposal and address various items specified by the Order. On April 1, 2021, Dominion filed supplemental information on its proposal.

¹ Staff Alternative A and CCSA's proposal are identical except that the latter would allow program subscribers to bypass charges that are, by statute, non-bypassable.

² Code § 56-594.3 B, F. The statute applies to a "Phase II Utility", which is Dominion. *See, e.g.*, Code § 56-594.3 A (definitions of "Utility" and "Phase II Utility").

³ Code § 56-594.3 F.

⁴ Code § 56-594.3 E. Code § 56-594.3 A defines "Low-income customer," among other terms.

⁵ Code § 56-594.3 C.

⁶ Code § 56-594.3 C, D.

⁷ 20 VAC 5-340-10 *et seq.*

On April 14, 2021, the Commission issued an Order for Notice and Comment. The Order for Notice and Comment provided interested persons the opportunity to file comments or request a hearing on Dominion's minimum bill proposal.

Pursuant to the Order for Notice and Comment, comments were filed by the Coalition for Community Solar Access ("CCSA") together with the Chesapeake Solar & Storage Association ("CHESSA"); the Department of Mines, Minerals, and Energy ("DMME"), which is now known as the Virginia Department of Energy;⁸ Senator Scott A. Surovell and Delegate Jerrauld C. "Jay" Jones; and Jay Epstein. CCSA, CHESSA, DMME, Delegate Jones and Senator Surovell also requested an evidentiary hearing.⁹ On May 14, 2021, the Commission's Staff ("Staff") filed a reply to Dominion's minimum bill proposal. On May 21, 2021, Dominion filed a reply in which the Company supported the requests for an evidentiary hearing on the proposal.

On April 20, 2021, CCSA and CHESSA filed a joint motion ("Bill Credit Rate Motion") for the Commission to enter an order clarifying the bill credit rate for both the multi-family shared solar program implemented pursuant to Code § 56-585.1:12 ("Multi-Family Shared Solar Program")¹⁰ and the Shared Solar Program. On May 10, 2021, Dominion filed its response to the Bill Credit Rate Motion. On May 24, 2021, CCSA and CHESSA filed their reply.

On July 23, 2021, the Commission issued an Order for Notice and Hearing that assigned this case to a Hearing Examiner to conduct further proceedings, including a hearing, to: (1) establish a minimum bill for Dominion; and (2) consider the methodology to be used to establish the bill credit rate, and the resulting bill credit for each customer class produced by this methodology, for the Shared Solar Program.¹¹ The Order for Notice and Hearing directed Dominion to file testimony in support of its proposal on these two issues. The Order for Notice and Hearing also, among other things, allowed any interested person to participate as a respondent, file comments, or offer testimony as a public witness in these further proceedings; and allowed Staff the opportunity to file testimony on Dominion's proposal.¹²

The Order for Notice and Hearing explained that further details on the evidentiary hearing would be provided by a subsequent Commission order or Hearing Examiner ruling. On October 19, 2021, a Hearing Examiner's Ruling directed that the hearing in this matter would be conducted using a virtual format and special procedures specified therein.

CCSA, Appalachian Voices, and Culpeper County filed notices of participation in these

⁸ This name change was the only 2021 amendment to Code § 56-594.3. 2021, Sp. Sess. I, Va. Acts ch. 532 (effective October 1, 2021).

⁹ CCSA and CHESSA requested a hearing jointly with Vote Solar, GRID Alternatives Mid-Atlantic, Local Energy Alliance Program, Virginia Poverty Law Center, Solar United Neighbors, Southern Environmental Law Center, Appalachian Voices, Sierra Club, and Virginia Advanced Energy Economy.

¹⁰ The Multi-Family Shared Solar Program is offered pursuant to Code § 56-585.1:12 in the service territories of Dominion and Kentucky Utilities Company d/b/a Old Dominion Power Company. *See* Order for Notice and Hearing at 3, n.9.

¹¹ *Id.* at 5-6, 8-16.

¹² On July 28, 2021, a Hearing Examiner's Ruling granted a motion by Staff to reschedule the hearing in this matter. The hearing was rescheduled, from November 3, 2021, to November 18, 2021.

further proceedings.

On November 18, 2021, the evidentiary hearing was convened, as scheduled. Case participants used Microsoft Teams to present their evidence and arguments, and 18 public witnesses offered their testimony telephonically.¹³ Jontille D. Ray, Esquire, Joseph K. Reid, III, Esquire, Timothy D. Patterson, Esquire, and David J. DePippo, Esquire, appeared on behalf of Dominion. Eric J. Wallace, Esquire, and Brian R. Greene, Esquire, appeared on behalf of CCSA. William C. Cleveland, Esquire, and Josephus Allmond, Esquire, appeared on behalf of Appalachian Voices. Frederick D. Ochsenhirt, Esquire, Arlen K. Bolstad, Esquire, and C. Austin Skeens, Esquire, appeared on behalf of Staff.¹⁴

On January 13, 2022, Dominion, CCSA, Appalachian Voices, and Staff filed their post-hearing briefs.

PUBLIC COMMENTS

Approximately 190 comments¹⁵ were filed pursuant to the Order for Notice and Hearing.¹⁶ Of these 190 comments, approximately 170 stated as follows, either exactly or with slight variation:

I am writing to urge you to create strong community solar regulations. Allow more Virginians to access solar and clean energy options. This is why I oppose Dominion Energys [sic] proposed minimum bill in (Dominion Community Solar) docket PUR-2020-00125. The proposal would set a minimum monthly bill averaging \$74.28 for residential customers using 1000 kilowatt hours of electricity. It is unclear how this proposed charge could impact my monthly bill, if I opted into community solar with Dominion. This amount does not include an additional administrative charge, which would make the minimum monthly charge even higher. These high costs are unjustified and unfair for community solar customers. If done well, community solar can expand access to solar to renters and low-income customers, and others who are not able to go solar at their homes. Community solar customers should not be required to pay such a high minimum bill. This high minimum may block or limit access for specific communities. The SCC should not approve Dominion Energys [sic] proposal for the community solar minimum bill. Instead, the Commission should push for a more accessible structure that encourages participation and adoption of community solar across Dominion territory. Facing uncertainty of rising energy prices, we should be able to access community solar at fair prices. Thank you for reading my letter.

¹³ Proof of notice and service, as directed by the Order for Notice and Hearing, was among the exhibits admitted into the record at the hearing. Ex. 1.

¹⁴ Culpeper County did not participate in the hearing.

¹⁵ An additional 270 submissions were duplicates of these public comments that have the same commenter's name, time stamp, and content.

¹⁶ The public comments submitted pursuant to the Order for Notice and Hearing are in addition to the public comments that the Commission previously considered when promulgating the Rules and setting this matter for hearing.

Among those who filed other comments were Delegate Jerrauld C. “Jay” Jones, 89th House District, and Senator Scott A. Surovell, 36th Senatorial District, the chief patrons of the legislation that was enacted and codified as § 56-594.3. Delegate Jones and Senator Surovell believe the minimum bill was intended to cover “the costs of infrastructure necessary to deliver electricity to a customer’s home and the cost of creating a new linked billing program.” They asserted that the words “an amount” in the statute were intended to refer to a specific amount of money per month, rather than a fluctuating number that could make customers’ purchase decisions more difficult. Dominion’s administrative expense proposal also does not make sense to Delegate Jones and Senator Surovell. They assumed that the costs of software changes would be amortized over a reasonable period of time and thousands of customers so that the charges would be minimal. They expressed concern that Dominion’s minimum bill proposal is excessive and may discourage customers and private investment.

John Warren, Director of the Virginia Department of Energy, encouraged the Commission to adopt a minimum bill that facilitates a viable program. Director Warren indicated, among other things, that “keeping the minimum bill low is critical for overall market adoption of the Shared Solar Program.” He believes that while some customers may be willing to pay higher bills to participate, that number will drop considerably if bills greatly increase.

Nicole Chiappa, Public Affairs and Advocacy Associate for CHESSA, asked the Commission to reject Dominion’s minimum bill proposal. CHESSA believes this proposal “strays far from standard rate design and removes the potential for real cost savings to reach customers.” In CHESSA’s view, the avoided cost credit in Dominion’s proposal could increase Dominion’s “bottom line.” CHESSA recommended a minimum bill that establishes fixed, reasonable charges to cover the costs unique to the Shared Solar Program.

Kate Addleson, Director, and Ivy Main, Conservation Chair, submitted comments on behalf of the Virginia Chapter of the Sierra Club. Sierra Club asserted that Dominion’s proposed minimum bill methodology is “unworkable” and must be discarded for an approach that “produces a realistic result” like CCSA’s proposed methodology. Sierra Club indicated that a company that cannot save money for participants with costs that remain predictable over time will not secure project financing. According to Sierra Club, cost shifts between participants and nonparticipants cannot be examined until the Company comes to the Commission to complain of base rate under-earnings due in part to some customers’ participation in the Shared Solar Program.

Damian Pitt, Ph.D., Associate Professor in the L. Douglas Wilder School of Government and Public Affairs at Virginia Commonwealth University, believes some value-of-solar studies cast doubt on cost shifts due to the Shared Solar Program. He cited a 2017 Lawrence Berkeley National Laboratory (“LBNL”) report that identified 19 such studies, with the results ranging from less than 33% to more than 200% of retail rates. He indicated that cost-shifting, or cross-subsidization, in this context assumes that the value of distributed solar is less than the retail rate of electricity. Of the 19 studies analyzed in the LBNL report, he believes five studies conducted for the public utilities commissions of Maine, California, Mississippi, Nevada, and Vermont – most of which calculate a value of solar that “greatly exceeded the retail electricity rates in their respective areas” – are more relevant. Based on the foregoing, and his belief that

Dominion has provided no evidence of cost-shifting, Dr. Pitt recommended rejection of Dominion's minimum bill proposal in favor of a far lower minimum bill that he believes would more accurately reflect the value of Shared Solar Program projects.

While the remaining comments offered different perspectives, nearly all opposed Dominion's proposed minimum bill. For example, Timothy Godshall, a Harrisonburg resident, characterized Dominion's proposal as a barrier and recommended adoption of a minimum bill that is a fixed monthly amount limited to incremental administrative costs. Richmonder Robert Andrejewski characterized Dominion's minimum bill proposal as "inequity in action." Stephanie Malady of Chester described Dominion's proposal as unjustified and prejudicial for Shared Solar Program customers. William Sizemore, a Williamsburg resident with rooftop solar, believes a minimum monthly charge that is ten times the amount he pays would be unconscionable.

SUMMARY OF THE RECORD

Public Witnesses

Jay Epstein, a Williamsburg resident and president of Healthy Communities, built Virginia's first solar home community, the Villas at Rocket's Landing in Richmond. While Dominion advised him that the concept for his next community, Solara Woods, could not exist under prior community solar guidelines, Senate Bill 629 would allow for community solar. He envisions solar savings for the community would be accomplished through membership in the homeowners association ("HOA") as subscribers. The HOA would be the owner and pay the cost of infrastructure for the community solar program. He believes there are substantial savings in operational costs for Dominion.

Mr. Epstein contrasted the community solar program, which he described as "virtual net metering," with the net metering program. He indicated that community solar would allow the developer to keep trees and design a green community, while trees are removed (and then some replanted) to avoid solar shading effect on the rooftop solar used for the net metering program. He stressed the importance of trees to life on Earth. While a typical existing home emits 17,000 pounds of carbon annually, high-performance homes at Solara Woods, nestled in trees and powered by community solar, would emit 2,000 pounds annually. He indicated the reduced carbon emissions would be offset with clean energy supported by the Virginia Clean Economy Act, for a net zero ready community.

Mr. Epstein believes Dominion's proposed minimum bill is too high and that it will discourage shared community solar. He finds it problematic that a \$75 minimum bill is ten times Dominion's monthly service fee for net metering. He testified that \$75 is only \$20 less than the average monthly utility bill for a new energy efficient home, which he indicated is \$95. He concluded that "[t]his makes community solar much less attractive to potential buyers, a bad financial decision, and creates a roadblock on our path towards decarbonization."¹⁷

¹⁷ Tr. at 13-17 (Epstein). Senate Bill 629 and House Bill 1634 were the bills enacted during the 2020 General Assembly Session that amended the Code to include § 56-594.3. See Order for Notice and Hearing at 1.

Larry Bright, a homeowner in Arlington, owns a modest solar array that produces as much energy as he consumes. He pays approximately \$7 per month for access to the grid. He feels fortunate and believes the Shared Solar Program should provide the same opportunity for those who rent or live in a condominium, particularly in lower income neighborhoods. He supports the Shared Solar Program, but opposes Dominion's proposed minimum bill because he believes the Commission "should push for a more accessible program structure that encourages participation and adoption of community solar."¹⁸

John Anderson had his Suffolk home reroofed and purchased solar panels because the installer showed him a monthly bill of \$7 if he goes almost 100% solar. He is concerned that Dominion's proposed minimum bill for the Shared Solar Program would double his payback period, from five-six years to ten-twelve years.¹⁹

Jeanne Briskin, an Arlington resident, opposes Dominion's proposed charges. She believes these charges are unfair and would prevent all Virginians from enjoying the benefits of solar, which she testified include lower energy bills, job creation, and clean energy.²⁰

Delegate Jerrauld "Jay" C. Jones, who represents the 89th House District, testified that Dominion's proposed minimum bill is too high for the program to function as intended. He indicated that Dominion previously attempted to create a community solar program with a similar minimum bill amount that did not work. In his view, the legislative intent was to provide access to solar energy for Virginians by avoiding the financial and logistical hurdles for consumers and businesses to install rooftop solar. According to Delegate Jones, the legislation's minimum bill provision was included to ensure that subscribers make a reasonable contribution towards the infrastructure necessary to deliver power to the customer. He expressed concern that Dominion's proposed minimum bill would negatively impact the program's availability to customers who are neither the wealthiest nor low-income (the latter of which are exempt from the minimum bill).²¹

Alexandrian **Dr. Samantha Ahdoot** is a pediatrician who spoke on behalf of the Virginia chapter of the American Academy of Pediatrics. She asked that Dominion's proposed minimum bill not be approved because it is excessive and would deter participation in the Shared Solar Program. She believes a billing structure that assists and encourages families to participate in solar energy generation would better serve the health and welfare of Virginia's children. Doctor Ahdoot used her recent experience treating a 3-year old suspected of having her first asthma attack to underscore the contribution of air pollutants from fossil fuel to child lung disease.²² Doctor Ahdoot believes the Shared Solar Program, if structured appropriately, would help all families in Virginia participate in the transition to a cleaner and healthier electric grid.²³

¹⁸ Tr. at 18-20 (Bright).

¹⁹ Tr. at 21-25 (Anderson).

²⁰ Tr. at 27-28 (Briskin). Ms. Briskin also filed comments that assert, among other things, Dominion's proposed minimum bill "may block or limit access for specific communities."

²¹ Tr. at 29-32 (Jones). Delegate Jones also filed public comments in response to the Order for Notice and Hearing, as discussed above in the summary of public comments.

²² Dr. Ahdoot further indicated that a growing body of evidence links these pollutants to adverse birth outcomes. Tr. at 35 (Ahdoot).

²³ Tr. at 33-36 (Ahdoot). She filed comments that also emphasized children's health and access to community solar.

James B. Epps, a Mechanicsville resident, made three points. First, people are changing and want to take action to protect the environment. He installed rooftop solar panels last year and nine neighbors within a mile of his home also have rooftop solar panels. Second, laws, regulations, and policies need to change to facilitate progress. He testified that his church wanted to install solar panels to power the church on Sunday and the neighborhood during the rest of the week, but that regulations prevent this. Third, to produce power, reduce energy costs, and stay in business, Dominion should lease and install solar on the roofs of commercial buildings and schools.²⁴

Ryan Davies is an Arlington resident who shared his experience trying to go solar. Having paid \$100 for a 200-watt solar panel at Home Depot for a do-it-yourself home project, he does not understand the quotes he has obtained for rooftop installation. He described these quotes as “ridiculously too high,” with break-even points ten years or greater. Mr. Davies still wants to go solar, but cost has been a hurdle for him.²⁵

Eric Potter, a Virginia Beach resident, has 34 solar panels on his home and drives an electric vehicle that he usually charges at his home. The panels have significantly reduced his carbon footprint and have reduced his electricity usage by 80%, with several bills as low as \$7.98. He asked the Commission to consider savings for consumers who do not live in single-family homes. He described an inclination for an unfettered monopoly to favor the centralized production of solar power. He believes the contrast between the base rate that he pays and Dominion’s proposed minimum bill for shared solar as an “obvious attempt to discourage the adoption of solar power.” He recommended rejection of Dominion’s proposed minimum bill.²⁶

Donna Shaunesey has solar on her Charlottesville home, but recognized not everyone is in her position. She believes the solar expansion in Virginia needs to be made do-able for as many homes and businesses as possible. Believing Dominion would put up huge roadblocks to this expansion, she recommended rejection of Dominion’s credit rate and minimum bill proposals. She supported adoption of CCSA’s proposal, which she testified would attract private capital from developers and benefit Virginia citizens.²⁷

Joy Loving lives in Grottoes and is a Dominion net metering customer. Like Mr. Bright, she recognizes how fortunate she is to be a net metering customer. Like Ms. Shaunesey, she recognizes not everyone is in her position. When compared to the \$6.58 basic rate she currently pays,²⁸ she believes Dominion’s proposed minimum bill is unfair, punitive, and ridiculously high. She testified there is an urgent need for more solar and thinks that community solar must be a priority. She indicated Staff’s Alternative Option A might be appropriate.²⁹

²⁴ Tr. at 38-39 (Epps).

²⁵ Tr. at 41-42 (Davies).

²⁶ Tr. at 43-45 (Potter).

²⁷ Tr. at 47-48 (Shaunesey).

²⁸ As discussed below, Dominion’s residential distribution service charges include, among other charges, a basic customer charge that is a flat monthly fee of \$6.58. In comments she filed, Ms. Loving further elaborated that for nine months a year her bill is rarely above \$7.98, which is inclusive of \$1.40 for county utilities tax.

²⁹ Tr. at 49-52 (Loving). In her comments, Ms. Loving asserted, among other things, that the Commission should reject Dominion’s proposed minimum bill “and replace it with one that is truly ‘minimal.’”

Aaron Sutch, Atlantic Southeast Director of Solar United Neighbors (“SUN”), lives in Richmond. SUN is a nonprofit that has facilitated over 1,000 residential solar installations in Virginia. While he believes demand for a cost-effective, consumer-friendly community solar option is high in Dominion’s service territory, he described Dominion’s proposal as unreasonable and inconsistent with the community solar options that consumers want. SUN has observed that consumers in Washington D.C. and Maryland participate in community solar programs to save money on rising energy costs and to build clean resilient power into their local community. He testified that customers “want savings on electricity bills from day one and over the term of the subscription” and they want simplified billing and subscription structures that minimize variable cost calculations. According to Mr. Sutch, Dominion’s proposed minimum bill would make the program a premium product and has a variable nature that is difficult for consumers to calculate savings and budget accordingly. He instead supports a \$7.58 minimum bill charge and endorsed several of CCSA witness Rábago’s criticisms of Dominion’s proposal. Mr. Sutch believes Dominion’s overearnings weigh against the Company’s credibility on cost-shift issues. He also described non-bypassable charges as another needless barrier and recommended they not be assessed to low- and moderate-income participants.³⁰

Arina van Breda, an Alexandria resident, asked the Commission to consider only the lowest possible cost for the Shared Solar Program and characterized Dominion’s proposed costs as egregious. She testified that a minimum bill would discourage participation in the program.³¹

Robert Kitchen, a Fairfax Station resident, is a family practice physician and member of the Junior Clinicians’ for Climate Action. Citing an increase of Lyme disease in Virginia over a 20-year period, he testified that climate change has already had an adverse impact on the health of Virginians. He also identified climate change risks discussed in a June 2021 report by the Virginia Academy of Science, Engineering and Medicine. According to Mr. Kitchen, greenhouse gas reductions, including through increased renewable clean energy production, are imperative and expanding residential solar is an important component of providing such renewable energy. He believes a fee that is likely to discourage consumers from employing clean solar energy for electricity does not look out for the health and welfare of Virginians.³²

Harrison Godfrey resides in Reston and works as the Executive Director of Virginia Advanced Energy Economy. He spoke to the economic opportunity of shared solar which, while comparatively nascent in the Commonwealth, is more established elsewhere in the country. While well positioned, the opportunity for the Commonwealth depends on whether “the Commission and industry can effectively resolve this question around the minimum bill issue.” Although appreciative of Dominion’s need to recover central infrastructure and administrative costs, Dominion’s proposal is economically infeasible for most customers. He was encouraged by the movement of Staff’s alternatives away from Dominion’s proposal, but the upper bounds of Staff’s proposal would still present serious obstacles in his view. He asked for careful scrutiny of all proposals that have been put forward and for a minimum bill solution that starts from the ground up, rather than being anchored by some of the higher-end proposals.³³

³⁰ Tr. at 54-58 (Sutch).

³¹ Tr. at 59-60 (van Breda).

³² Tr. at 62-64 (Kitchen).

³³ Tr. at 67-68 (Godfrey).

Scott Burger is a SUN member who has had a good experience with the solar on his Richmond residence since 2009. He is concerned that Dominion's proposal would hurt the beneficial effects of community solar. He wants citizens to have a right to work together and build community solar. He emphasized that Virginia citizens have invested in solar on their own and are interested in investing as communities.³⁴

Niranjan Konduri has lived in Arlington for the last 16 years. He described renewable energy as "our future" and testified that the next generation will benefit immensely from our efforts to promote and use renewable energy. He installed rooftop solar at his home, but indicated that friends and neighbors with shaded roofs cannot. He wants solar to be accessible to as many people as possible. He described Dominion's proposed minimum bill as unjustified and unfair. He recommended that the Commission: (1) adopt a \$7.58 minimum bill charge for the Shared Solar Program; and (2) not add any additional cost or barriers on the low-income portion of the program.³⁵

Kenda Hanuman, a Buckingham resident, is concerned with the Commonwealth's direction on solar. She has seen a lot of reluctance to small scale and community solar, which she believes would do much less damage to the environment and would provide direct benefits to the community. She is reluctant to trust Dominion based on uncomfortable interactions she has had in the past concerning the Atlantic Coast Pipeline.³⁶

Dominion – Direct

Dominion offered the direct testimony of **Robert J. Trexler**, Director of Regulation for the Company, in support of Dominion's proposed bill credit rate methodology and minimum bill.

For the Shared Solar Program, Mr. Trexler described the bill credit as "the vehicle by which subscribers receive the monetary benefit of their shared solar facility's generation, and the bill credit rate establishes how much monetary benefit should be given to subscribers for a given amount of electric generation."³⁷ Dominion proposed using the total revenues and sales from Federal Energy Regulatory Commission ("FERC") Form 1, for the Virginia jurisdictional revenue classes. Mr. Trexler indicated that data derived from Dominion's FERC Form 1, which the Company reports by March 31 of each year, would provide the relevant information to the Commission in a timely manner.³⁸ He provided Virginia jurisdictional pages for Electric Operating Revenues (Account 400) from Dominion's FERC Form 1 for the year ended December 31, 2020.³⁹

Mr. Trexler acknowledged that the Company's bill credit rate methodology using FERC Form 1 data differs from the Company's prior proposal. Dominion revised its proposal to ensure

³⁴ Tr. at 70-72 (Burger).

³⁵ Tr. at 73-76 (Konduri). Ms. Konduri was also among the approximately 170 people that submitted comments containing the text shown in the block quote included in the summary of the public comments above.

³⁶ Tr. at 78-79 (Hanuman).

³⁷ Ex. 2 (Trexler direct) at 3.

³⁸ *Id.* at 4.

³⁹ *Id.* at Appendix A.

consistency with the methodology approved in the Commission's 2021 *Multi-Family Shared Solar Order*,⁴⁰ which approved the use of FERC Form 1 data to calculate the bill credit rate for the Multi-Family Shared Solar Program.⁴¹

Mr. Trexler identified the statutory basis for the minimum bill and the Commission's regulations enacted to implement Code § 56-594.3.⁴² According to him, both the statute and the Rules "emphasize that the purpose of the minimum bill is to promote fairness by ensuring that subscribing customer pay their fair share of the costs of the [shared solar program], and conversely, safeguard non-participating customers from bearing shifted [p]rogram costs."⁴³

Mr. Trexler described the minimum bill as an essential feature of the Shared Solar Program because the program largely functions as a companion to a subscriber's principal tariff. The program will not satisfy all of a subscriber's electric needs. A subscriber will still rely on utility services that carry considerable costs that all utility customers are required to pay.⁴⁴ According to Mr. Trexler, an appropriately comprehensive minimum bill is a reasonable means to ensure that participating customers pay for the costs of utility services they will be consuming, even as they receive generation credits through the Shared Solar Program.⁴⁵ He further testified that appropriately defining the minimum bill's parameters is the only safeguard against unfair cost-shifting to nonparticipating customers.⁴⁶

Mr. Trexler explained the relationship of Dominion's proposed minimum bill to a subscribing customer's principal tariff and bill credit as follows:

First, ... participating customers will continue to be billed for their metered usage for their account at the Commission approved rates of their Principal Tariff.

Second, a bill credit will be calculated by multiplying the subscriber's portion of the kilowatt-hour ("kWh") electricity production of the shared solar facility (the subscriber's subscription in the Program) by the bill credit rate. This credit will be provided through a companion tariff to the Principal Tariff. The Shared Solar Statute defines "Subscription" as "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."

Finally, a minimum bill would be calculated for the Program and will

⁴⁰ *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, Order (June 29, 2021) ("*Multi-Family Shared Solar Order*").

⁴¹ Ex. 2 (Trexler direct) at 5.

⁴² *Id.* at 6-7.

⁴³ *Id.* at 7.

⁴⁴ *Id.* at 8.

⁴⁵ *Id.* at 8-9.

⁴⁶ *Id.* at 9.

also be part of the companion tariff for the Program. The Company's proposal is such that the minimum bill ... is based upon the amount of subscription that is credited to a Subscriber in a given billing period.

The Company's proposal is to apply the minimum bill against the bill credit in a given billing period to determine a net bill credit. To the extent that part of the net bill credit exceeds the customer's bill for their Principal tariff, the excess will be carried over to a future billing period in accordance with 20 VAC 5-340-60 F.⁴⁷

Mr. Trexler described the three cost components included in the Company's minimum bill proposal: (1) delivery charges for transmission and distribution; (2) a generation balancing service charge; and (3) an administrative charge. Mr. Trexler acknowledged that his analysis of the Company's minimum bill proposal focused primarily on Code § 56-594.3 D and Rule 80.⁴⁸

For the delivery charges component, Dominion proposed that program participants pay transmission and distribution charges similar to those nonparticipating customers pay under their principal tariff. Mr. Trexler indicated that participating customers will use the electric grid the same way as they did before enrollment.⁴⁹ Since Code § 56-594.3 C directs the development of a bill credit based upon average costs of utility service for each of the classes, Dominion proposed using class average delivery charges based on revenues from FERC Form 1, functionalized in accordance with the previous year's cost-of-service study for the Virginia jurisdictional classes to determine the transmission and distribution components of the minimum bill.⁵⁰ Multiplying this average cost of transmission and distribution by the kWh amount of the shared solar subscription applied to a customer's bill in a given month would effectively charge subscribers for these delivery services at a rate the average nonparticipant paid in the previous calendar year according to Mr. Trexler.⁵¹ Based on the 2020 FERC Form 1, Dominion's proposed delivery charges are shown below, by revenue class.⁵²

Minimum Bill Component	Residential	Commercial	Industrial
Distribution Service (\$/kWh)	0.02732	0.01125	0.00471
Transmission Service (\$/kWh)	0.01989	0.00983	0.00769

Mr. Trexler explained Dominion's justification for including delivery charges as a component of the minimum bill.⁵³ In doing so, he identified a legal basis for such charges under Factors (a), (c), and (d) in Rule 80 A 2.⁵⁴

⁴⁷ *Id.* at 9-10.

⁴⁸ Tr. at 120-22 (Trexler).

⁴⁹ Ex. 2 (Trexler direct) at 10.

⁵⁰ *Id.* at 10-11.

⁵¹ *Id.* at 11.

⁵² *Id.* at 12.

⁵³ *Id.* at 11.

⁵⁴ *Id.* at 12.

In support of Dominion's proposed generation balancing service charge, Mr. Trexler identified the mismatch between customers' continuous reliance on the grid for power with the intermittent nature of solar generation. He further explained that even when the Shared Solar Program facilities are operating, energy would not go directly from these generators to the subscribing customers. Instead, the system receives an avoided cost benefit for the energy that such facilities produce and inject into the grid.⁵⁵

To calculate a generation balancing service charge, Dominion proposed netting the total of the customer's electricity supply generating costs (including non-bypassable charges), as a nonparticipant would pay, against the avoided cost value. However, the generation balancing service charge could never be less than applicable non-bypassable charges (current and future). Mr. Trexler explained that shared solar customers are subject to statutory non-bypassable charges and including such charges in the creation of the minimum bill: (1) avoids creating an adverse incentive for customers to join the program to evade non-bypassable charges; and (2) prevents cost-shifting to Dominion's other customers.⁵⁶

Mr. Trexler explained and illustrated Dominion's proposed avoided cost methodology for the minimum bill calculation. This calculation uses energy prices forecasted from market curves for PJM Dominion Zone day-ahead locational marginal pricing, and capacity prices based on the results of the applicable Base Residual Auctions for capacity resources. Avoided cost credits would be reset annually, with 90 days' notice to participants of the updated avoided cost credits.⁵⁷ Based on 2020 data from FERC Form 1, functionalized in accordance with the 2020 cost-of-service study, for the Virginia jurisdiction, he showed the steps for calculating a residential shared solar customer's generation balancing charge as follows:⁵⁸

Description	Residential	Commercial	Industrial
Generation Service (\$/kWh)	0.07044	0.05012	0.04661

Based on 2020 FERC Form 1 VA JUR information

Avoided Cost Credit:

Energy

- Forecasted On-Peak DOM Zone Price (for 6/1/21-5/31/22)
- \$35.34/[megawatt-hour ("MWh")] (3.534 cents/kWh)

Capacity

- \$140.00/MW-day (actual BRA result for 6/1/21 – 5/31/22)⁵⁹
- Assume 34.4% solar value for capacity = \$48.16/MW-day
- Assume 25% capacity factor for solar in a day for 1 MW: 1 MW x 24 hrs x 25% = 6 MWh/day on average

⁵⁵ *Id.* at 13-14.

⁵⁶ *Id.* at 14. Mr. Trexler identified the following non-bypassable charges: Rider CE, Rider RPS, Rider PPA (as proposed by Staff in the Rider RPS proceeding), and Rider CCR. *Id.* at 14-15. He recognized that statutory law also identifies certain exemptions for non-bypassable charges. *Id.*

⁵⁷ *Id.* at 15.

⁵⁸ *Id.* at 16-17 (footnote omitted).

⁵⁹ For PJM capacity pricing (shown as "actual BRA result"), Mr. Trexler testified that the DOM Zone would continue to have a capacity price after Dominion switches to PJM's fixed resource requirement, unless a state-approved alternative is developed. Tr. at 140-41 (Trexler).

- $\$48.16/\text{MW-day} / 6 \text{ MWh/day} = \$8.03/\text{MWh} (0.803 \text{ cents/kWh})$

Total Avoided Cost Credit Pricing:
 Energy: $\$35.34/[\text{MWh}] (3.534 \text{ cents/kWh})$
 +Capacity: $\$8.03/\text{MWh} (0.803 \text{ cents/kWh})$
 Total: 4.337 cents/kWh

The Generation Balancing Service Charge nets the customer's Generation Service Charge against the avoided cost price calculation. The difference is then multiplied by the amount of the customer's subscription to determine the minimum bill. For a residential customer the calculation would be as follows:

Generation Service Charge:	7.044 cents/kWh
Avoided Cost Credit price:	<u>(4.337 cents/kWh)</u>
Generation Balancing Service Charge:	2.707 cents/kWh

In the above example, the rate for the Generation Balancing Service Charge for a residential customer would be 2.707 cents per kWh.

Mr. Trexler asserted that the generation balancing service charge is an incremental cost of the Shared Solar Program that should be included in the minimum bill based on Factors (a), (c), and (d) of Rule 80 A 2. More specifically, he asserted that the generation balancing service is used to provide electric service for the Shared Solar Program because the program is insufficient on its own to meet 100% of subscribers' energy needs on a continuous basis. He further asserted that the costs captured by the generation balancing service charge are certain to be incurred and, if not included in the minimum bill, would be shifted to nonparticipating customers.⁶⁰

For administrative costs, Mr. Trexler indicated that any such costs attributable to the Shared Solar Program would be included in an administrative charge to be borne by subscribing customers. He described various costs the Company will incur to administer the program, but proposed that the administrative charge calculation be determined later.⁶¹ He identified Dominion's plan to use its customer information platform to automate billing and calculation processes for the program, but that specialized configuration or ongoing manual processes for certain program elements could be required.⁶² Nor have data transfer protocols been established with subscriber organizations.⁶³ He also indicated it would be premature at this time to identify whether such charge would be a monthly charge or a kWh charge.⁶⁴

⁶⁰ Ex. 2 (Trexler direct) at 17-18.

⁶¹ *Id.* at 18-19 and 20, n.4.

⁶² *Id.* at 18-19.

⁶³ *Id.*

⁶⁴ *Id.* at 19. While Mr. Trexler elaborated on administrative cost estimates identified by Staff, he recognized that such estimates are preliminary and such costs may depend on automating processes using a customer implementation platform, which are not yet developed or understood. Tr. at 137-39 (Trexler).

Mr. Trexler showed an illustrative minimum bill calculation for a residential customer with a 1,000 kWh shared solar subscription based on the Company’s proposed approach, but excluding the administrative charge, as follows:⁶⁵

Distribution Service Charge:	\$27.32 or 2.732 cents/kWh
Transmission Service Charge:	\$19.89 or 1.989 cents/kWh
<u>Generation Balancing Service Charges</u>	<u>\$27.07 or 2.707 cents/kWh</u>
Total Minimum Bill (1,000 kWh):	\$74.28 or 7.428 cents/kWh

Mr. Trexler also provided the following table to illustrate how a smaller subscription would result in a proportionally smaller minimum bill calculation.⁶⁶

Typical Residential Customer Using 1,000 kWh				
Shared Solar Subscription Level (kWh)	DEV Bill Amount (\$)	Bill Credit (\$)	Minimum Bill (\$)	Total Bill (\$)
1,000	\$117.96	(\$117.65)	\$74.28	\$74.59
700	\$117.96	(\$82.35)	\$51.99	\$87.60
500	\$117.96	(\$58.83)	\$37.14	\$96.27
300	\$117.96	(\$35.30)	\$22.29	\$104.95
100	\$117.96	(\$11.77)	\$7.43	\$113.62

Notes:

- 1) Low-income Customers are exempt from the Minimum Bill components, except for non-bypassable charges.
- 2) Excludes Sales and Use Tax, Consumption Tax, Local Utility Tax.
- 3) Includes Non-bypassable Rider CE, Rider PIPP and Rider RPS.
- 4) Minimum bill does not include Administrative Charges that will be determined at a later date.

For the column on the far right of the above table, Mr. Trexler explained that the “[t]otal [b]ill” amount – which illustrates what Shared Solar Program customers would actually pay Dominion – is calculated by adding the other columns.⁶⁷ He recognized that these amounts would be higher once an administrative cost charge is incorporated.⁶⁸ Mr. Trexler clarified that the “[s]ubscription [l]evel” shown in the column on the far left refers to the amount of shared solar “actually delivered” in a particular month, which is not necessarily the amount “signed up for.”⁶⁹ When asked whether Dominion’s proposed minimum bill is not a floor amount, but rather an amount that is “added on” to other amounts, Mr. Trexler indicated, among other things, that: (1) Dominion’s methodology establishes a floor for the amount of the subscription; (2) it is key to appreciate that there are partial subscriptions and that usage and subscription will not align perfectly; and (3) it depends on how the different columns in his table are characterized.⁷⁰

⁶⁵ Ex. 2 (Trexler direct) at 20 (footnote omitted).

⁶⁶ *Id.* at 21.

⁶⁷ Tr. at 127-28 (Trexler). More specifically, the total bill dollar amounts are calculated by adding the amounts from all the other columns with dollar amounts, which excludes the subscription level column.

⁶⁸ Tr. at 135 (Trexler).

⁶⁹ Tr. at 126-27 (Trexler).

⁷⁰ Tr. at 128-33 (Trexler). Mr. Trexler indicated that only the amounts shown in the “[b]ill [a]mount” and “[t]otal [b]ill” columns of the above table would change based on customer usage. Tr. at 144-45 (Trexler).

For a 1,000 kWh subscription level customer (as illustrated in the first row of the preceding table), Mr. Trexler testified that Dominion's proposed "net bill credit" – which is the difference between the "bill credit" and the "minimum bill"⁷¹ – is 4.337¢/kWh, exclusive of administrative costs.⁷² He confirmed that this "net bill credit" per kWh amount matches the "avoided cost credit" from the generation balancing service charge of Dominion's proposed minimum bill.⁷³ Under Dominion's proposed methodology, he testified that the discount received by participating customers, regardless of subscription level, would equal Dominion's avoided cost calculation, less an amount that incorporates administrative costs.⁷⁴ He also confirmed that because Dominion's proposed minimum bill methodology uses a net bill credit based on the subscribed kWh received each month, the minimum bill amount can change each billing period.⁷⁵

For participating customers subscribed to a facility with zero output in a particular month, Mr. Trexler testified that "[b]ill [c]redit" and "[m]inimum bill" columns in the above table would both equal zero.⁷⁶ For such a month, Shared Solar Program customers would be charged for the services they used under their primary tariff, without any program credit.⁷⁷

Mr. Trexler recognized that low-income customers will be exempt from all components of the minimum bill, except non-bypassable charges. He proposed that costs associated with low-income customers' participation in the Shared Solar Program be recovered through the fuel factor.⁷⁸

CCSA

Mr. Rábago indicated that Code § 56-594.3 F lists fifteen additional requirements for the shared solar program. He found the following to be particularly relevant: (1) that the Commission's Rules shall "reasonably allow for the creation of shared solar facilities"; (2) that the utility be allowed to recover reasonable costs of administering the program; and (3) that the utility be allowed to recover any difference between the bill credits provided to subscribers and the cost of energy injected into the grid by a shared solar facility.⁷⁹ These provisions confirm to him that the Shared Solar Program must be "fair and workable" and that the minimum bill, among other charges and fees, should not be set at a level that makes the program unworkable. He further asserted that utility costs associated with the Shared Solar Program energy costs and credits are to be recovered through purchased power costs, not through the minimum bill.⁸⁰

⁷¹ Tr. at 118 (Trexler).

⁷² Tr. at 119 (Trexler). Using the bill amounts shown in the preceding table, this equals \$43.37 for the relevant monthly bill. $\$117.65 - \$74.28 = \$43.37$.

⁷³ Tr. at 119-20 (Trexler).

⁷⁴ Tr. at 135-36, 143 (Trexler).

⁷⁵ Tr. at 120 (Trexler).

⁷⁶ Tr. at 133-34 (Trexler).

⁷⁷ Tr. at 117 (Trexler).

⁷⁸ Ex. 2 (Trexler direct) at 21.

⁷⁹ Ex. 3 (Rábago) at 7-8 (citing Code § 56-594.3 F 1, 9, 15).

⁸⁰ Ex. 3 (Rábago) at 8.

In Mr. Rábago's opinion, Code § 56-594.3 limits the costs of utility infrastructure and services used to provide electric service and administrative costs included in the minimum bill to costs of the Shared Solar Program. He further asserted that the utility must demonstrate that a cost has been or will be incurred specifically to support the program.⁸¹

Mr. Rábago recognized that the minimum bill may be modified over time. He indicated Code § 56-594.3 D ensures that as program-specific costs reflected in rates change because of program operation, such changes may be captured in modifications to the minimum bill.⁸²

Mr. Rábago indicated that the Commission is also required to consider costs relevant to ensuring that subscribers pay a fair share of electric service provided to program subscribers and to minimize costs shifted to non-subscribers. In his opinion, the minimum bill is intended to capture incremental costs created by the program and to avoid significant cross-subsidization of program costs. He believes the statutory non-subsidization provisions applicable to the program appropriately reflect the traditional standard voluntary program nonparticipants should not be required to pay voluntary program costs after considering benefits nonparticipants realize. He does not believe these statutory provisions allow for the mischaracterization of bill credits as costs of the program to be recovered through the minimum bill.⁸³

Mr. Rábago identified what he found to be the key provisions of Rule 80. In his view, this rule properly reflects a statutory separation of the crediting mechanism from the minimum bill provision and is intended to ensure the resulting rates are just and reasonable and will result in a fair and workable Shared Solar Program.⁸⁴

Mr. Rábago described how minimum bills are typically designed. He indicated that a minimum bill differs from a fixed customer charge or basic service/customer charge because it technically deviates from cost-causation principles in order to recover a minimum amount of revenues from each customer, subject to possible exceptions. In his opinion, a minimum bill is designed to be set "at or near the lowest-common denominator of usage level to recover in a fixed sum a relatively small amount of the fixed costs normally recovered through usage-based rate elements, much like, and in some cases, as an alternative or supplement to a basic customer charge."⁸⁵ Mr. Rábago believes that, for utilities, the primary benefit of a minimum bill is revenue certainty and, for customers, the primary benefits are charge certainty and ease of understanding.⁸⁶ To him, the most important consideration in designing a minimum bill is that it not be set so high that it frustrates program success or inadvertently imposes charges on customers that unreasonably deviate from cost causation.⁸⁷ He used sample bills he obtained

⁸¹ *Id.* at 10.

⁸² *Id.* at 10-11.

⁸³ *Id.* at 11.

⁸⁴ *Id.* at 11-13 (quoting and discussing Rule 80 A 2).

⁸⁵ Ex. 3 (Rábago) at 13.

⁸⁶ *Id.*

⁸⁷ *Id.* at 14-15. Mr. Rábago quoted comments filed jointly on April 30, 2021, in a prior stage of this proceeding, by CCSA and CHESSA. These joint comments, in turn, cite a publication by the National Renewable Energy Lab, among others.

from Dominion's and PEPCo's websites to discuss how CCSA's minimum bill would be reflected on Shared Solar Program participants' bills.⁸⁸

For the Shared Solar Program, Mr. Rábago asserted that the minimum bill is intended to recover incremental program costs.⁸⁹ He emphasized the following language from the minimum bill provisions of Code § 56-594.3 D: "the costs of all utility infrastructure and services used to provide electric service and administrative costs of the shared solar program."⁹⁰ He framed the relevant inquiry as two related questions: "First, what utility costs are specifically caused by the Shared Solar Program? Second, of those costs, which of them are not recovered through some other mechanism?"⁹¹ He indicated that the utility infrastructure and services costs associated with the operation of shared solar generators are recovered through upfront and ongoing interconnection costs assessed on shared solar facilities. He further indicated that energy cost differences are collected through purchased power charges pursuant to Code § 56-249.6.⁹² The only remaining administrative costs of the program he believes must be reflected in the minimum bill are the incremental costs incurred by the utility for apportioning, crediting, and billing shared solar subscribers.⁹³ At most, he believes administrative costs should include the cost of managing data flow between the utility and subscriber organizations, the cost of utility staff time directly attributable to managing utility customer inquiries from shared solar subscribers, and incremental billing functionality required to facilitate bill crediting.⁹⁴

Mr. Rábago pointed to statutory language limiting a "net crediting fee" to no more than one percent of the bill credit value. He further indicated Dominion has not shown how billing costs are driven by capabilities incremental to those needed for net crediting. He testified that the costs of net crediting and any incremental billing functions for the Shared Solar Program should be minimal because program billing can be integrated into Dominion's new customer information platform.⁹⁵

Mr. Rábago endorsed prior comments by CCSA that non-exempt program participants should pay a minimum bill consisting of: (1) the basic customer charge applicable to the customer's rate schedule; and (2) an incremental administrative charge calculated based on total expected annual administrative costs of the Shared Solar Program divided by the expected

⁸⁸ Exs. 5, 6; Tr. at 196-98 (Rábago).

⁸⁹ Ex. 3 (Rábago) at 16.

⁹⁰ *Id.* at 24.

⁹¹ *Id.* at 23-24.

⁹² *Id.* at 16, 26 (quoting Code § 56-594.3 F 15). He described energy cost differences as "the difference between the value of the energy injected into the grid from the shared solar facility and the costs that the utility would otherwise incur to generate or procure, transmit, and distribute energy." *Id.* at 16.

⁹³ *Id.* at 16.

⁹⁴ *Id.* at 22.

⁹⁵ *Id.* Mr. Rábago quoted Code § 56-594.3 F 14, which directs the Commission to: "Require net crediting functionality as part of any new customer information platform approved by the Commission.... The net crediting fee shall not exceed one percent of the bill credit value." Mr. Rábago also quoted the following language from Code § 56-594.3 G: "Within 180 days of finalization of the Commission's adoption of regulations for the shared solar program, a utility shall, provided that the utility has successfully implemented its customer information platform, begin crediting subscriber accounts of each shared solar facility interconnected in its service territory, subject to the requirements of this section and regulations adopted thereto."

average subscription amount of program participants.⁹⁶ He asserted that this approach, unlike Dominion's minimum bill methodology, would avoid confusion and frustration among solar subscribers and would provide for a predictable and reasonable calculation of minimum bill costs.⁹⁷

Specifically, Mr. Rábago viewed the following costs and charges as properly included in the minimum bill:

- (1) The incremental or marginal costs of shared solar facilities or Shared Solar Program operations that are not otherwise recovered (e.g., through interconnection charges);
- (2) the incremental or marginal costs that are created by an added customer service, administrative, or billing burden undertaken by the utility;
- (3) the basic customer costs associated with electric service that do not vary with usage and that recover the costs of adding customers to the system; and
- (4) other utility costs that are both non-volumetric and still reasonably assigned to customers that subscribe to the Shared Solar Program.⁹⁸

Mr. Rábago used Dominion's estimate of approximately \$300,000 in annual costs for workforce expansion⁹⁹ to calculate a monthly administrative minimum bill component of approximately \$1 per customer.¹⁰⁰ He asserted that Dominion's basic customer charge, which varies by rate schedule, "ensures recovery of the basic costs of connection that do not vary with the level of the customers usage, and so, like a minimum bill, should not be reduced or eliminated by shared solar credits."¹⁰¹ He noted that net metering customers under Code § 56-594 must always pay the fixed basic customer charge.¹⁰² He indicated the basic customer charge provides an administratively efficient foundation and does not require a separate evaluation of costs since it is established through existing Commission ratemaking procedures based on fixed costs of providing electric service.¹⁰³

Mr. Rábago was alarmed by Dominion's indication that an administrative cost charge could be in the amount of \$10 to \$20 per shared solar customer per month.¹⁰⁴ He found it inconceivable that a prudent utility of Dominion's size "would incur incremental fixed costs, independent of subscription size, as large as \$120 to \$240 per customer per year for shared solar billing."¹⁰⁵ He attached to his testimony a discovery response by Dominion estimating that addressing shared solar program billing components in the Company's planned customer

⁹⁶ Ex. 3 (Rábago) at 21-22, 27. Low-income customers are statutorily exempt from a minimum bill. *Id.* at 21.

⁹⁷ *Id.* at 23.

⁹⁸ *Id.* at 42.

⁹⁹ See Ex. 2 (Trexler) at 18.

¹⁰⁰ Ex. 3 (Rábago) at 25. Mr. Rábago calculated a minimum bill amount of \$0.91 with the following formula $\$302,300 / (200 \text{ MW} \times 8,760 \text{ hours} \times 19\% \text{ capacity factor})$. He also assumed a "representative" Dominion customer uses 1 MWh per month. *Id.* at 28, n.66.

¹⁰¹ *Id.* at 27.

¹⁰² *Id.* at 28, n.67.

¹⁰³ *Id.* at 28.

¹⁰⁴ *Id.* at 39 and attached Ex. KRR-3, p. 1.

¹⁰⁵ *Id.* at 39.

information platform would cost approximately \$1 million.¹⁰⁶ He believes careful scrutiny of Dominion's spending will be warranted.¹⁰⁷ He thinks it would be prudent for Dominion "to incorporate [s]hared [s]olar [p]rogram billing in the broader customer information platform development to minimize overall costs."¹⁰⁸

Mr. Rábago asserted that no minimum bill charges are justified to ensure fair share payment of costs.¹⁰⁹ He indicated that the bill credit does not reduce the subscriber's charges for electric service, only the final amount of the bill because the credit is a *post hoc* adjustment to the bill amount.¹¹⁰ He further asserted that making the minimum bill additive to the basic customer charge, as he proposed, would provide a contribution to non-subscriber cost minimization as related to fixed costs that do not vary with consumption.¹¹¹

Mr. Rábago offered several additional reasons Dominion's proposed minimum bill methodology is inconsistent with Code § 56-594.3 in his opinion. While Dominion's proposal would vary with the shared solar subscription level, the statute requires the minimum bill be a set amount in his opinion.¹¹² He does not think a cost shift can occur unless Dominion's overall revenues fall below the level projected in a rate case that set currently applicable rates.¹¹³ He took issue with Dominion's proposal to apply the minimum bill against the bill credit in a given billing period to determine a net bill credit, which he indicated treats shared solar subscriber organizations as if they are competitive service providers.¹¹⁴

Mr. Rábago believes Dominion seeks to reduce the bill credit by the delivery cost of electric service to subscribers.¹¹⁵ Mr. Rábago found Dominion's avoided cost approach to be based on "broad-sweeping assertions", unsupported by actual data for any customer class or individual subscriber.¹¹⁶ He believes an avoided cost credit conflicts with Code § 56-594.3, which specifically provides for a solar bill credit rate.¹¹⁷ He described Dominion's proposed minimum approach as "a credit rate minus energy and capacity credit approach that mischaracterizes bill credits as costs of the shared solar program."¹¹⁸ He called this approach "inverted" because, in his view, Code § 56-594.3 "builds up the minimum bill from zero" while "Dominion's approach assumes that it is entitled to collect every dollar it would have collected

¹⁰⁶ *Id.* at attached Ex. KRR-3, p. 10.

¹⁰⁷ *Id.* at 40.

¹⁰⁸ *Id.* at 41.

¹⁰⁹ *Id.* at 25.

¹¹⁰ *Id.* at 25-26. According to Mr. Rábago, Shared Solar Program customers would not be exempted from costs because they "will be fully charged for their consumption at current rates." *Id.* at 36.

¹¹¹ *Id.* at 25.

¹¹² *Id.* at 29-30.

¹¹³ *Id.* at 30.

¹¹⁴ *Id.* at 31.

¹¹⁵ *Id.* at 32.

¹¹⁶ *Id.*

¹¹⁷ *Id.* at 35.

¹¹⁸ *Id.* at 41. Mr. Rábago asserted that Dominion did not fully examine the value of shared solar energy, which he expects provides locational benefits that Dominion's methodology does not recognize. *See, e.g.*, Tr. at 174, 184-85 (Rábago).

from a shared solar subscriber *except for* a small credit for avoided energy and capacity costs.”¹¹⁹ Mr. Rábago asserted that Dominion is kept whole because “energy costs differences,” which he indicates could be positive or negative, are recoverable through the fuel factor.¹²⁰

Mr. Rábago emphasized that Dominion has not recognized or quantified any locational or operational benefits associated with the operation of shared solar generation.¹²¹ He characterized shared solar subscribers as “frontline volunteers, mitigating costs that Dominion would otherwise incur to develop solar to meet the requirements of the Virginia Clean Economy Act [(“VCEA”)] and the Renewable Portfolio Standard [(“RPS”)] and which Dominion has not accounted for.”¹²²

Mr. Rábago believes customers will be confused by Dominion’s proposal, which would make the minimum bill high and the program “practically unworkable.” He expressed concern about the difficulty for shared solar subscriber organizations “to launch or operate their businesses in Virginia, much less effectively communicate program economics and risks to subscribers.”¹²³ He also testified that a high minimum bill would discourage energy efficiency and conservation by shared solar participants.¹²⁴

In Mr. Rábago’s opinion, “you really can’t start thinking about workability for the shared solar program if you don’t think about how customers are going to approach it and how their subscriptions are going to be shaped and what’s going to be offered to them” by subscription organizations. Shared Solar Program customers will subscribe to the proportional output of a facility, which will change each month.¹²⁵ Pointing to volumetric components that vary with shared solar facility production, he emphasized the difficulty that potential customers would have understanding and budgeting for a new service program with a new rate element.¹²⁶ He does not believe Dominion or Staff adequately addressed workability.¹²⁷

Mr. Rábago estimated that Dominion’s proposed 7.428¢/kWh minimum bill rate would mean adding about \$25 million to the fuel factor, which he calculated would be 35¢ per month for a 1,000 kWh per month user.¹²⁸ He found these amounts “pale in comparison” to a \$212.4 million revenue surplus amount from Staff testimony in Dominion’s pending triennial review.¹²⁹

Mr. Rábago also opposed Dominion’s proposal to include non-bypassable charges in the minimum bill because they are not incremental program costs. He indicated that doing so for

¹¹⁹ Ex. 3 (Rábago) at 42-43 (emphasis in original).

¹²⁰ *Id.* at 33.

¹²¹ *Id.* at 42. He asserted that billed revenues from sales of injected energy, transmission cost savings, and distribution system costs savings all will reduce the impact of, and may even outweigh, the incremental bill credit-related costs addressed through the fuel factor. *Id.*

¹²² *Id.* at 44.

¹²³ *Id.* at 35. For this proposition, he endorsed portions of comments filed in this proceeding by CCSA and CHESSA. *Id.* at 33-34.

¹²⁴ Tr. at 208 (Rábago).

¹²⁵ Tr. at 162-64 (Rábago).

¹²⁶ Tr. at 165 (Rábago).

¹²⁷ Tr. at 157, 170 (Rábago).

¹²⁸ Ex. 3 (Rábago) at 36.

¹²⁹ *Id.* at 37.

low-income customers conflicts with Code § 56-594.3 because such customers are exempt from the minimum bill.¹³⁰

Turning to the bill credit rate methodology, Mr. Rábago recommended using the most recent data posted by the U.S. Energy Information Administration (“EIA”). He indicated that EIA posts data each October for the prior calendar year and provided 2021 residential, commercial, and industrial credit rate calculations based on October 2020 EIA data.¹³¹ Mr. Rábago opposed Dominion’s proposed use of FERC Form 1 data to the extent such revenue values are net of taxes. He indicated FERC Form 1 data “falls short” of the statutory requirement to use “revenues to the class.”¹³² He believes a “gross revenue” amount captures the full cost paid by a Dominion customer, which should include, among other things: energy, demand, and customer service charges; state and local income taxes; franchise fees; environmental surcharges; and fuel adjustments.

In addition to the exclusion/inclusion of taxes, Mr. Rábago identified two other differences between FERC Form 1 and EIA data. First, EIA data is posted annually in October while FERC Form 1 data is posted in March. He found this difference to be immaterial since the Order Adopting Rules determined that the bill credit rate should be recalculated each December.¹³³

Second, Mr. Rábago recognized that FERC Form 1 data is used to determine rates in the Multi-Family Shared Solar Program, while EIA data is not.¹³⁴ But he saw “no compelling reason to align the programs precisely.” In support of this position, he pointed out that each program is the product of a different statute using different terminology to describe the respective bill credit rate. The multi-family shared solar statute lists effective retail rate components that Mr. Rábago indicated do not include utility and consumption taxes.¹³⁵ Mr. Rábago could not identify an administrative benefit to Dominion’s approach. He also does not believe adoption of different methodologies for the Shared Solar and Multi-Family Shared Solar Programs would create any reasonable risk of confusion.¹³⁶

Staff

Staff presented the results of its investigation through the testimony of **David J. Dalton**, a Principal Utilities Analyst in the Commission’s Division of Public Utility Regulation.

¹³⁰ *Id.* at 45.

¹³¹ *Id.* at 17. He calculated 2021 per kWh bill credit rates of 12.06¢ for residential customers, 7.94¢ for commercial customers, and 6.45¢ for industrial customers. *Id.*

¹³² *Id.* at 18.

¹³³ *Id.* at 19-20 (citing Order Adopting Rules at 8).

¹³⁴ Ex. 3 (Rábago) at 19.

¹³⁵ *Id.* at 19-20. Mr. Rábago quoted the following language from Code § 56-585.1:12 D: “The Commission shall annually calculate the applicable bill credit rate as the effective retail rate of the customer’s rate class, which shall be inclusive of all supply charges, delivery charges, demand charges, fixed charges, and any applicable riders or other charges to the customer.” *See also* Tr. at 159 (Rábago).

¹³⁶ Tr. at 161 (Rábago).

Staff's analysis of the minimum bill and rate credit methodologies focused on the rate design principles of simplicity, understandability, and public acceptability.¹³⁷

Starting with Dominion's rate credit methodology proposed in this case, Mr. Dalton acknowledged that the Commission approved the use of FERC Form 1 data to calculate the rate credit for the Multi-Family Shared Solar Program.¹³⁸ Mr. Dalton recognized that the Shared Solar and the Multi-Family Shared Solar Programs both generally afford Dominion's customers the opportunity to participate in shared solar projects. He also recognized that Code provisions for both programs provide guidance for the annual calculation of a bill credit, albeit using different statutory language.¹³⁹ Staff supported using the same FERC Form 1 data and the resulting bill credit rate for both programs.¹⁴⁰

Mr. Dalton provided Staff's understanding that the term "minimum bill" represents the minimum amount to be charged to a customer, regardless of usage. In his opinion, the purpose of a minimum bill is to ensure that each customer makes an appropriate contribution toward the system's fixed costs. While he indicated a minimum bill may typically be considered a fixed amount, it may also be appropriate for a minimum bill to include volumetric charges.¹⁴¹

In Staff's view, there may be six categories of charges that could be included in the minimum bill for shared solar subscribers: (1) the basic customer charge; (2) statutory non-bypassable charges; (3) transmission charges; (4) distribution charges; (5) administrative charges; and (6) generation balancing services charges.¹⁴² Mr. Dalton recognized that CCSA/CHESSA proposed including two of these charges in the minimum bill – the basic customer charge and an administrative charge that would be set at \$1 initially.¹⁴³ This approach would allow customers to offset the entire volumetric portion of their bills.¹⁴⁴ As for Dominion's proposed minimum bill, Mr. Dalton indicated that it included charges for all six of the categories he identified except for administrative charges.¹⁴⁵

Mr. Dalton testified that Staff has not identified any specific distribution or transmission investments – either base rate or rate adjustment clause ("RAC") – that are new or that Dominion would have to procure or acquire due to the Shared Solar Program.¹⁴⁶ Mr. Dalton agreed that the shared solar program relies on Dominion's transmission and distribution infrastructure to operate and that shared solar energy would be used in the system generally, rather than providing direct service to shared solar customers.¹⁴⁷

¹³⁷ Ex. 7 (Dalton) at 2-3 (citing Bonbright, James C., *Principles of Public Utility Rates*, Columbia University Press, 1961, p. 291).

¹³⁸ Ex. 7 (Dalton) at 6-7 (citing the *Multi-Family Shared Solar Order* at 3-4).

¹³⁹ Ex. 7 (Dalton) at 7, n.25.

¹⁴⁰ *Id.* at 8.

¹⁴¹ *Id.*

¹⁴² *Id.* at 10-11.

¹⁴³ *Id.* at 11-12.

¹⁴⁴ *Id.* at 12.

¹⁴⁵ *Id.* at 13-14. Dominion ultimately did not oppose setting an initial fixed fee of \$1 pending a future proceeding. Dominion's Brief at 10.

¹⁴⁶ Tr. at 249-52 (Dalton).

¹⁴⁷ Tr. at 258-59 (Dalton).

Mr. Dalton expressed concern that Dominion’s preliminary \$10 to \$20 per month administrative cost estimate could result in a minimum bill as high as \$94.28 using Dominion’s proposed methodology. He further indicated that Staff does not support Dominion’s proposal to set the administrative charges when Dominion files tariff pages for the Shared Solar Program. While he agreed that Dominion should be able to update the administrative charge portion of the minimum bill in the future regardless of the methodology approved by the Commission,¹⁴⁸ he believes it is appropriate to set any such administrative charge in a formal, rather than informal, manner.¹⁴⁹

Mr. Dalton presented two minimum bill proposals developed by Staff. Staff Alternative Option A (“Staff Alternative A”) calculates a \$10.95 minimum bill by adding non-bypassable charges to the CCSA/CHESSA approach.¹⁵⁰ Mr. Dalton showed his calculation of Staff Alternative Option B (“Staff Alternative B”), which does not include generation balancing charges but includes a \$1 administrative charge, as follows.¹⁵¹

Charge Type	Charge Name	Charge Amount (\$)	\$/1,000 kWh Res. Customer*
Cust. Chg.	Basic Cust. Chg.	\$6.58/Fixed	\$6.58
Non-Bypassable Charges	Rider RPS	\$0.000182/kWh	\$0.18
	Rider CE	\$0.00019/kWh	\$0.19
	Rider PIPP	\$0.000027/kWh	\$0.03
	Rider CCR ⁵³	\$0.002944/kWh	\$2.94
	Rider RBB ⁵⁴	\$0.000027/kWh	\$0.03
Base Distribution Charges	Base Distribution, First 800 kWh	\$0.021086/kWh	\$16.87
	Base Distribution, Usage > 800 kWh	\$0.011943/kWh	\$2.39
Distribution RAC Charges	Rider C1A	\$0.000025/kWh	\$0.03
	Rider C2A	\$0.000036/kWh	\$0.04
	Rider C3A	(\$0.00018)/kWh	(\$0.18)
	Rider C4A	\$0.001417/kWh	\$1.42
	Rider GT ⁵⁵	\$0.01169/kWh	\$1.17
	Rider U	\$0.002136/kWh	\$2.14
Base Trans. Chgs.	Base Transmission	\$0.0097/kWh	\$9.70
Trans. RAC Chgs.	Rider T1	\$0.010591/kWh	\$10.59
Admin. Chg.	Admin. Charge	\$1.00/Fixed	\$1.00
	Total:**		\$55.10

* Values are rounded to the nearest whole cent.

** Values may not sum exactly due to rounding.

¹⁴⁸ Ex. 7 (Dalton) at 16-17.

¹⁴⁹ *Id.* at 15.

¹⁵⁰ *Id.* at 15-16.

¹⁵¹ *Id.* at 18.

As shown, the applicable rates used in the above calculations for Staff Alternative B are standard tariff rates. Mr. Dalton's \$10.95 and \$55.10 calculations for Staff Alternatives A and B, respectively, are based on a residential customer with monthly usage of 1,000 kWh and a monthly shared solar subscription of 1,000 kWh.¹⁵²

Mr. Dalton explained reasons why annual updates to the minimum bill calculation may be appropriate. He pointed out that the number and rates for non-bypassable charges will likely increase annually and that several values used in Dominion's approach will change annually.¹⁵³

Dominion – Rebuttal

Dominion offered the rebuttal testimony of **Mr. Trexler**. In further support of Dominion's proposal to use FERC Form 1 data to calculate the bill credit rate, Mr. Trexler focused on the Commission's approval of FERC Form 1 data to calculate the bill credit rate for the Multi-Family Shared Solar Program. He noted that the Shared Solar and Multi-Family Shared Solar Programs are similarly structured and will involve many of the same non-customer parties. He expects that many of Dominion's customers will have interest in both programs and that uniformity between the two programs would be efficient and appropriate.¹⁵⁴ He indicated that using the same bill credit in both programs makes the most sense for ease of operation and would avoid confusion when a customer calls the Company's customer service center for questions related to their "shared solar" subscription.¹⁵⁵

Mr. Trexler explained that when Dominion initially proposed using EIA data to calculate the bill credit rate, Dominion had noted that utility and consumption taxes must be removed. He indicated that such taxes are "payments collected on behalf of and passed to the respective governmental entities to whom they belong and are not Company revenue."¹⁵⁶ Mr. Trexler explained the Commission's approval to use FERC Form 1 data in the *Multi-Family Shared Solar Order*,¹⁵⁷ which is addressed below in this Report's Discussion section.

While Mr. Trexler indicated that Dominion does not oppose seeking Commission approval to update the minimum bill to address changes to the administrative charge and components of the minimum bill, he indicated an annual update may be unnecessary. He also pointed out that the Order Adopting Rules directed Dominion to file its tariffs related to the Program within 60 days of the implementation of the CIP, or by July 1, 2023. To him, it seems premature to set the costs of the administrative charge almost two years in advance of the statute's program implementation timeline. However, he did not oppose setting an initial fixed fee of \$1 pending a future proceeding, as proposed by Staff and CCSA. This would address the initial estimated personnel costs for program administration, but not the expected total of administrative charges.¹⁵⁸

¹⁵² *Id.* at 16, n.47, and 18, n.52.

¹⁵³ *Id.* at 19.

¹⁵⁴ Ex. 8 (Trexler rebuttal) at 2.

¹⁵⁵ *Id.* at 9.

¹⁵⁶ *Id.* at 7.

¹⁵⁷ *Id.* at 8.

¹⁵⁸ *Id.* at 5.

Mr. Trexler described Dominion's approach to the minimum bill as follows:

the minimum bill reflects [Dominion's] opinion that the structure of the Program is such that a participating customer subscribes to a portion of the output of a solar facility that is not located on the customer[']s premises or able to serve any of the customer's load directly. Instead, the output of the solar facility is sold into the larger grid system and the subscribing customers have paid the subscribing organization for the right to be assigned a portion of that generation, the assignment of which is recognized as a bill credit for that energy sold into the grid. The generation is not serving any of the customer's load directly in real time (in contrast to, for example, a net metering facility located behind the meter on a customer's property), and because of the nature of solar generation, does not cover the customer's load whenever the solar facility is not generating (*e.g.*, night, cloudy days, when the facility is down for repair or maintenance). Thus, at all times, the Company is providing generation service to the participating customer. The Company therefore believes that its proposal better aligns with the statutory requirements and the Commission's regulations.¹⁵⁹

Mr. Trexler acknowledged that the Company believes it is appropriate to recover the cost of existing infrastructure through the minimum bill.¹⁶⁰ He is not aware of any new costs of new generation, distribution, or transmission infrastructure that Dominion must procure because of the Shared Solar Program.¹⁶¹

Mr. Trexler reacted to Staff's alternative minimum bill proposals. He believes Staff Alternative A fails to include the costs of all utility infrastructure and services used to provide electric service and administrative costs of the Shared Solar Program, as required by Code § 56-594.3 D. He believes this alternative also does not ensure that subscribing customers pay a fair share of the costs of providing electric services or minimize the costs shifted to nonparticipants, as the Commission also must consider when determining any further necessary costs, because this alternative does not account for transmission charges, distribution charges beyond the basic customer charge, or generation charges – all of which will be necessary to provide electric service to Shared Solar Program customers.¹⁶²

¹⁵⁹ *Id.* at 11.

¹⁶⁰ Tr. at 276 (Trexler).

¹⁶¹ Tr. at 279-80 (Trexler). Dominion witness Trexler was unsure of whether long-term operations and maintenance expense might be incurred for interconnection upgrades funded by the interconnecting shared solar generators. Tr. at 278-79 (Trexler). While CCSA witness Rábago indicated ongoing costs would be assessed to Shared Solar Program facilities, Mr. Trexler indicated that interconnection costs do not cover daily operation costs. *See* Ex. 3 (Rábago) at 16; Ex. 8 (Trexler rebuttal) at 19.

¹⁶² Ex. 8 (Trexler rebuttal) at 10.

As for Staff Alternative B, Mr. Trexler recognized that, in addition to the charges previously described for Staff Alternative A, Staff Alternative B also includes all distribution and transmission charges, reducing the amount of costs shifted to customers not in the Shared Solar Program. He found that Staff Alternative B comes closer to satisfying the statutory requirements than Staff Alternative A, but still results in Shared Solar customers not paying for certain generation services they are receiving, and shifting those associated costs to nonparticipants.¹⁶³

If the Commission found Staff Alternative B compliant with the statutory scheme and legislative intent, Mr. Trexler proposed that the Commission consider Dominion's approach of calculating an average rate/kWh to apply for distribution and transmission, for residential, commercial, and industrial customers as noted in Table 1 of his direct testimony.¹⁶⁴

Mr. Trexler opposed CCSA's minimum bill proposal, which he indicated provides for only two of the six categories the Company believes are appropriate for inclusion. He explained that Dominion's basic customer charge is only designed to provide recovery for a limited set of distribution-related, customer costs – not the costs of all the utility infrastructure and services used to provide electric service.¹⁶⁵

Mr. Trexler asserted that CCSA's minimum bill proposal fails to comply with the "statutory requirements that (i) the minimum bill include the costs of all utility infrastructure and services used to provide electric service and administrative costs of the Shared Solar Program; and (ii) the Commission ensure that subscribing customers pay a fair share of the costs of providing electric services and minimize the costs shifted to customers not in a shared solar program."¹⁶⁶ He argued that CCSA's approach overlooks or obviates the clear command of the statute by focusing on one word – "incremental" – in isolation from the Commission's implementing regulations.¹⁶⁷ He indicated that statutes and shared solar programs in other states "have no application to this proceeding."¹⁶⁸

Mr. Trexler indicated that CCSA witness Rábago's testimony acknowledged that CCSA's minimum bill proposal would shift approximately \$25 million in costs per year to nonparticipating customers.¹⁶⁹ Mr. Trexler believes it would be unreasonable for nonparticipating customers to pay for any generation-, distribution-, or transmission-related costs related to a participating customer's subscription.¹⁷⁰

He testified that absent the proposed distribution and transmission service charges, participating customers would pay \$0 for transmission and distribution-related costs for their

¹⁶³ *Id.* at 11. *See also* Tr. at 270 (Trexler).

¹⁶⁴ Ex. 8 (Trexler rebuttal) at 13-14.

¹⁶⁵ *Id.* at 14.

¹⁶⁶ *Id.* at 6 (emphasis omitted) (citing Code § 56-594.3 D).

¹⁶⁷ Ex. 8 (Trexler rebuttal) at 15-16.

¹⁶⁸ *Id.* at 6.

¹⁶⁹ *Id.* at 15. Mr. Trexler noted that the Commission previously found cost-shifting of up to \$65 million over a 10-year period to customers to be unacceptable. Ex. 8 (Trexler rebuttal) at 15 (citing *Wal-Mart Stores East, LP v. State Corp. Comm 'n*, 299 Va. 57, 66 (2020) ("*Wal-Mart*").

¹⁷⁰ Ex. 8 (Trexler rebuttal) at 17-18.

electricity usage associated with their subscription, thereby resulting in incremental costs borne by the Company, and ultimately nonparticipating customers. He believes these distribution and transmission-related costs are reasonable because they are intended to cover services necessary for the provision of electricity to participating customers.¹⁷¹

He further testified that absent the proposed generation service charge and avoided cost credit (*i.e.*, generation balancing charge), participating customers would pay \$0 for generation-related costs for their electricity usage associated with their subscription, thereby resulting in incremental costs borne by the Company, and ultimately nonparticipating customers. He believes these generation balancing service costs are reasonable because they are intended to cover service necessary for the provision of electricity to participating customers. He sees calculating the higher of (i) the customer's generation service charge based upon Commission-approved rates net of avoided cost benefit credits; or (ii) the sum of the Commission-approved non-bypassable charges, as outlined in the Company's proposal, as the most straightforward mechanism for addressing generation balancing.¹⁷²

Mr. Trexler further testified as follows:

Without the minimum bill, you will shift costs to non-participants. If you say the bill credit *post hoc* pays the customer's bill, you cannot ignore the fact that the money comes from somewhere. By increasing the purchased power costs, you are still shifting costs to non-participants, which the statute clearly indicates should be minimized; the Company's proposal creates the minimum bill for this reason. The statute, by design, provides for costs associated with low-income subscribers to be shifted to non-participants, but was clear that otherwise, subscribers should pay a minimum bill.

Mr. Trexler refuted CCSA witness Rábago's contention that utility infrastructure and services costs associated with the operation of a shared solar generator are recovered through upfront and ongoing interconnection costs assessed on shared solar facilities. Mr. Trexler indicated that such costs and payments are "wholly unrelated to infrastructure costs the utility incurs to serve customers daily, including those with a Shared Solar [Program] subscription"; rather, such costs and payment are related solely to allowing a generator to interconnect to the system without causing the system damage.¹⁷³ He stood by Dominion's treatment of non-bypassable charges, sharing his understanding that such charges are statutorily mandated subject to specified exceptions. He is aware of no such exception for Shared Solar Program participants.¹⁷⁴

Mr. Trexler disagreed with CCSA witness Rábago's assertion that the statute requires the minimum bill to be a fixed amount. This approach also does not make sense or seem reasonable

¹⁷¹ *Id.* at 16-17.

¹⁷² *Id.* at 18.

¹⁷³ *Id.* at 19.

¹⁷⁴ *Id.* at 20.

to Mr. Trexler, who cited the potential for a small usage residential customer to pay a minimum bill at a much higher percentage compared to their subscription than a residential customer with higher than average usage.¹⁷⁵

DISCUSSION

This Discussion analyzes the two issues the Commission set for hearing and assigned to a Hearing Examiner. Section I identifies and applies the statutory bill credit rate provisions to relevant record evidence. Section II identifies and applies the minimum bill statutory provisions and regulations to relevant record evidence. In addition to the two issues set for hearing, Section III addresses Dominion’s proposal to recover the Shared Solar Program costs associated with low-income customers through the fuel factor.

CCSA asserted that Dominion “has the burden to demonstrate that the costs it proposes to include in the minimum bill are justified.”¹⁷⁶ While CCSA cites Rule 80 for this assertion, Rule 80 states that the Commission’s evaluation of the minimum bill 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.*”¹⁷⁷ In addition, the two issues set for hearing directly implicate the allocation of cost responsibility between two groups of Dominion’s customers – those that will participate in the Shared Solar Program and those that will not. There is no *status quo* for the program, the associated rate, or its cost allocation implications, because the program has not yet been established.¹⁷⁸ Accordingly, my analysis applies the plain language of the Code and, where Commission discretion exists, recommends just and reasonable rate components – balancing the interests of prospective participants, nonparticipants, Dominion, and subscriber organizations – based on the evidence presented by the case participants. However, should the Commission decide that Dominion bears the burden of proof, it would not affect my findings or recommendations discussed below.

I. Bill Credit Rate

Code

For the Shared Solar Program bill credit rate, the relevant provisions of Code § 56-594.3 include the following (with emphasis added):

A. As used in this section:

“Applicable bill credit rate” means the dollar-per-kilowatt-hour rate used to calculate the subscriber’s bill credit.

¹⁷⁵ *Id.* at 21.

¹⁷⁶ CCSA’s Brief at 29. *See also* Appalachian Voices’ Brief at 16.

¹⁷⁷ Rule 80 A 2 (emphasis added).

¹⁷⁸ *See generally* *Wal-Mart*, 299 Va. at 73 (“As the party seeking to disturb the status quo ... a petitioner seeking relief under the exception in [Code § 56-577 A 4] must shoulder a three-tiered burden of persuasion.”) (internal citation and quotations omitted).

“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.

...

B. ... Under its shared solar program, a utility shall provide a bill credit for the proportional output of a shared solar facility attributable to that subscriber. The shared solar program shall be administered as follows:

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

2. 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.

C. Each subscriber shall pay a minimum bill, established pursuant to subsection D, and shall receive an applicable bill credit based on the subscriber’s customer class of residential, commercial, or industrial. Each class’s applicable credit rate shall be calculated by the Commission annually by dividing revenues to the class by sales, measured in kilowatt-hours, to that class to yield a bill credit rate for the class (\$/kWh).¹⁷⁹

Bill Credit Rate Analysis

As italicized above, Code § 56-594.3 C provides that the Shared Solar Program’s bill credit rate shall be calculated for each customer class “annually by dividing revenues to the class by sales, measured in kilowatt-hours, to that class to yield a bill credit rate for the class (\$/kWh).”

To calculate the bill credit rate for the Shared Solar Program, Dominion proposed using the total revenues and sales from FERC Form 1, for the Virginia jurisdictional revenue classes.¹⁸⁰ The Commission’s *Multi-Family Shared Solar Order* approved these FERC Form 1 inputs for the Multi-Family Shared Solar Program bill credit rate calculation. In doing so, the Commission indicated that, compared to EIA data, the use of FERC Form 1 data would “obviate the need to

¹⁷⁹ The Commission’s Rules include provisions addressing the bill credit rate for the Shared Solar Program. See 20 VAC 5-340-60 F. Like the arguments of the case participants, my bill credit rate analysis focuses on the record and the relevant provisions of the Code.

¹⁸⁰ Ex. 2 (Trexler direct) at 4.

remove taxes from the data before calculating the bill credit rate” and that FERC Form 1 is “more timely and provides data by jurisdiction, and because both Dominion and KU-ODP submit Virginia-specific FERC Form 1 information to the Commission each March, using the FERC Form 1 data to calculate the bill credit rate is preferable.”¹⁸¹

In proposing FERC Form 1 data in the instant case, Dominion witness Trexler testified that methodological consistency between the Shared Solar and Multi-Family Shared Solar Programs “is of primary importance”¹⁸² and would avoid customer confusion.¹⁸³ Additionally, Mr. Trexler testified that the taxes included in the EIA data, but not the FERC Form 1 data, are “payments collected on behalf of and passed to the respective governmental entities to whom they belong and are not Company revenue.”¹⁸⁴ Dominion argued that the appropriate bill credit rate methodology is the “one that best reflects the correct revenue and sales data to be applied in the statutory formula” and “not the one that provides the greatest financial return.”¹⁸⁵

Staff supported Dominion’s recommendation to use the same FERC Form 1 data approved in the *Multi-Family Shared Solar Order*.¹⁸⁶

CCSA opposed Dominion’s proposal to use FERC Form 1 data and instead recommended using data that EIA posts each October.¹⁸⁷ According to CCSA witness Rábago, EIA provides gross revenue data that captures “the full cost paid by a Dominion customer, which should include, among other things: energy, demand, and customer service charges; state and local income taxes; franchise fees; environmental surcharges; and fuel adjustments.”¹⁸⁸ Mr. Rábago found “no compelling reason” to adopt the same bill credit rate methodology approved for the Multi-Family Shared Solar Program.¹⁸⁹ He does not believe adoption of different methodologies for the two programs would create any reasonable risk of confusion and could not identify an administrative benefit to Dominion’s approach.¹⁹⁰

CCSA witness Rábago also argued that FERC Form 1 data “falls short” of the statutory requirement to use “revenues to the class” because the FERC Form 1 revenues are net of certain taxes.¹⁹¹ In making this argument, Mr. Rábago emphasized that the Multi-Family Shared Solar Program bill credit rate was approved pursuant to the following statutory language,¹⁹² which differs from the bill credit provisions of Code § 56-594.3: “The Commission shall annually calculate the applicable bill credit rate as the effective retail rate of the customer’s rate class, which shall be inclusive of all supply charges, delivery charges, demand charges, fixed charges,

¹⁸¹ *Multi-Family Shared Solar Order* at 3-4.

¹⁸² Ex. 2 (Trexler direct) at 5.

¹⁸³ Ex. 8 (Trexler rebuttal) at 9.

¹⁸⁴ *Id.* at 7.

¹⁸⁵ Dominion’s Brief at 27.

¹⁸⁶ Ex. 7 (Dalton) at 8.

¹⁸⁷ Ex. 3 (Rábago) at 17.

¹⁸⁸ *Id.* at 19.

¹⁸⁹ *Id.* at 20.

¹⁹⁰ Tr. at 161 (Rábago).

¹⁹¹ Ex. 3 (Rábago) at 18.

¹⁹² *Id.* at 19-20. *See also* Tr. at 159 (Rábago).

and any applicable riders or other charges to the customer.”¹⁹³ He pointed out that utility and consumption taxes are not among the charges enumerated in this statutory language for the Multi-Family Shared Solar Program.¹⁹⁴

To Appalachian Voices, both Dominion’s and CCSA’s bill credit rate methodologies appear reasonable. However, Appalachian Voices prefers CCSA’s recommendation because it will result in a higher bill credit rate, which would “incrementally contribute to the program’s success.”¹⁹⁵

Based on my reading of the Code, the Commission has discretion to approve the use of either FERC Form 1 or EIA data to calculate the bill credit rate for the Shared Solar Program. Code § 56-594.3 does not require the Commission to include in its bill credit rate calculation government revenues that are collected by Dominion, as suggested by CCSA. The excerpt from the FERC Form 1 in the record of this case shows that the data reported therein includes jurisdictional electric operating revenues,¹⁹⁶ consistent with the statutory directive to use “revenues.”¹⁹⁷ The Commission’s authority under Code § 56-594.3 is unaffected by the fact that the multi-family shared solar bill credit language of Code § 56-585.1:12 differs from the shared solar bill credit language of Code § 56-594.3. Different statutory language does not necessarily compel different results. Where, as here, an approach (*i.e.*, using FERC Form 1 revenues and sales) can satisfy the parameters of two statutes, that the statutes use different language is legally inconsequential.

In assigning this case to the Office of Hearing Examiners, the Order for Notice and Hearing expressly recognized the Commission’s prior adoption of a bill credit rate using FERC Form 1 data in the *Multi-Family Shared Solar Order*. The Commission indicated that should the Hearing Examiner in the instant case recommend a different methodology than approved in the *Multi-Family Shared Solar Order*, the Hearing Examiner should explain in detail any differences, and the reasons therefor, in the recommended methodology.¹⁹⁸

In calculating the bill credit rate, I find it unreasonable to include the tax revenue in question. As recognized by Dominion witness Trexler, this tax revenue is *government* revenue that is collected by Dominion.¹⁹⁹ Additionally, I do not see a statutory or evidentiary reason to recommend a bill credit rate methodology different from what the Commission approved in the *Multi-Family Shared Solar Order*. For these reasons, I recommend the Commission use FERC Form 1 data to calculate the bill credit rate for the Shared Solar Program, as recommended by Dominion and consistent with the *Multi-Family Shared Solar Order*.

¹⁹³ Code § 56-585.1:12 D.

¹⁹⁴ Ex. 3 (Rábago) at 19-20.

¹⁹⁵ Tr. at 106-07 (Allmond); Appalachian Voices’ Brief at 27-28.

¹⁹⁶ Ex. 2 (Trexler direct) at Appendix A (excerpt from Dominion’s Virginia jurisdictional FERC Form 1 for Electric Operating Revenues (Account 400), for year ended December 31, 2020).

¹⁹⁷ Code § 56-594.3 C. While CCSA suggested that this issue turns on whether such revenues are either “net” or “gross,” Ex. 3 (Rábago) at 19-20; Tr. at 159 (Rábago), that the plain language of Code § 56-594.3 includes neither term supports Commission discretion, rather than limitation.

¹⁹⁸ Order for Notice and Hearing at 6, n.14.

¹⁹⁹ Ex. 8 (Trexler rebuttal) at 7.

I note the magnitude of the bill credit rate using either of the competing proposals. Using 2020 data, Dominion's methodology would produce a 11.765¢/kWh residential bill credit rate²⁰⁰ and CCSA's methodology would produce either a 12.06¢ or 12.18¢/kWh residential bill credit rate.²⁰¹ Because the FERC Form 1 and EIA data include Dominion's generation, transmission, and distribution revenues, the bill credit rate will approach the retail rates that customers pay. A bill credit rate of this magnitude will almost certainly create a cost to nonparticipants unless counterbalanced by the statutory minimum bill provisions, as discussed below.

II. Minimum Bill

Case participants have cited provisions of Code § 56-594.3 and the Commission's Rules in support of their competing minimum bill proposals. These provisions that pertain specifically to the minimum bill are shown below, in a side-by-side format for ease of reference and comparison.

²⁰⁰ See, e.g., Ex. 7 (Dalton) at 7-8 (citing the *Multi-Family Shared Solar Order*). Dominion's proposed commercial and industrial bill credit rates are 7.120 and 5.901¢/kWh, respectively. Ex. 2 (Trexler direct) at attached workpaper.

²⁰¹ Ex. 3 (Rábago) at 17; Tr. at 160 (Rábago).

Code § 56-594.3

A. "Minimum bill" means an amount determined by the Commission under subsection D that subscribers are required to, at a minimum, pay on their utility bill each month after accounting for any bill credits.

...

C. Each subscriber shall pay a minimum bill, established pursuant to subsection D....

D. The Commission shall establish a minimum bill, which shall 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 and (ii) minimize the costs shifted to customers not in a shared solar program. Low-income customers shall be exempt from the minimum bill.

...

Rule 80

"Minimum bill" means a dollar per month amount determined by the commission under § 56-594.3 of the Code of Virginia that subscribers are required to pay, at a minimum, on their utility bill each month after accounting for any bill credits.

A. The commission shall convene a proceeding to determine any monthly administrative charge and the components of the minimum bill.

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 ... 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;
- 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 solar 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.

In support of minimum bill proposals, case participants have also cited provisions of Code § 56-594.3 that are generally applicable to any Commission rule or program pursuant to this statute. Code § 56-594.3 provides in part as follows:

F. The Commission shall establish by regulation a shared solar program that complies with the provisions of subsections B, C, D, and E by January 1, 2021, and shall require each utility to file any tariffs, agreements, or forms necessary for implementation of the program within 60 days of the utility’s full implementation of a new customer information platform or by July 1, 2023, whichever occurs first. Any rule or utility implementation filings approved by the Commission shall:

- 1. Reasonably allow for the creation of shared solar facilities;
- 2. Allow all customer classes to participate in the program;

...

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

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

...

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

...

14. Require net crediting functionality as part of any new customer information platform approved by the Commission. Under net crediting, the utility shall include the shared solar subscription fee on the customer’s utility bill and provide the customer with a net credit equivalent to the total bill credit value for that generation period minus the shared solar subscription fee as set by the subscriber organization. The net crediting fee shall not exceed one percent of the bill credit value. Net crediting shall be optional for subscriber organizations, and any shared solar subscription fees charged via the net crediting model shall be set to ensure that subscribers do not pay more in subscription fees than they receive in bill credits; and

15. Allow the utility to recover as the cost of purchased power pursuant to § 56-249.6 any difference between the bill credit

Shared Solar Program customers to pay all non-bypassable charges.²⁰⁷

Staff presented the following table²⁰⁸ for comparison of the four methodologies, assuming 1,000 kWh usage and 1,000 kWh subscription by a residential customer.²⁰⁹ In this context, “subscription” refers to the output of a shared solar facility attributable to the subscribing customer.

Minimum Bill Proposals			
CCSA/CHESSA	Company	Staff Alt. Option A	Staff Alt. Option B
\$7.58	\$74.28	\$10.95	\$55.10

Two aspects of the above figures are important to understand at the outset. First, while Dominion estimated that administrative charges for the Shared Solar Program could be within the \$10 to \$20 range,²¹⁰ none of these minimum bill proposals includes more than \$1 for such costs. Given the uncertainties associated with administrative costs at this time, Dominion did not propose an administrative charge,²¹¹ although it did not oppose Staff and CCSA including a \$1 administrative charge pending a future proceeding.²¹² It is important to understand that the minimum bill figures presented above would be higher if higher administrative charges were incorporated.

Second, all the figures shown above, except for the \$7.58 CCSA figure, would vary if usage and/or shared solar subscription-output varies from the 1,000 kWh assumption used to calculate the above figures.²¹³ For example, in a month when a Shared Solar Program customer with a 1,000 kWh subscription-output uses 700 kWh or 1,200 kWh, the Company methodology produces bill amounts of \$42.33 or \$95.49, respectively (compared to the \$74.28 amount shown above).²¹⁴ For that same customer with a 1,000 kWh subscription-output, 700 kWh of usage would result in a \$42.13 minimum bill under Staff Alternative B, with excess bill credits rolled forward to future billing months.²¹⁵ For the 1,000 kWh subscription-output customer, 1,200 kWh of usage would result in a \$55.10 minimum charge and the customer would also be charged full tariff rates for the 200 kWh of usage above the 1,000 kWh subscription-output amount.²¹⁶

B. Legal Issues

Before analyzing and weighing statutory considerations associated with the four competing minimum bill proposals, six legal issues should be addressed: (1) the applicability of non-bypassable charges to Shared Solar Program customers; (2) whether charges that appear twice on a bill, but are netted out once with credits, would be recovered twice from customers; (3) whether reducing bill credits with the minimum bill is an unlawful collateral attack on the statutory bill credit rate; (4) whether the minimum bill must be a flat monthly amount, regardless of a Shared

²⁰⁷ *Id.* at 15-16, Appendix A.

²⁰⁸ *Id.* at summary.

²⁰⁹ *Id.* at 2.

²¹⁰ *See, e.g., id.* at Attachment No. DJD-1.

²¹¹ Ex. 2 (Trexler direct) at 18-19.

²¹² *See, e.g.,* Dominion’s Brief at 10.

²¹³ All these calculations are also based on rates and/or FERC Form 1 data that change over time.

²¹⁴ Ex. 9.

²¹⁵ Ex. 10 at 56.

²¹⁶ *Id.* at 68.

Solar Program customer's usage or subscription; (5) whether Dominion's minimum bill is not a floor, and is therefore inconsistent with statutory law; and (6) whether the minimum bill is limited to "incremental costs" and, if so, what the term means in this context.

1. Applicability of Non-Bypassable Charges

The Code provides for several non-bypassable charges,²¹⁷ five of which Staff identified under Dominion's current or proposed rates.²¹⁸ Some of these same Code provisions also include exemptions for certain specified customers.²¹⁹ No case participant asserted that Shared Solar Program customers fall within any such exemption.

Dominion argued that non-bypassable charges are mandated by statute and applicable to all customers, regardless of the source of their generation, unless a customer qualifies for an exemption.²²⁰ Mr. Trexler testified that under Dominion's proposal low-income customers would be exempt from all components of the minimum bill, except non-bypassable charges.²²¹

CCSA's minimum bill proposal does not include any charges for the statutory non-bypassable charges. Additionally, CCSA argued that because "[t]here is no exception to the low-income exemption in [Code § 56-594.3]," including non-bypassable charges in the minimum bill would violate the plain language of the Code.²²² CCSA further argued that Shared Solar Program subscribers will not bypass such charges so long as they are billed for them.²²³

Staff Alternative A adds the statutory non-bypassable charges to CCSA's proposed minimum bill. Staff Alternative B also includes such charges.

As an initial matter, the applicability of statutory non-bypassable charges to *low-income* customers appears to be beyond the scope of the two issues assigned by the Order for Notice and

²¹⁷ See, e.g., Code § 56-585.6 A ("The Commission shall, after notice and opportunity for hearing, initiate a proceeding to establish the rates, terms, and conditions of a non-bypassable universal service fee to fund the Percentage of Income Payment Program (PIPP). Such universal service fee shall be allocated to retail electric customers of ... [Dominion] ..."); Code § 56-585.5 F (iii) ("all other costs of compliance, including costs associated with the purchase of RECs associated with RPS Program requirements pursuant to this section shall be recovered from all retail customers in the service territory of a Phase I or Phase II Utility as a non-bypassable charge..."); Code § 56-585.1:11 C 3 ("Any such costs proposed for recovery through a [RAC] pursuant to subdivision A 6 of § 56-585.1 shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge..."); Code § 56-585.1:9 B ("The costs of providing broadband capacity pursuant to any such petition, net of revenue generated therefrom, shall be eligible for recovery from customers as an electric grid transformation project pursuant to clause (vi) of subdivision A 6 of § 56-585.1 filed on or after July 1, 2021, as a non-bypassable charge..."); Code § 10.1-1402.03 (iv) ("any such costs shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge, irrespective of the generation supplier of any such customer.").

²¹⁸ Ex. 7 (Dalton) at 16.

²¹⁹ See, e.g., Code § 56-585.1:11 C 3 ("...other than (i) PIPP eligible utility customers, (ii) advanced clean energy buyers, and (iii) qualifying large general service customers").

²²⁰ See, e.g., Dominion's Brief at 18; Ex. 8 (Trexler rebuttal) at 20.

²²¹ Ex. 2 (Trexler direct) at 21.

²²² CCSA's Brief at 35.

²²³ See, e.g., Tr. at 179-82 (Rábago); Ex. 3 (Rábago) at 36; CCSA's Brief at 35-36.

Hearing. Low-income customers are statutorily exempt from the Shared Solar Program minimum bill.²²⁴ Therefore, any statutory requirement for such customers to pay nonbypassable charges could not be a function of an inapplicable minimum bill. Non-bypassable charges are also irrelevant to the statutorily prescribed determination of a bill credit rate for any customers.

Turning to the Shared Solar Program customers that are subject to the minimum bill, I am unconvinced that such customers can bypass non-bypassable charges without an express statutory exemption similar to such exemptions provided for other types of customers. This conclusion does not, as CCSA suggested, confuse “exemption and offsetting.”²²⁵ I fully recognize that, by virtue of the companion rate for the Shared Solar Program, all standard charges – including non-bypassable charges – will continue to appear on participating customers’ bills. But allowing bill rate credits to offset such non-bypassable charges allows Shared Solar Program customers to, in fact, bypass non-bypassable charges. I also struggled to identify a limiting principal in CCSA’s argument. A non-bypassable charge that need not be paid so long as it appears on the bill could seemingly be bypassed by all customers.

The practical effect of my conclusion is that I cannot recommend CCSA’s proposed minimum bill methodology in the instant case. However, the slight variation of CCSA’s proposal offered by Staff Alternative A can be viewed as a “friendly amendment” to CCSA’s proposal in that Staff Alternative A merely adds the statutory non-bypassable charges to CCSA’s proposal.

As an issue of first impression, I recognize that the Commission could ultimately reach a different conclusion. Consequently, my analysis below includes CCSA’s proposed methodology, notwithstanding my reading of the Code.

2. Double Recovery

The Commission’s Rules provide that costs included in the minimum bill must “not [be] otherwise recovered by the utility from participating subscribers.”²²⁶ Appalachian Voices argued that Dominion’s proposed minimum bill methodology would allow for the double-recovery of costs because Dominion’s minimum bill includes costs that will also be reflected in the standard tariff charges appearing on participating customers’ bills.²²⁷

Appalachian Voices’ described its concern based on the following:

all the costs from the customer’s primary tariff are still charged to a subscribing customer and it will appear on their bill. Then, after the bill credit is applied, the subscribing customers will again be charged for all the costs from the customer’s primary tariff as components of Dominion’s proposed minimum bill.... Dominion’s proposed minimum bill attempts to recover these costs twice, once

²²⁴ Code § 56-594.3 D.

²²⁵ See, e.g., Tr. at 180 (Rábago).

²²⁶ Rule 80 A 2.

²²⁷ Appalachian Voices’ Brief at 18.

before application of the bill credit and once again after the bill credit is applied.²²⁸

Accepting this sequential view of how the Shared Solar Program companion rate would operate for purposes of considering this argument, the step where primary tariff charges are offset by the bill credit means such costs are not recovered in the first instance (*i.e.*, “before application of the bill credit”) from Shared Solar Program customers. The record shows that, as proposed by Dominion, the amount paid by subscribing customers each month would be the sum of: (1) two positive figures, which are based on costs; and (2) one negative figure, which is the statutory bill credit amount.²²⁹ Notably, the bill credit amount is always larger than – and therefore negates in full – one of the two positive/cost figures in this calculation. The nature of a companion bill means all standard charges will continue to appear on participating customers’ bills and a similar charge may also appear on the companion rate schedule. But it is the net effect of the standard rates in tandem with the companion rates that would determine what a customer must pay. By way of analogy, if a store cashier scans an item twice but then voids one of the entries before totaling the payment amount, the customer does not end up paying twice for that item just because two charges (plus one credit) for the item appear on the receipt. For the foregoing reasons, I was not persuaded that Dominion’s proposal could result in double recovery or would include costs that are “otherwise recovered by the utility from participating subscribers,” as prohibited by Rule 80.²³⁰

3. Reduced Bill Credits

CCSA argued that Code § 56-594.3 “does not allow for the mischaracterization of bill credits as costs of the program to be recovered through the minimum bill.”²³¹ CCSA asserted that Dominion’s proposed minimum bill “would change the statutory bill credit rate to a net bill credit rate such that subscribers would no longer receive the statutory bill credit rate, in violation of [Code § 56-594.3].”²³² Similarly, CCSA witness Rábago argued that Dominion’s proposed methodology is “a kind of collateral attack on the level of the bill credit rate established by the law”²³³ that improperly “tries to claw back the benefits of subscription.”²³⁴

As discussed in my analysis below, a high minimum bill can favor some statutory considerations over others (and so can a low minimum bill). However, I do not view the potential that the minimum bill may cause a customer’s bill to not reflect the full rate credit amount as unlawful. Indeed, the Code defines the “minimum bill” as the amount “that subscribers are required to, at a minimum, pay on their utility bill each month *after accounting for any bill credits*.”²³⁵ The Code also provides that: “[a]ny amount of the bill credit that exceeds the subscriber’s monthly bill, *minus the minimum bill*, shall be carried over and applied to the

²²⁸ *Id.* at 18-19 (quotations and citation omitted).

²²⁹ Ex. 9.

²³⁰ Rule 80 A 2.

²³¹ CCSA’s Brief at 31-32 (citing Ex. 3 (Rábago) at 11).

²³² CCSA’s Brief at 11.

²³³ Tr. at 176 (Rábago).

²³⁴ Tr. at 173 (Rábago).

²³⁵ Code § 56-594.3 A (emphasis added).

next month's bill."²³⁶ Accordingly, Code § 56-594.3 appears to establish the minimum bill as a counterbalance that can reduce the monthly bill credit rate amount.²³⁷

4. Fixed Monthly Dollar Amount

As discussed above, all of the minimum bill proposals except CCSA's proposal would vary if usage and/or shared solar subscription-output varies from the 1,000 kWh assumption used to calculate the minimum bill.²³⁸

CCSA argued that the minimum bill must be a fixed monthly amount.²³⁹ In support of this argument, CCSA pointed out that "minimum bill" is defined as "an amount determined by the Commission under [Code § 56-594.3 D] that subscribers are required to, at a minimum, pay on their utility bill each month after accounting for any bill credits." CCSA asserted that the plain language definition of "amount" is "the total number or quantity" and that an amount is a fixed figure, not a variable volumetric rate.²⁴⁰ CCSA added that the term "amount," as used elsewhere in Code § 56-594.3, refers to a dollar figure, not a volumetric rate, whereas the term "rate" is used in the statute to refer to volumetric figures, including for the "applicable bill credit rate."²⁴¹ Several public witnesses and CCSA also argued, as discussed further below in this Report's application of Rule 80 factor (e), that the variable nature of Dominion's minimum bill calculations would be confusing and deter participation in the Shared Solar Program.

In Staff witness Dalton's opinion, the purpose of a minimum bill is to ensure that each customer makes an appropriate contribution toward the system's fixed costs. While he indicated a minimum bill may typically be considered a fixed amount, it may also be appropriate for a minimum bill to include volumetric charges.²⁴²

Dominion argued that making the minimum bill solely a fixed amount does not make sense and is not statutorily required. Dominion witness Trexler emphasized that nothing in the Code "requir[es] a customer to have a subscription at 100% of their average annual usage." A fixed price approach in which low-usage customers would pay a minimum bill at a much higher percentage compared to their subscriptions than customers with higher-than-average use would pay seemed unreasonable to him.²⁴³

²³⁶ Code § 56-594.3 B 1 (emphasis added).

²³⁷ According to Appalachian Voices, the minimum bill "acts as a failsafe to ensure subscribing customers pay something each month." Appalachian Voices' Brief at 9.

²³⁸ All these calculations are also based on rates and/or FERC Form 1 data that change over time.

²³⁹ See, e.g., CCSA's Brief at 21-22.

²⁴⁰ *Id.* at 21 (citing *Merriam-Webster.com*).

²⁴¹ CCSA also cited the following: Code § 56-594.3 B 1 ("Any *amount* of the bill credit that exceeds the subscriber's monthly bill, minus the minimum bill, shall be carried over and applied to the next month's bill."); Code § 56-594.3 B 5 ("Each utility shall, on a monthly basis and in a standardized electronic format, provide to 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."). CCSA's Brief at 21 (emphasis added by CCSA).

²⁴² Ex. 7 (Dalton) at 8.

²⁴³ Ex. 8 (Trexler rebuttal) at 21.

I do not share CCSA's view that the minimum amount charged to customers must be a fixed monthly charge that applies regardless of a customer's usage or subscription. The General Assembly has specified the use of fixed rates,²⁴⁴ or equal fixed rates,²⁴⁵ in other utility ratemaking statutes. That Code § 56-594.3 includes no such language puts more weight on the word "amount" to function as the equivalent of such a requirement than I conclude it can bear. Additionally, the Code recognizes a general rule of statutory construction that a word used in the singular (here, "amount") includes the plural.²⁴⁶ I also note that CCSA itself does not propose one minimum bill "amount" for all customers. By proposing to use the existing customer charge for the rate schedule applicable to each subscriber, CCSA's methodology produces minimum bills ranging between fixed amounts of \$7.58 and \$121, depending on the customer class and existing rate schedule of each subscriber.²⁴⁷ For these reasons, I do not conclude that the Code requires that the minimum bill be a fixed monthly charge, although the Commission has the discretion to adopt such a charge.²⁴⁸

Regardless, should the Commission conclude that a fixed charge is required or just and reasonable, the Commission should consider the extent to which Dominion's proposed minimum bill and Staff Alternatives A and B can be converted from a minimum bill that varies according to usage/subscription level to a fixed monthly charge. In other words, a Commission determination that the minimum bill must be a fixed monthly charge would not leave the Commission with one option (or no option – if non-bypassable charges, which are variable rates, are required²⁴⁹). Should the Commission ultimately conclude that Dominion's approach or Staff Alternative A or B best satisfies all legal requirements based on the record, the Commission has the authority to approve one of these methodologies for implementation as a fixed charge based on an assumed level of usage. If, for example, the Commission were to find: (1) Staff Alternative B is the best methodology; and (2) a fixed charge is either mandatory or more reasonable, the Commission could consider the reasonableness of a fixed charge based on 1,000 kWh usage and subscription (\$55.10) or 700 kWh (\$42.13), among others.²⁵⁰

5. Minimum Bill as a Floor

Code § 56-594.3 A defines "[m]inimum bill" as "an amount determined by the Commission under [Code § 56-594.3 D] that subscribers are required to, at a minimum, pay on their utility bill each month after accounting for any bill credits." Appalachian Voices argued that Dominion's minimum bill proposal does not establish a "floor" below which customers' monthly net bill cannot

²⁴⁴ See, e.g., Code § 56-585.1:3 B 10 (For a community solar pilot, "[a]ny fixed generation costs and fixed purchased power costs shall remain fixed for subscribing customers....").

²⁴⁵ See, e.g., Code § 56-235.11 B (directing that "equal fixed and volumetric rates are charged for each customer class of each water utility that is in the water utility network").

²⁴⁶ Code § 1-227.

²⁴⁷ Ex. 3 (Rábago) at 27.

²⁴⁸ The Rules do not appear to provide a conclusive interpretation on this issue. On one hand, the Rules indicate the minimum bill will be a "dollar per month amount." 20 VAC 5-340-20 (definition of "[m]inimum bill"). On the other hand, the Rules also contemplate that the Commission may approve a formula to determine the minimum bill. 20 VAC 5-340-60 G ("In a proceeding, as prescribed in [Rule 80], the commission will determine the specific costs and formula to determine the minimum bill for program participants.").

²⁴⁹ See Section II.B.1 of this Discussion.

²⁵⁰ Ex. 10.

go and therefore this proposal “runs afoul of the statutory explanation of minimum bills.”²⁵¹ While potentially confusing because of Dominion’s terminology, I do not conclude that the Company’s minimum bill proposal fails to establish amounts “subscribers are required to, at a minimum, pay on their bill each month after accounting for any bill credits.” As proposed by Dominion, subscribing customers would be required to pay the relevant “total bill,” a monthly amount which accounts for bill credits.²⁵²

6. Incremental Costs in the Shared Solar Context

CCSA and Appalachian Voices argued that the minimum bill must be limited to “incremental costs.”²⁵³ CCSA indicated that “incremental costs” are the costs of infrastructure and services specifically caused by the Shared Solar Program.²⁵⁴ Similarly, Appalachian Voices took issue with Dominion including in its proposal the costs of infrastructure and investments that already exist, rather than “new costs [Dominion] will incur as a result of the [S]hared [S]olar [P]rogram.”²⁵⁵

In support of their arguments, CCSA and Appalachian Voices focused on the Rule’s statement that minimum bill “costs must reflect incremental costs of the shared solar program.”²⁵⁶ CCSA and Appalachian Voices also emphasized the phrase “of the shared solar program” at the end of this provision of Code § 56-594.3: “The Commission shall establish a minimum bill, which shall include the costs of all utility infrastructure and services used to provide electric service and administrative costs *of the shared solar program*.”²⁵⁷ CCSA and Appalachian Voices argued that “of the shared solar program” modifies “utility infrastructure”, “services to provide electric service”, and “administrative costs.”²⁵⁸

Dominion argued that CCSA’s “conception of ‘incremental’ costs is out of line with how the term is used in” the Commission’s Rules,²⁵⁹ which provide factors for determining what constitutes an “incremental” cost.²⁶⁰ Dominion asserted that the Rules explain that “incremental” in this context means “not otherwise recovered by the utility from participating customers.”²⁶¹ Dominion asserted, among other things, that the Commission’s Rules “guard against duplicative charging of

²⁵¹ Appalachian Voices’ Brief at 10.

²⁵² See, e.g., Ex. 9. In the limited scenarios where the “total bill” is negative, Dominion proposed that the billed amount would be zero, with the remaining bill credits carried over to future months. *Id.* at n.7.

²⁵³ See, e.g., Ex. 3 (Rábago) at 23 (“By law, the minimum bill exists to ensure Dominion recovers from participating customers the incremental costs of infrastructure and service specifically for the Shared Solar Program. The minimum bill should not, then, recover utility costs that are not caused by the Shared Solar Program.”).

²⁵⁴ See, e.g., *id.* at 23-24.

²⁵⁵ See, e.g., Appalachian Voices’ Brief at 14 (“In fact, the only evidence in the record on what costs Dominion has identified for inclusion are the costs of infrastructure and investments that already exist Dominion has offered no evidence of specific new costs”) (emphasis omitted).

²⁵⁶ See, e.g., CCSA’s Brief at 12-13 (quoting Rule 80 A 2) (emphasis omitted); Appalachian Voices’ Brief at 6-8, 11-12.

²⁵⁷ Code § 56-594.3 D (emphasis added).

²⁵⁸ CCSA’s Brief at 16; Appalachian Voices’ Brief at 12.

²⁵⁹ Dominion’s Brief at 22.

²⁶⁰ *Id.* at 23.

²⁶¹ *Id.* at 22.

program;

- 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 solar 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.²⁶⁷

Of these five factors in the Rule, only the first two include the modifying phrase “for/of the shared solar program,” which is consistent with the language of Code § 56-594.3. The next two factors (cost shift and fair share) are statutory considerations that neither Code § 56-594.3 nor Rule 80 expressly limit to “incremental costs” in the sense that CCSA and Appalachian Voices use the term. The fair share factor, consistent with the statute, requires consideration of the costs “of providing electric services” – a broader modifying phrase – and the cost shift factor includes no such limiting language. If CCSA and Appalachian Voices are correct that “for/of the shared solar program” language limits all costs eligible for inclusion in the minimum bill, the five-factor test of Rule 80 would seem to collapse into a two-factor test. Consequently, based on the plain language of Rule 80, I do not interpret Rule 80 to limit “incremental costs” in this context to new costs specifically incurred due to the Shared Solar Program. Instead, I interpret Rule 80 to establish a five-factor standard for determining “whether costs ... are incremental ... and eligible for inclusion in the minimum bill.”²⁶⁸

I also could not reconcile CCSA’s legal argument with its proposal to charge subscribing customers Dominion’s basic customer charge. Regardless of whether or not CCSA considers the basic customer charge to be technically within its proposed minimum bill,²⁶⁹ there is no question that Dominion’s basic customer charge – which subscribers would pay under CCSA’s proposal – is an existing charge that was not designed to recover any new cost that arises due to the Shared Solar Program. Consequently, CCSA’s proposal to include this existing cost charge appears consistent with some recognition of the Commission’s authority to implement the statutory “[i]n establishing the minimum bill” provisions (*i.e.*, the fair share and cost minimizing directives) in a manner that is not limited to “but for” costs.

As a matter of first impression, I recognize that the Commission could interpret Code § 56-594.3 or its Rule 80 different than I have. However, if the Commission interprets the statute or rule to limit the minimum bill components to “incremental costs” as CCSA and Appalachian Voices define them, I note that none of the proposed alternatives represents an incremental cost approach in which Shared Solar Program customers would pay only costs

²⁶⁷ Rule 80 A 2 (emphasis added).

²⁶⁸ *Id.*

²⁶⁹ It was unclear whether CCSA considers the basic customer charge part of its proposed minimum bill or a charge assessed above its proposed minimum bill. Compare CCSA’s Brief at 3-4 with Tr. at 181-82 (Rábago); Ex. 3 (Rábago) at 25. Similarly, while counsel for CCSA argued that the basic customer charge “is a reasonable further cost relevant to ensuring that subscribing customers pay a fair share of the costs of providing electric services,” CCSA witness Rábago asserted that “[n]o minimum bill charges are justified to ensure fair share payment of costs.” Compare CCSA’s Brief at 18 with Ex. 3 (Rábago) at 25.

specifically caused by the Shared Solar Program.²⁷⁰ CCSA is correct that, if its interpretation is adopted, the record indicates this figure should be set initially at zero (\$0),²⁷¹ plus an administrative charge to be determined later. This is because Code § 56-594.3 F recognizes that Dominion will recover the costs of interconnecting Shared Solar Program facilities from subscriber organizations, rather than through retail rates.²⁷² Accordingly, Staff and Dominion witnesses testified that they have not identified any new transmission or distribution infrastructure required by the Shared Solar Program (other than the subscriber-funded interconnection facilities).²⁷³ Consequently, if the Commission interprets the statute or Rule to limit the minimum bill components to “but for” incremental costs, then the record supports a methodology producing a minimum bill lower than any of the four proposals presented in this case.

In sum, I do not interpret the Code or the Rules to *require* the Commission to set a minimum bill at or near zero (\$0) because such a requirement would appear to disregard the “fair share” and “cost shift[ing]” minimization provisions of Code § 56-594.3, which are incorporated by the Rules. Consequently, this Report provides further analysis of the Code and the record below. Rule 80 further states that “minimum bill components ... 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.”²⁷⁴ While the Commission has yet to apply this rule or Code § 56-594.3 to a utility proposal, a “just and reasonable” standard typically involves a weighing and/or balancing of interests. Accordingly, my analysis below evaluates the competing minimum bill proposals based on all five factors that Rule 80 indicates shall be applied to determine the “incremental costs” that are eligible for inclusion in the minimum bill.

C. Application of Rule 80 Factors

In presenting their proposals, Dominion and CCSA emphasized different considerations identified by Code § 56-594.3.²⁷⁵ Dominion focused primarily on “ensur[ing] subscribing customers pay a fair share of the costs of providing electric services” and “minimiz[ing] the costs

²⁷⁰ Dominion’s methodology and Staff Alternative B include generation, transmission, and distribution costs that were not caused by the Shared Solar Program. CCSA’s methodology and Staff Alternative A would require participating customers to continue paying their basic customer charge – an existing charge that was not (and could not have been) designed to recover costs caused by the Shared Solar Program. Tr. at 211-12 (Rábago). Staff Alternative A would also require customers to continue paying non-bypassable charges. CCSA witness Rábago testified that the basic customer charge paid by Shared Solar Program customers under CCSA’s approach would not technically be part of the minimum bill. Tr. at 214 (Rábago). However, under CCSA’s approach bill credits would be reduced by the basic customer charge.

²⁷¹ CCSA’s Brief at 16-17.

²⁷² Code § 56-594.3 F (“Any rule or utility implementation filings approved by the Commission shall: ... 7. Establish standards, fees, and processes for the interconnection of shared solar facilities that allow the utility to recover reasonable interconnection costs for each shared solar facility”). Dominion and CCSA appear to agree that all infrastructure costs would be paid for by the interconnecting facility, although Dominion witness Trexler was unsure about future O&M costs associated with such infrastructure. *See, e.g.*, Tr. at 212-13 (Rábago), 277-79 (Trexler).

²⁷³ Tr. at 250-52 (Dalton), 279-80 (Trexler).

²⁷⁴ Rule 80 A 2.

²⁷⁵ Staff’s alternatives are variations of Dominion’s and CCSA’s proposals.

shifted to customers not in a shared solar program.”²⁷⁶ CCSA focused primarily on “[r]easonably allow[ing] for the creation of shared solar facilities” by ensuring the Shared Solar Program is “workable.”²⁷⁷ Given this emphasis, my analysis of the competing minimum bill proposals begins with factors (d), (c), and then (e) under Rule 80, before turning to factors (a) and (b).

1. Cost Shift - Factor (d)

As discussed above, Code § 56-594.3 directs the Commission, when establishing the minimum bill, to “minimize the costs shifted to customers not in a shared solar program.”²⁷⁸ Accordingly, Factor (d) of Rule 80 indicates the Commission will consider “[w]hether including the cost in the minimum bill will minimize the costs shifted to customers not in a shared solar program.”

Dominion’s methodology recognizes that the Company would continue to provide generation, transmission, and distribution services to shared solar customers, while also recognizing that there will be value to the generation that the shared solar facility will inject into the distribution system.²⁷⁹ Dominion’s methodology subtracts this value from a participating customer’s bill. By not reducing a Shared Solar Program customer’s bill by more than the value of the associated shared solar generation, this methodology attempts to minimize cost shifts from participating customers to nonparticipating customers.

In CCSA’s view, Code § 56-594.3 “contemplates some potential cost shifting, which should be minimized (not eliminated) through the minimum bill.”²⁸⁰ CCSA downplayed the shift, from participants to nonparticipants, in costs that would occur if the statutory bill credit rate is implemented with a narrow view of the statutory cost shift provisions. CCSA witness Rábago asserted, for example, that “[w]hen a bill credit reduces a bill, it doesn’t create a cost and it doesn’t exempt a customer from charges. It just creates an offset.”²⁸¹ But he also recognized that a bill credit does create a cost if the bill credit exceeds the value of the shared solar generation.²⁸²

²⁷⁶ Code § 56-594.3 D. *See, e.g.*, Tr. at 92 (Ray) (“The minimum bill is simply intended to ensure that subscribers pay their fair share of the cost of utility service, and that these customers are not getting a windfall to the detriment of other non-participating customers, again, consistent with the governing law and regulations.”). Dominion witness Trexler acknowledged that his testimony focused on Code § 56-594.3 D and Rule 80. Tr. at 121 (Trexler).

²⁷⁷ Code § 56-594.3 A. *See, e.g.*, Ex. 3 (Rábago) at 7, 14; Tr. at 97-98 (Wallace).

²⁷⁸ Code § 56-594.3 D.

²⁷⁹ *See, e.g.*, Ex. 8 (Trexler rebuttal) a 16-18. CCSA witness Rábago contended that Dominion’s methodology “is framed on the premise that shared solar customers are actually dedicated supply customers who are getting their electricity from the shared solar facility.” Tr. at 202 (Rábago). However, Dominion witness Trexler testified that Dominion’s methodology reflects the Company’s opinion “that the structure of the Program is such that a participating customer subscribes to a portion of the output of a solar facility that is not located on the customers’ premises or able to serve any of the customer’s load directly.” Ex. 8 (Trexler rebuttal) at 11.

²⁸⁰ CCSA’s Brief at 32 (contrasting Code § 56-594.3 with Code § 56-585.1:3 B 8).

²⁸¹ Tr. at 170-71 (Rábago).

²⁸² Tr. at 187, 189 (Rábago).

Appalachian Voices argued that Dominion has failed to meet a burden of proof that “actual cost shifts” will occur.²⁸³ Absent evidence that quantifies declines in base rate and RAC revenue, Appalachian Voices finds cost shifts that may be caused by the Shared Solar Program to be speculation.²⁸⁴

Given the large divide between the minimum bill proposals presented in this case, it is not difficult to determine which proposals include more (and conversely fewer) costs that will minimize cost shifts to nonparticipants. The record supports a finding that the CCSA methodology and Staff Alternative A would produce larger cost shifts from participants to nonparticipants. The centerpiece of these two proposals is Dominion’s basic customer charge, which CCSA indicated “ensures recovery of the basic costs of connection that do not vary with the level of the customer usage.”²⁸⁵ However, as recognized by Dominion, its basic customer charge “is only designed to provide recovery for a limited set of distribution-related, customer costs and does not come close to costs of all the utility infrastructure and service used to provide electric service.”²⁸⁶ The monthly basic customer charge – approximately \$7 for residential customers – does not cover all the transmission, distribution, and generation infrastructure and service used to provide electricity for customers. Nor was it designed to. Dominion’s basic customer charge was designed to recover a *subset* (specified customer costs) of a *subset* (distribution) of Dominion’s costs.²⁸⁷

Take Dominion’s transmission costs, for example, which the record indicates currently cost a 1,000 kWh residential customer approximately \$20 per month.²⁸⁸ While approximately half of this amount is a base rate transmission charge, 100% of transmission costs are recovered dollar-for-dollar because Dominion’s transmission RAC is an increment/decrement charge.²⁸⁹ This means every dollar of a participant’s transmission cost not paid by that participant will be paid by nonparticipants through annually adjusted RAC rates. The CCSA methodology includes no (\$0) transmission costs. I therefore cannot conclude that the approximately \$8 of distribution and administrative costs included in the CCSA methodology would somehow minimize the shift of transmission costs to nonparticipants, much less minimize a shift in all costs (*i.e.*, generation, transmission, and distribution).

Both Dominion and CCSA appear to recognize that value provided by Shared Solar Program generation will help mitigate cost shifts.²⁹⁰ But while Mr. Rábago believes a proper

²⁸³ See, e.g., Appalachian Voices’ Brief at 14-15.

²⁸⁴ See, e.g., *id.* at 15-16.

²⁸⁵ Ex. 3 (Rábago) at 27.

²⁸⁶ Ex. 8 (Trexler rebuttal) at 14 (emphasis omitted).

²⁸⁷ Accordingly, the basic customer charge was not designed to recover all the costs that the comments of Delegate Jones and Senator Surovell indicate the minimum bill was intended to cover – namely, “the costs of infrastructure necessary to deliver electricity to a customer’s home and the cost of creating a new linked billing program.”

²⁸⁸ Ex. 7 (Dalton) at Appendix B.

²⁸⁹ See, e.g., *Application of Virginia Electric and Power Company, For approval of a rate adjustment clause pursuant to § 56-585.1 A 4 of the Code of Virginia*, Case No. PUR-2021-00102, Doc. Con. Cen. No. 210820275, Final Order at 2 (Aug. 16, 2021) (recognizing that “Rider T1 is designed to recover the increment/decrement between the revenues produced from the Subsection A 4 transmission component of base rates and the new revenue requirement developed from the Company’s total transmission costs for the Rate Year.”).

²⁹⁰ See, e.g., Dominion methodology; Ex. 3 (Rábago) at 31.

benefit-cost assessment would reveal a greater value for shared solar than Dominion's avoided cost calculation,²⁹¹ the record of this case indicates that the value of such generation would need to be nearly triple Dominion's avoided cost value to reach the statutory bill credit rate (under either Dominion's or CCSA's bill credit approach). Put simply, the statutory bill credit rate is so high it almost certainly creates a cost unless counterbalanced by the minimum bill provisions.

And if Dominion recovers such cost through the fuel factor or some other bypassable retail rate, rather than from Shared Solar Program participants, costs will be shifted from participants to nonparticipants.²⁹² As Dominion witness Trexler testified, "you cannot ignore the fact that the money comes from somewhere"²⁹³ – a reality Staff also recognized.²⁹⁴ The extent of Dominion's dollar-for-dollar recovery of costs through the fuel factor and RACs means that for the costs recovered through these mechanisms – which are extensive²⁹⁵ and adjusted regularly – every dollar of costs incurred to serve participants that they do not pay will be paid by Dominion's other customers in short order.²⁹⁶ When you offset one customer's costs that must then be paid by a second customer, this creates a cost for the second customer.

I was unpersuaded by suggestions that the value of the Shared Solar Program approaches or exceeds Dominion's Virginia jurisdictional retail electricity rates due to values assigned in non-Virginia programs, studies, or proceedings.²⁹⁷ The Commission must apply Code § 56-594.3, which includes the cost shift and fair share provisions. Some of the non-Virginia jurisdictions identified in the record have deregulated,²⁹⁸ making generation cost shift concerns less relevant than in Virginia. In addition, States can and do value resources differently for any

²⁹¹ Tr. at 184-85 (Rábago).

²⁹² That standard tariff rate charges appear on a participating customer's bill does not change this conclusion. *See, e.g.,* Tr. at 215-16 (asserting that participating customers are "fully on the hook for all the cost of service" because such charges appear on their bills). The Commission's consideration of cost shifts and "subscribing customers pay[ing] a fair share of the costs of providing electric services" involve payment responsibility, which is determined by the amounts that are ultimately billed and paid for by subscribing customers. Charges that are offset by a bill credit are not paid by a customer. There is no question that bill credits reduce the bill amount a subscribing customer must otherwise pay. Ex. 3 (Rábago) (recognizing that the bill credit reduces "the final amount of the bill").

²⁹³ Ex. 8 (Trexler rebuttal) at 21.

²⁹⁴ Tr. at 263 (Dalton).

²⁹⁵ Since base transmission rates are trued up through Rider T, the extent of Dominion's costs that are trued up on a dollar-for-dollar basis can be determined by simply subtracting Dominion's base generation and base distribution rates from its total retail rates. For a residential customer using 1,000 kWh base distribution charges are approximately \$26. *See* Ex. 7 (Dalton) at 18 ($\$6.58 + \$16.87 + \$2.39 = \25.84). Dominion's tariff shows base generation rates that would cost a 1,000 kWh residential customer approximately \$33 or \$38, depending on the season. This means that costs subject to dollar-for-dollar recovery constitute about half of the \$117 bill that a 1,000 kWh residential customer pays. Ex. 9.

²⁹⁶ I disagree that a cost shift can only occur if Dominion's overall revenues fall below the level projected in a rate case that set currently applicable rates. Ex. 3 (Rábago) at 30. Setting aside the complexities of base rate reviews, this argument overlooks, among other things, the fact that Dominion's fuel factor and numerous RACs provide the Company with dollar-for-dollar recovery of applicable costs, typically through annual rate adjustments. If such costs are not recovered from shared solar participants, they will be recovered from Dominion's other customers. *See, e.g.,* Ex. 2 (Trexler direct) at 8; Tr. at 186 (Rábago) (indicating that a bill rate credit above the value of the shared solar generation would go into the fuel factor); Tr. at 264-65 (Dalton).

²⁹⁷ *See, e.g.,* Ex. 4; Comments of Dr. Damian Pitt.

²⁹⁸ *Id.*

number of reasons. If, for example, other jurisdictions use shared solar resources for RPS compliance they may have value there that does not translate to Virginia's Shared Solar Program. While CCSA witness Rábago characterized program subscribers as "frontline volunteers, mitigating costs that Dominion would otherwise incur to develop solar to meet the requirements of the [VCEA] and the [RPS] and which Dominion has not accounted for,"²⁹⁹ whether Shared Solar Program generation can be used for such compliance – and, if so, whether it would be part of a separate sales transaction – is placed within the generator's discretion under Code § 56-594.3.³⁰⁰ This means that any RPS compliance value associated with Shared Solar Program generation could potentially come at an additional cost to ratepayers. Looking beyond generation, the Shared Solar Program would not avoid any of the fixed capital expense or fixed operations and maintenance expense associated with existing transmission or distribution infrastructure in Virginia. No distribution lines or poles will be taken down, nor will right-of-way need to be trimmed less often, for example. It will still cost Dominion money to serve participating customers using the Company's generation, transmission, and distribution infrastructure – regardless of the policies implemented by other jurisdictions.

The record supports a finding that, by including more costs in the minimum bill, Dominion's methodology will likely result in the lowest shift in costs from subscribing participants to nonparticipants, followed by Staff Alternative B. As a general matter, the more costs that participating customers pay to Dominion, the fewer costs remain to be picked up by Dominion's nonparticipating customers. However, CCSA identified one caveat to this general proposition. Namely, CCSA asserted that if the minimum bill is set at a level that is too high, the Shared Solar Program could become a "low income only" program.³⁰¹ I find that as low-income participation increases, the cost shift over which the Commission has no discretion may also increase because such customers are not subject to the minimum bill. If only low-income customers participate, I agree with CCSA that all the program costs, including administrative costs, would be borne by nonparticipating customers.³⁰²

CCSA witness Rábago identified one mathematic approach that can be used for roughly estimating the potential cost shift – albeit at a high level – associated with the Shared Solar Program. Mr. Rábago calculated that fuel factor costs would increase by approximately \$25 million assuming all 200 MW of potential Shared Solar Program generation operated at 19% capacity factor based on Dominion's minimum bill rate.³⁰³ While Mr. Rábago's one-step calculation is more efficient, additional perspective is provided by: (1) approaching the same

²⁹⁹ Ex. 3 (Rábago) at 44.

³⁰⁰ Code § 56-594.3 B 7 ("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, such environmental attributes may be distributed to the subscribers, sold to load-serving entities with compliance obligations or other buyers, accumulated, or retired.").

³⁰¹ Tr. at 205 (Rábago). *See also* CCSA's Brief at 33-34.

³⁰² CCSA's Brief at 34. CCSA also asserted that the minimum bill could be set so high that the program does "not move forward at all," which would necessarily leave nonparticipants (since there would be no participants) to pay the administrative costs to implement the Shared Solar Program (e.g., the net crediting functionality in Dominion's new customer implementation platform). CCSA's Brief at 34-35. It is not clear that such an outcome would shift more costs to nonparticipants.

³⁰³ Ex. 3 (Rábago) at 36. In replicating Mr. Rábago's \$25 million estimate, the 332.9 gigawatt-hours of annual generation figure he identified when calculating his proposed administrative charge, rather than the 262.8 gigawatt-hours figure shown on page 36 of his testimony, is correct. *Id.* at 28, n.66.

calculation as a two-step process; and (2) recognizing the minimum bill exemption for low-income customers. Using the same generation assumptions as Mr. Rábago, the estimated value to participants of the full bill credit rate at the 11.765¢ rate recommended herein is approximately \$39 million (step one, as shown in Hearing Examiner's Attachment 1). This is *not* the potential cost shifted to nonparticipants because the Shared Solar Program energy has value beneficial to all of Dominion's customers. Using Mr. Rábago's generation assumptions together with Dominion's estimated avoided cost value, a \$14 million value for such generation is calculated (step two). Subtracting the \$14 million avoided cost value from the \$39 million amount provides an annual estimate of \$25 million matching Mr. Rábago's figure. However, because his calculations assume a 200 MW program level that can only be reached with 45 MW of low-income customer participation, approximately \$6 million of his \$25 million estimate should be associated with low-income customers who, by statute, are exempt from the minimum bill.³⁰⁴ The Commission has no discretion over the cost shift associated with low-income customers. Consequently, based on Mr. Rábago's generation assumptions and the simplifying assumption that all subscribers are residential customers, the Commission's decision in this case would determine how much of an estimated annual amount of approximately \$19 million would be shifted from participants to nonparticipants.³⁰⁵ Again, Mr. Rábago's \$25 million calculation (and the lower \$19 million calculation that removes low-income customers) is necessarily high-level, given the nature of the Shared Solar Program.³⁰⁶

Appalachian Voices is correct that the record does not include evidence that specifies exactly what cost shift would occur under Dominion's proposed minimum bill, or any of the other proposed minimum bills. But that is not the standard in Rule 80, which directs consideration of "[w]hether including the cost in the minimum bill will minimize the costs shifted to customers not in a shared solar program."³⁰⁷ Applying the standard in Rule 80, the record developed by the case participants is clear that Dominion's proposed methodology includes generation, transmission, and distribution costs that would be sufficient to minimize cost shifts to nonparticipants, provided its avoided cost value is in line with the actual value of the Shared Solar Program generation. Indeed, CCSA witness Rábago testified that "eliminating both the actual and potential for any cost shift ... is what Dominion's more than tried to do."³⁰⁸ It is also obvious from the record that, by including far fewer costs, CCSA's methodology and Staff Alternative A are designed to recover fewer costs from participants than the other two methodologies. If the Shared Solar Program were to be subscribed with the same number of customers Mr. Rabago assumed for purposes of his monthly administrative cost calculation,³⁰⁹

³⁰⁴ Pursuant to Code § 56-594.3 E, the Shared Solar Program can only increase from 150 MW to the 200 MW figure used by Mr. Rábago if 45 MW has been subscribed to low-income customers.

³⁰⁵ See Attachment 1 to Hearing Examiner's Report. The \$19 million figure increases to \$25 million if the 25% capacity factor used by Dominion is incorporated. See Attachment 2 to Hearing Examiner's Report.

³⁰⁶ For example, the cents/kWh value provided by a Shared Solar Program facility could be different (higher or lower) than the avoided cost value incorporated in these calculations. Participation levels lower than the fully subscribed 200 MW assumption would lower these estimates.

³⁰⁷ Rule 80 A 2 d.

³⁰⁸ Tr. at 218 (Rábago). On this point, Mr. Rábago criticized the impact Dominion's attempt to minimize cost shifts would have on the viability of the Shared Solar Program, as discussed below in applying Factor (e).

³⁰⁹ $\$302,300 / (\$0.91 \text{ monthly charge} * 12 \text{ months}) = 27,683 \text{ customers at 200 MW level. Ex. 28 (Rabago) at 28, n.66. } 27,683 \text{ customers} / (155/200) = 21,454 \text{ customers at 155 MW level that excludes 45 MW of low-income customers.}$

after excluding 45 MW for low-income customers not subject to the minimum bill, CCSA's methodology would only result in annual payments of approximately \$2 million.³¹⁰

One last note as to the specificity of cost shift evidence bears mention. The nature of the Shared Solar Program is different than other contexts in which the Commission has considered cost shift impacts. For the Shared Solar Program, the shift in costs from participants to nonparticipants will depend in part on the intersection of each subscribing customer's bill credits with the minimum bill,³¹¹ which can depend on each customer's subscription choice, actual generation output for that subscription, and actual usage.³¹² Since the participating customers cannot be known at this time, there is no way of knowing, for example, their customer class or their usage (energy or demand) characteristics,³¹³ much less their individual subscription choices or whether they are low-income customers.

For these reasons, I find that Dominion's methodology includes costs that will minimize the cost shifts to customers not participating in the Shared Solar Program, followed by Staff Alternative B. CCSA's methodology and Staff Alternative A include the fewest costs to minimize cost shifts to nonparticipants.

2. Fair Share – Factor (c)

As discussed above, Code § 56-594.3 directs the Commission, when establishing the minimum bill, to “consider further costs the Commission deems relevant to ensure subscribing customers pay a fair share of the costs of providing electric services”³¹⁴ Accordingly, Factor (c) of Rule 80 indicates the Commission will consider “[w]hether 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.”

Dominion asserted that its methodology ensures Shared Solar Program participants pay a “fair share of the costs of providing electric services” by identifying Dominion's transmission, distribution, and generation services that Shared Solar Program participants would continue to use, then including the costs for all such services in the minimum bill, less the Company's avoided cost value.³¹⁵ Staff Alternative B includes the same generation, transmission, and distribution costs as Dominion's proposed methodology, except it excludes the costs for any

³¹⁰ 21,454 customers * \$7.58 monthly residential basic customer charge * 12 months = \$1,951,456.

³¹¹ See generally CCSA's Brief at 10 (“the bill credits can only offset utility charges exceeding the minimum bill amount each month”).

³¹² See, e.g., Ex. 10 at 61-63. These pages illustrate that under Staff Alternative B the subscription choice by a 1,000 kWh customer can result in payment of (a) \$55.10 plus a credit for the subscription amount above usage that rolls forward to future billing months; (b) \$55.10; or (c) a \$42.13 minimum bill plus full tariffed rates for usage in excess of subscription. The extent to which bill credits are carried over to future months can also impact the timing of any cost shifts. Code § 56-594.3 B 1.

³¹³ Such usage characteristics could be (and were) used for the cost shift estimates calculated in proceedings under Code § 56-577 A 4. See, e.g., *Petition of Costco Wholesale Corporation, For permission to aggregate or combine demands of two or more individual nonresidential retail customers of electric energy pursuant to § 56-577 A 4 of the Code of Virginia*, Case No. PUR-2018-00088, 2019 S.C.C. Ann. Rep. 225, Final Order (May 30, 2019).

³¹⁴ Code § 56-594.3.

³¹⁵ See, e.g., Ex. 2 (Trexler direct) at 11-14; Ex. 8 (Trexler rebuttal) at 10-11.

generation beyond non-bypassable charges. In contrast, Mr. Rábago asserted that no minimum bill charges are justified to ensure fair share payment of costs,³¹⁶ although CCSA also asserted that Dominion's basic customer charge should be included for this purpose.³¹⁷ Staff Alternative A adds non-bypassable charges to CCSA's methodology.

There is no doubt that Shared Solar Program customers will continue to rely extensively on the infrastructure and services that Dominion currently uses to serve them.³¹⁸ Dominion witness Trexler described in detail why Shared Solar Program customers would continue to rely on Dominion's transmission, distribution, and generation services.³¹⁹ Just as the record establishes that Shared Solar Program generators will not directly serve subscribing customers,³²⁰ so is the Code. Indeed, the Code contemplates a customer's ability to maintain a subscription even if that customer moves somewhere (anywhere) else in Dominion's service territory.³²¹ I find that by identifying and including costs for services that subscribing customers will continue to use, Dominion's proposed methodology includes costs necessary to ensure subscribing customers pay a fair share of the costs of providing electricity to them. Staff Alternative B is the second-best methodology under Factor (c), falling behind Dominion's methodology because Staff Alternative B does not include any bypassable generation costs even though subscribing customers will continue to rely on Dominion's generation services.

In contrast, the CCSA methodology and Staff Alternative A do not include in the minimum bill *any* share for *most* of the costs to serve Shared Solar Program customers. As discussed above, the monthly basic customer charge does not cover – and was not designed to recover – all the transmission, distribution, and generation infrastructure and service used to provide electric service for customers. The fact that Dominion's current residential customer charge is \$6.58 while the total bill for a Dominion residential customer using between 1,000 and 1,200 kWh runs between \$117 and \$138, approximately,³²² demonstrates that Dominion's existing rates are designed to recover most of the Company's (fixed and variable) costs of providing electric service through volumetric charges, rather than this flat monthly customer charge. As recognized by Staff, CCSA's approach would allow Shared Solar Program customers to offset the entire volumetric portion of their bills.³²³

For these reasons, I find Dominion's proposed minimum bill methodology and Staff Alternative B would better ensure subscribing customers pay a fair share of the costs of providing electric service to them.

³¹⁶ Ex. 3 (Rábago) at 25.

³¹⁷ CCSA's Brief at 18.

³¹⁸ See, e.g., Tr. at 258-59 (Dalton) (agreeing that the Shared Solar Program relies on Dominion's transmission and distribution infrastructure to operate and that shared solar electricity is used in the system generally, rather than providing service through a direct connection to program subscribers).

³¹⁹ See, e.g., Ex. 2 (Trexler direct) at 11-14.

³²⁰ See, e.g., Tr. at 258-59 (Dalton).

³²¹ Code § 56-594.3 F 6. See also 20 VAC 5-340-50 H.

³²² Ex. 9.

³²³ Ex. 7 (Dalton) at 12.

3. Reasonably Allowing for the Creation of Facilities (“Workability”) – Factor (e)

Factor (e) of Rule 80 indicates the Commission will consider “[w]hether including the cost in the minimum bill is otherwise consistent with the requirements of § 56-594.3 of the Code of Virginia.”³²⁴ One such additional requirement is found in Code § 56-594.3 F 1, which provides that “any rule or utility implementation filings approved by the Commission” pursuant to § 56-594.3 “shall ... [r]easonably allow for the creation of shared solar facilities.” CCSA witness Rábago believes this statutory provision is part of a framework requiring that the Shared Solar Program be “fair and workable” and that the minimum bill, among other charges and fees, should not be set at a level that makes the program unworkable.³²⁵ Similarly, counsel for CCSA asserted that “for the Shared Solar Program to be successful, the [p]rogram economics must work for participating subscribers and the shared solar facility developers that will be constructing and operating projects to service its subscribers.”³²⁶ CCSA expressed concern that the adoption of Dominion’s minimum bill proposal could make the Shared Solar Program “dead on arrival.”³²⁷

Endorsing CCSA’s view, Appalachian Voices argued that “to ensure that the minimum bill ‘[r]easonably allow[s] for the creation of shared solar facilities,’ the Commission cannot approve a minimum bill set at a level that would render the program unworkable.”³²⁸

Dominion argued that “workability” is not the statutory standard because the law does not guarantee subscriber organizations a certain level of return.³²⁹ In Dominion’s view, maximizing economic return for solar developers participating in the program implicates “private economic and policy interests; not entitlements under [Code § 56-594.3 F 1].” Dominion described CCSA’s suggestion that the law would require customers to receive significant discounts from their program participation as extraordinary and unprecedented.³³⁰

Staff indicated that the General Assembly “could have, but did not, include direction to the Commission to consider program participation in establishing the [m]inimum [b]ill.”³³¹

In my view, the “workability” concerns raised by CCSA are relevant under the statute and Factor (e) of Rule 80. Whether a Shared Solar Program proposal “[r]easonably allow[s] for the creation of shared solar facilities,”³³² can include consideration of the likely impact that minimum bill proposals would have on the creation of generation facilities for the Shared Solar Program. However, I agree with Dominion that Code § 56-594.3 does not require savings for customers or profits for subscriber organizations. Pursuant to Rule 80, Factor (e) is only one of the statutory considerations that inform the Commission’s consideration of the minimum bill.

³²⁴ Rule 80 A 2 (emphasis added).

³²⁵ Ex. 3 (Rábago) at 8.

³²⁶ Tr. at 102 (Wallace).

³²⁷ Tr. at 99 (Wallace).

³²⁸ Appalachian Voices’ Brief at 23.

³²⁹ Dominion’s Brief at 12-13.

³³⁰ *Id.* at 13.

³³¹ Staff’s Brief at 7.

³³² Code § 56-594.3 F 1.

Dominion has no doubt that solar developers may not participate in the Shared Solar Program, and that it could fail if solar developers do not believe they will receive a sufficient return on their investment.³³³ However, Dominion also pointed out that the minimum bill is only one component in determining “workability” or the economics of the Shared Solar Program. According to Dominion:

Other components include but are not limited to: the amount subscribers pay for their subscription to the [s]ubscriber [o]rganization; the fact that a [s]ubscriber [o]rganization may be able to demand higher prices and still allow low-income customers to achieve savings; and the fact that [Code § 56-594.3] allows the [s]ubscriber [o]rganization to retain the environmental attributes (including renewable energy certificates) which they have the option of also selling (and thus, factoring into their own analyses regarding whether participating as providers in the [p]rogram is a worthwhile investment).³³⁴

Mr. Rábago does not believe Dominion or Staff adequately addressed workability,³³⁵ and he believes Dominion’s minimum bill proposal would make the Shared Solar Program “practically unworkable.” He repeatedly expressed concern about the difficulty Dominion’s approach could cause for subscriber organizations “to launch or operate their businesses in Virginia, much less effectively communicate program economics and risks to subscribers.”³³⁶ Pointing to volumetric components that vary with shared solar facility production, he emphasized the difficulty that potential customers would have understanding and budgeting for a new service program with a new rate element.³³⁷

Mr. Rábago observed that community solar programs in other states do not include a minimum bill,³³⁸ while public witness Sutch identified two states that only include a fixed customer charge.³³⁹ Mr. Rábago presented an exhibit which listed “effective bill credit rate[s]” that are equivalent to “bill credit rate[s]” for community solar or shared solar programs in D.C., Maryland, Maine, Massachusetts, and Minnesota.³⁴⁰

Staff found “nothing in the record to support the assertion that the [m]inimum [b]ill proposals of the Company or Staff would result in an ‘unworkable’ shared solar program. It is simply unknown and unknowable what effect the [m]inimum [b]ill will have on program enrollment or the economics of the various subscriber organizations who may choose to participate.”³⁴¹

³³³ Dominion’s Brief at 12-13.

³³⁴ *Id.* at 14.

³³⁵ Tr. at 157, 170 (Rábago).

³³⁶ Ex. 3 (Rábago) at 35. For this proposition, he endorsed portions of comments filed in this proceeding by CCSA and CHESSA. *Id.* at 33-34.

³³⁷ Tr. at 165 (Rábago).

³³⁸ Ex. 3 (Rábago) at 14, n.32.

³³⁹ Tr. at 56 (Sutch).

³⁴⁰ Ex. 4; Tr. at 177-79 (Rábago).

³⁴¹ Staff’s Brief at 7.

Only time can tell how many generators and customers will participate in the Shared Solar Program. But the record includes evidence indicating which of the minimum bill proposals are more (and less) likely to reasonably allow for the creation of Shared Solar Program generation.

The Shared Solar Program is subscription-driven – it depends on customers volunteering to subscribe and generators volunteering to construct generation and offer subscriptions. The pool of potential volunteer customers and the potential profit from them provide the economic incentive for subscription organizations to create generation for the program. Absent generators' expectation of a sufficient return on investment, Dominion recognized that generators may not participate and the Shared Solar Program could fail.³⁴²

Some of Dominion's customers are interested in volunteering for cost savings and/or environmental benefits. Public witness Epstein detailed his development of a community for residents interested in these two goals, which he would like to accomplish through the Shared Solar Program.³⁴³ If these goals of some customers cannot be met, then the pool of potential volunteers for the program will shrink.

Based on the record, Dominion's minimum bill methodology could make the Shared Solar Program a premium product. Such a result is more likely if an administrative charge in the range of \$10 to \$20 per customer is ultimately included. Absent any administrative cost charges, a residential customer would have to pay less than \$43 per MWh to a subscriber organization to obtain bill savings, based on Dominion's current avoided cost pricing.³⁴⁴ While subscription sizes can vary and include partial subscriptions, Appalachian Voices correctly recognized that this \$43/MWh delta does not change under Dominion's proposed methodology based on either subscription or usage.³⁴⁵ A \$20 administrative charge would lower the \$43 per MWh price a residential customer would have to obtain from a subscriber organization for bill savings down to \$23.³⁴⁶ While the Commission is regularly informed of current solar market prices based on the annual RPS proceedings, \$23 per MWh would provide limited headroom before participating customers pay a premium to participate in the Shared Solar Program. A subscriber organization has the discretion to create additional headroom by selling renewable attributes associated with the Shared Solar Program generation – discretion expressly identified by the Code³⁴⁷ – but this would mean customers do not purchase the renewable attributes of their subscribed generation.

³⁴² Dominion's Brief at 12-13.

³⁴³ Tr. at 13-17 (Epstein).

³⁴⁴ Tr. at 141 (Trexler). ($\$117.96 - \$74.59 = \$43.37$).

³⁴⁵ For example, under Dominion's proposal a residential customer with 1,000 kWh usage and a 500 kWh subscription-output would pay a monthly bill of \$96.27, which is \$21.69 less than the \$117.96 bill amount shown without bill rate credit. $\$21.69$ for 500 kWh = $\$43.38$ per MWh. Similarly, a residential customer with 500 kWh usage and a 1,000 kWh (*i.e.*, 1 MWh) subscription-output would pay a monthly bill of \$19.72, which is \$43.37 less than the \$63.09 bill amount shown without any bill credit rate. *See* Ex. 9; Appalachian Voices' Brief at 20-21.

³⁴⁶ *See, e.g.*, Tr. at 143 (Trexler); Tr. at 178 (Rábago).

³⁴⁷ Code § 56-594.3 B 7 ("At the subscriber organization's discretion, such environmental attributes may be distributed to the subscribers, sold to load-serving entities with compliance obligations or other buyers, accumulated, or retired.").

A premium product should not deter participation by low-income customers because they are not subject to the minimum bill. And wealthier customers can better afford to pay for a premium product. In between these two groups lies a “middle” identified by Delegate Jones,³⁴⁸ that could be less likely to participate if the Shared Solar Program offers a premium product.³⁴⁹ If limited headroom for a prospective generator requires a generator to sell renewable attributes outside of the program subscription to participate, this would deter prospective customers interested in purchasing renewable energy. As the potential pool of customers willing to volunteer for the Shared Solar Program decreases, the creation of generation to meet that smaller pool becomes less likely.

Based on the record, I find it reasonably likely that methodologies with lower minimum bills would better provide for the creation of Shared Solar Program generation.

4. Utility Infrastructure and Services Used – Factor (a)

Factor (a) of Rule 80 considers “[t]he extent to which the costs are utility infrastructure and services used to provide electric service for the shared solar program.”³⁵⁰ This factor is based on the statutory language directing that the minimum bill established by the Commission “shall include the costs of all utility infrastructure and services used to provide electric service and administrative costs of the shared solar program.”³⁵¹

As discussed above, the statutory language on which Factor (a) is based can – when read in isolation – support the “but for” argument that CCSA and Appalachian Voices attempt to extrapolate to all of Code § 56-594.3 D. My analysis of Rule 80 applies each factor in isolation to the relevant record evidence. Consequently, this section of my analysis considers the extent to which the costs included in the various minimum bill proposals “are utility infrastructure and services used to provide electric service for the shared solar program.”

By including the fewest costs that are not utility infrastructure and services used to provide electric service *for the shared solar program*, CCSA’s minimum bill proposal is most consistent with Factor (a), followed by Staff Alternative A. By prioritizing the cost-shift and fair share considerations found in Factors (c) and (d), Dominion’s proposal and Staff Alternative B include more costs that are not specifically “for the shared solar program.”

³⁴⁸ Any such middle could overlap with the nonparticipants who could be most affected by a cost shift from the program. The bills paid by many low-income customers should soon be capped by Dominion’s percentage of income payment program, and wealthier customers can better afford the impact of a cost shift.

³⁴⁹ See, e.g., Tr. at 31-32 (Jones). Delegate Jones co-sponsored the bill enacted as Code § 56-594.3. See Comments of Senator Scott A. Surovell and Delegate Jerrauld C. Jones, dated October 27, 2021. This Report gives Delegate Jones’s testimony the weight afforded under case law. See, e.g., *Application of Potomac Edison Company d/b/a Allegheny Power, For an increase in its electric rates pursuant to Virginia Code §§ 56-249.6 and 56-582*, PUE-2007-00026, 2007 S.C.C. Ann. Rep. 416, 420-21, Order Denying Application (June 28, 2007) (“Further, it is also well settled law in Virginia that the meaning of a statute should be arrived at from its own language and not from the declaration of the draftsman.... Consistent with the long-standing precedent discussed above, we will not treat the affidavits [of legislators] ... as evidence of legislative intent. Rather, we will treat them as timely filed comments urging that we interpret the statute in a manner desired by the commenter.”) (internal quotations omitted).

³⁵⁰ Rule 80 A 2 a.

³⁵¹ Code § 56-594.3 D.

5. Administrative Costs – Factor (b)

Factor (b) of Rule 80 considers “[t]he extent to which the costs are administrative costs of the shared solar program.”³⁵² Like Factor (a), Factor (b) is based on the statutory language directing that the minimum bill established by the Commission “shall include the costs of all utility infrastructure and services used to provide electric service and administrative costs of the shared solar program.”³⁵³

Dominion initially proposed that the administrative charge calculation be determined in the future and did not include any such costs in its minimum bill calculations in this case.³⁵⁴ CCSA’s minimum bill proposal and Staff Alternatives A and B all include a \$1 monthly charge that CCSA calculated based on an estimate of approximately \$300,000 in annual costs for workforce expansion.³⁵⁵ Dominion ultimately did not oppose setting an initial fixed fee of \$1 pending a future proceeding.³⁵⁶ Accordingly, for Factor (a) there is no difference among the four methodologies.

D. Recommended Minimum Bill Based on All Five Factors in Rule 80

The table below summarizes this Report’s findings from Section II.B of the above discussion. As illustrated by the ranking of number “1”, Staff Alternative A and CCSA’s methodology (if legal) align best with Factors (a) and (e). Dominion’s proposed methodology aligns best with Factors (c) and (d).

Hearing Examiner’s Ranking of Case Participants’ Minimum Bill Proposals by Statutory Considerations Incorporated as Factors in Commission Rule			
	CCSA (if legal) and Staff Alt A	Staff Alt B	Dominion
Extent to which costs reflect infrastructure and services for the program – Factor (a)	1	2	3
Includes costs necessary to ensure fair share of cost of providing electric service to subscribers – Factor (c)	3	2	1
Includes costs that will minimize costs shifted to nonparticipating customers – Factor (d)	3	2	1
Includes costs that are otherwise consistent with statute (reasonably allowing for the creation of facilities) – Factor (e)	1	2	3
Extent to which costs are administrative – Factor (b)	No difference		

I recommend Staff Alternative B because I find it offers the best balance of all the statutory considerations. However, I recognize the record could support approval of a different

³⁵² Rule 80 A 2 b.

³⁵³ Code § 56-594.3 D.

³⁵⁴ Ex. 2 (Trexler direct) at 18-19 and 20, n.4.

³⁵⁵ See, e.g., *id.* at 18; Ex. 3 (Rábago) at 5.

³⁵⁶ See, e.g., Dominion’s Brief at 10.

minimum bill depending on the weight the Commission gives to the various factors. For example, greater weight to the statutory cost shift and fair share considerations may support Dominion's proposal, while less weight to these considerations may support Staff Alternative A or CCSA's proposal.

III. Proposed Fuel Factor Recovery of Low-Income Subscriber Costs

20 VAC 5-340-60 of the Commission's Rules state in part as follows:

G. Minimum bill.

...

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 proceeding set forth in 20VAC5-340-80.

As discussed above, the instant phase of this proceeding was convened in part to determine the minimum bill pursuant to Rule 80. Accordingly, 20 VAC 5-340-60 indicates that the Commission could determine in the instant proceeding how Dominion would recover Shared Solar Program costs associated with low-income customers' participation.

Dominion proposed that such costs be recovered through the fuel factor.³⁵⁷ No case participant proposed an alternative mechanism for recovering such costs.

If the Commission decides to provide guidance on cost recovery in this case, I find that the fuel factor is a reasonable mechanism that could be used for the recovery of Shared Solar Program costs associated with low-income customers. However, the extent of such recovery should be determined in a future rate proceeding, such as a fuel factor proceeding if the Commission determines the fuel factor is appropriate for such recovery.

FINDINGS AND RECOMMENDATIONS

Based on the Code, the evidence provided by the parties to the evidentiary hearing process, and the arguments in this proceeding, and for the reasons set forth above, I find that:

- (1) While the Commission has the discretion to approve the use of either FERC Form 1 or EIA data to calculate the bill credit rate pursuant to Code § 56-594.3 C, FERC Form 1 data reasonably excludes government tax revenues.
- (2) Shared Solar Program customers that are subject to the minimum bill cannot bypass statutory non-bypassable charges without an express statutory exemption.
- (3) Dominion's minimum bill proposal does not allow for double-recovery from subscribing customers.

³⁵⁷ See, e.g., *id.* at 24-25.

- (4) Code § 56-594.3 allows Shared Solar Program customer bills to not reflect the full bill credit amount due to the minimum bill.
- (5) While I do not conclude that the Code requires that the minimum bill be a fixed monthly charge, the Commission has the discretion to adopt such a charge. Additionally, if the Commission concludes a fixed monthly charge is mandatory or more reasonable, the Commission should consider the extent to which minimum bill proposals that vary based on usage and subscription can be converted to a fixed monthly charge.
- (6) Dominion's minimum bill proposal would establish an amount that participating customer must pay on their utility bills each month after accounting for any bill credits, consistent with Code § 56-594.3 A.
- (7) Neither Code § 56-594.3 nor the Commission's Rules limit the costs that are eligible for inclusion in the minimum bill to new costs incurred specifically for the Shared Solar Program. Instead, the Commission's Rules specifies five factors for consideration when determining "whether costs ... are incremental ... and eligible for inclusion in the minimum bill." Defining "incremental costs" as "but for" costs would collapse the five-factor standard of the Rule into a two-factor standard and would support a minimum bill lower than any of the four proposals in this case.
- (8) Applying Factor (d) of Rule 80, the record supports a finding that Dominion's minimum bill proposal includes costs that will minimize the costs shift to customers not in a shared solar program, while the other proposals include fewer costs to minimize such cost shifts.
- (9) Applying Factor (c) of Rule 80, the record supports a finding that Dominion's minimum bill proposal includes generation, transmission, and distribution costs to ensure subscribing customers pay a fair share of the costs of providing electric services, while other proposals exclude certain costs of providing electric services to subscribing customers.
- (10) Applying Factor (e) of Rule 80, the record supports a finding that methodologies with lower minimum bills would better provide for the creation of Shared Solar Program generation.
- (11) Applying Factor (a) of Rule 80, the record supports a finding that CCSA's proposed minimum bill is the most consistent with this factor because CCSA's proposal includes the fewest costs that are not utility infrastructures and services used to provide electric service "for the shared solar program."
- (12) Applying Factor (b) of Rule 80, the record supports a finding at this time there is no difference among the proposed minimum bill methodologies regarding administrative costs.

- (13) Based on the record, Staff Alternative B offers the best balance among all five statutory considerations that are incorporated as Factors (a) through (e) in Rule 80; however, the record could support approval of a different minimum bill depending on the weight the Commission gives to the various factors.
- (14) The fuel factor is a reasonable mechanism that could be used for the recovery of Shared Solar Program costs associated with low-income customers.

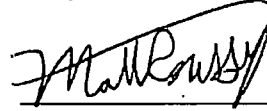
Accordingly, I **RECOMMEND** the Commission enter an order that:

- (1) **ADOPTS** the findings in this Report;
- (2) **APPROVES** Dominion's proposed bill credit rate for the Shared Solar Program, which would result in an initial bill credit rate of 11.765¢/kWh for residential customers, 7.120¢/kWh for commercial customers, and 5.901¢/kWh for industrial customers;
- (3) **APPROVES** Staff Alternative B as the minimum bill for the Shared Solar Program;
- (4) **APPROVES** the use of Dominion's fuel factor for the recovery of Shared Solar Program costs associated with low-income customers, if the Commission decides to provide guidance on cost recovery in this case; and
- (5) **DISMISSES** this case from the Commission's docket of active cases.

COMMENTS

Staff and parties are advised that, pursuant to Rule 5 VAC 5-20-120 C of the Commission's Rules of Practice and Procedure and Code § 12.1-31, any comments on this Report must be filed on or before March 9, 2022. In accordance with the directives of the Commission's *COVID-19 Electronic Service Order*³⁵⁸ the parties are encouraged to file electronically. If not filed electronically, an original and fifteen (15) copies must be submitted in writing to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any party filing such comments shall attach a certificate to the foot of such document certifying that copies have been sent by electronic mail to all counsel of record and any such party not represented by counsel.

Respectfully submitted,



D. Mathias Roussy, Jr.
Hearing Examiner

Document Control Center is requested to send a copy of the above Report to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, Tyler Building, First Floor, Richmond, VA 23219.

³⁵⁸ *Commonwealth of Virginia, ex rel State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service (Apr. 1, 2020) ("*COVID-19 Electronic Service Order*").

**ATTACHMENTS TO
HEARING EXAMINER'S REPORT**

PUR-2020-00125

Hearing Examiner's Attachment 1

High-level calculation of amount of potential cost shift within Commission's discretion (i.e., not attributable to low-income) using 19% capacity factor

Replication of the calculation described on page 36 of CCSA witness Rabago's testimony	Amount of estimate attributable to customers who are not subject to minimum bill
200 MW	45 low-income MW required for 200 MW program
8760 hours in year	8760 hours in year
<u>0.19</u> capacity factor	<u>0.19</u> capacity factor
332,880 MWh of generation - matches Rabago page 28 note 66	74,898 MWh of generation
332,880,000 converted to kWh	74,898,000 converted to kWh
<u>7.428</u> cents/kWh bill credit rate recommended	<u>7.428</u> cents/kWh bill credit rate recommended
2,472,632,640 annual cents available for bill credit rate at assumed generation	556,342,344 annual cents - cost shift that would occur with 45 MW low income
\$24,726,326 converted to \$ - matches Rabago's estimate of amount added to fuel factor	\$5,563,423 converted to \$
	\$24,726,326 - \$5,563,423 = \$19,162,903

Two-Step Process (still using Rabago's 19% capacity factor)

Step One	200 MW	Step Two (value)	200 MW
	8760 hours in year		8760 hours in year
	<u>0.19</u> capacity factor		<u>0.19</u> capacity factor
	332,880 MWh of generation		332,880 MWh of generation
	332,880,000 converted to kWh		332,880,000 converted to kWh
	<u>11.765</u> cents/kWh bill credit rate recommended		<u>4.337</u> DEV's avoided cost rate (cents)
	3,916,333,200 annual cents available for bill credit rate at assumed generation		1,443,700,560 avoided cents at assumed generation
	\$39,163,332 converted to \$		\$14,437,006 converted to \$
	\$39,163,332 - \$14,437,006		\$24,726,326
			matches one-step process shown above

