

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, OCTOBER 13, 2022

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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

ORDER ON RECONSIDERATION

On July 7, 2022, the State Corporation Commission ("Commission") issued a Final Order in this docket. On July 26, 2022, the Coalition for Community Solar Access and Appalachian Voices ("Joint Petitioners") filed a Joint Petition for Reconsideration and Clarification ("Petition for Reconsideration"). On July 27, 2022, the Commission issued an Order Granting Reconsideration, which granted reconsideration for the purpose of continuing jurisdiction over this matter and suspended the Final Order pending the Commission's reconsideration thereof.

On August 8, 2022, the Commission issued an Order for Additional Pleadings. On August 26, 2022, Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion") filed a response. On September 9, 2022, Joint Petitioners filed a reply.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds as follows.

Shared Solar Program

This case implements Code § 56-594.3, which requires the Commission to establish a program affording customers of Dominion the opportunity to participate in a shared solar program ("Shared Solar Program").¹ The Shared Solar Program allows a retail customer of

¹ See, e.g., Final Order at 1.

Dominion to subscribe to a portion of the kilowatt-hour ("kWh") electricity production of a solar facility that does not directly serve that customer.²

Petition for Reconsideration

Joint Petitioners "respectfully request the Commission enter an order that:

- [1] Reconsiders Staff Alternative Option B for the minimum bill and instead approves CCSA's minimum bill proposal or Staff Alternative Option A;
- [2] Directs Dominion to ensure that customer bills include line items for each of the three billing components (total bill, total bill credit, and minimum bill), so that customers will see how their shared solar bill credits and the minimum bill are applied on their bill;
- [3] Clarifies that low-income customers are statutorily exempt from the entire minimum bill, including charges that would otherwise be non-bypassable;
- [4] Clarifies that the minimum bill structure applies to commercial and industrial customers;
- [5] Clarifies that there are no demand-based charges in the minimum bill costs for commercial and industrial customers; and
- [6] Approves the recommendations and proposals included in the September 2021 Staff Update and Shared Solar Working Group Report."³

[1] *Minimum Bill*

As to the minimum bill, Code § 56-594.3 D directs as follows (emphases added):

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*

² See, e.g., Code § 56-594.3 B 1.

³ Petition for Reconsideration at 8-9.

shifted to customers not in a shared solar program. Low-income customers shall be exempt from the minimum bill.

Joint Petitioners assert that the minimum bill established in the Final Order must be reconsidered because "[t]he Commission's determination on the minimum bill is not supported by the evidence."⁴ Joint Petitioners state that "[a]lthough Dominion and [Commission] Staff raise the specter of *cost shifts*, neither party conducted any studies or presented any evidence to identify or quantify such alleged *cost shifting* under the Shared Solar Program,"⁵ and that "[t]here is simply no record evidence to quantify the *cost shift* alleged by Dominion, which Commission Staff accepted as true without any accompanying analysis."⁶ Based on this allegation, Joint Petitioners further claim that the Commission violated the "requirement [in 20 VAC 5-340-80(A)(2)] that any costs included in the minimum bill 'be just and reasonable based on evidence provided by the parties to the evidentiary hearing process.'"⁷

Contrary to Joint Petitioners' characterization, and as reflected in the Final Order, the Commission did not rely on *any* alleged cost shifts in establishing the minimum bill. Rather, the components of the minimum bill resulted from the Commission's express implementation of the directive in Code § 56-594.3 D (i) to "consider further costs the Commission deems relevant to ensure subscribing customers pay a fair share of the costs of providing electric services."⁸

⁴ *Id.* at 1.

⁵ *Id.* (citations omitted) (emphases added).

⁶ Joint Petitioners' Reply at 3 (emphases added).

⁷ *Id.* at 2 (emphasis in original).

⁸ In addition, no party asserts that the minimum bill components required herein under Code § 56-594.3 D (i) fail to minimize costs shifted under Code § 56-594.3 D (ii).

Specifically, Dominion still incurs costs to deliver electric service to a shared solar customer for the amount of that customer's shared solar subscription.⁹ Thus, to ensure a subscribing customer pays a fair share of the costs of providing electric service, the Commission deemed relevant – and included for purposes of the minimum bill – the specific customer, distribution, and transmission costs currently built into rates to serve that retail customer.¹⁰ Furthermore, in this manner the Commission has also ensured that a shared solar customer does *not* pay Dominion for *generation* for which the customer has paid the shared solar facility.¹¹

Joint Petitioners also assert that the minimum bill "would prevent creation of a workable Shared Solar Program that is available for all customer classes, which violates [Code § 56-594.3 F(1)-(2)]."¹² In this regard, Code § 56-594.3 F states as follows (emphases added):

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;

⁹ See, e.g., Report at 53 ("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."); Ex. 2 (Trexler Direct) at 8, 10 ("Participants will still rely on utility services that carry considerable costs that all utility customers are required to pay." ... "The Delivery Charges component captures the costs of utilizing Company transmission and distribution infrastructure to deliver electricity to customers.").

¹⁰ See, e.g., Final Order at 5-6.

¹¹ See, e.g., *id.* at 6.

¹² Petition for Reconsideration at 2.

The Commission expressly considered this statutory provision, as well, and concluded that it does not prevent the Commission from exercising its delegated discretion under the requirements of Code § 56-594.3 D.¹³ The Commission continues to find that establishing a minimum bill herein in compliance with the directives of Code § 56-594.3 D has "reasonably" allowed for the creation of shared solar facilities. Joint Petitioners assert that the minimum bill approved by the Commission will make the creation of shared solar facilities much more difficult compared to their proposed minimum bill (or Staff Alternative A). The Commission concludes, however, that those difficulties – which if they occur would stem from ensuring that shared solar customers pay a fair share of the costs of providing electric service – are not unreasonable.¹⁴

Accordingly, the Commission has herein applied Code §§ 56-594.3 D and F in a manner that gives effect to each statutory provision. If, however, it is deemed that the minimum bill determined pursuant to the directives of Code § 56-594.3 D does not, as a factual matter, "[r]easonably allow for the creation of shared solar facilities" or "[a]llow all customer classes to participate in the program" under Code § 56-594.3 F,¹⁵ the Commission concludes – as a legal matter – that Code § 56-594.3 D is controlling in determining the minimum bill. This is because while Code § 56-594.3 F speaks generally to "[a]ny rule or utility implementation filings," Code § 56-594.3 D speaks specifically to "establishing the minimum bill."¹⁶

¹³ See, e.g., Final Order at 5 n.17.

¹⁴ Similarly, the Commission continues to find that the minimum bill allows all customer classes to participate in the Shared Solar Program. Code § 56-594.3 F(2).

¹⁵ Such as on the Supreme Court of Virginia's review of the Commission's decision.

¹⁶ See, e.g., *Conger v. Barrett*, 280 Va. 627, 631 (2010) ("[W]hen two statutes do conflict, and one statute speaks to a subject generally and another deals with an element of that subject specifically, the more specific statute is controlling.") (internal quotation marks and citation omitted).

Finally, as explained in the Final Order, the monthly amount a subscriber pays to Dominion is calculated as follows: [(1) total bill] – [(2) total bill credit for the amount of the kWh shared solar subscription] + [(3) customer and administrative Charges, and the volumetric transmission and distribution costs for the amount of the kWh shared solar subscription)].¹⁷ Joint Petitioners oppose recognizing the amount of the shared solar subscription in this manner.¹⁸ The Commission, however, continues to find that this calculation is necessary to ensure that the amount ultimately paid by the subscribing customer to Dominion reasonably reflects a fair share of the costs of providing electric services.

This is textually illustrated by further explaining each of the three components in the above equation. First, the total bill reflects all of Dominion's tariff charges (*e.g.*, for generation, transmission, and distribution) applied to the customer's actual usage. Second, the total bill credit (*i.e.*, the amount that is deducted from the customer's bill) is statutorily designed to offset the *full* costs typically included in the customer's bill (*i.e.*, those same tariff charges for generation, transmission, and distribution) applied to the amount of the customer's *shared solar subscription*.¹⁹ Because the full offset in the second factor is applied to the subscription amount, the third factor in the equation must likewise be applied to the amount of the customer's shared solar subscription. As numerically illustrated below, this is necessary in order for the algebra to be accurate; that is, in order to result in the subscribing customer paying for (i) the amount of generation provided to that customer by Dominion, and (ii) the transmission and distribution costs for the actual amount of electricity delivered to that customer.

¹⁷ Final Order at 6.

¹⁸ Petition for Reconsideration at 4-5.

¹⁹ *See, e.g.*, Final Order at 4-5; Code § 56-594.3 C.

This can be further explained with a numeric example. Simplified for purposes of illustration, this example assumes: (a) the customer's shared solar subscription is 1,000 kWh; (b) Dominion's total tariff charges are 10¢/kWh; and (c) the 10¢/kWh is comprised of 6¢ for generation and 4¢ for transmission and distribution. If the customer's actual usage is 1,200 kWh, the amount the subscriber pays to Dominion is calculated as follows: [(1) 1,200 x 10¢, or \$120] – [(2) 1,000 x 10¢, or \$100] + [(3) 1,000 x 4¢, or \$40] = \$60. In this way, the customer has only paid for the \$60 of services actually provided by Dominion; that is, the customer has paid for 200 kWh of generation (200 x 6¢, or \$12), plus 1,200 kWh of transmission and distribution (1,200 x 4¢ = \$48), for a total of \$60.²⁰ As a result, and contrary to Joint Petitioners' allegation, using the subscription amount in this manner ultimately results in the subscribing customer paying transmission and distribution costs for the *actual* amount of electricity delivered to that customer by Dominion.

[2] *Customer Bill Line Items*

The Commission continues to find – especially in light of the particularly complex nature of Code § 56-594.3 (*see, e.g.*, discussion above) – that total bill, total bill credit, and minimum bill calculations need not be reflected as separate line items on subscribers' bills.

[3] *Low-Income Customers*

The Petition for Reconsideration asks the Commission to clarify "that low-income customers are statutorily exempt from the entire minimum bill, including charges that would otherwise be non-bypassable."²¹ In this regard, the Commission notes that Code § 56-585.5 F

²⁰ Under this same illustration, if the customer's actual usage is *less than* the shared solar subscription, the amount ultimately paid to Dominion will still reflect the transmission and distribution costs for the actual kWh consumption due to the generation credit for the difference between the subscribed and actual generation usage.

²¹ Petition for Reconsideration at 8.

addresses non-bypassable charges. As noted above, however, Code § 56-594.3 D speaks specifically to the minimum bill for purposes of the Shared Solar Program. For purposes of low-income customers, the final sentence in Code § 56-594.3 D directs as follows: "Low-income customers shall be exempt from the minimum bill."

Because Code § 56-594.3 D speaks *specifically* to exempting low-income customers from the minimum bill, the Final Order likewise directed that "low-income customers are statutorily exempt from the *entire* minimum bill."²² In other words, because low-income customers are statutorily exempt from the minimum bill, such subscribing customers necessarily will not pay *any* charges included in that bill, including any non-bypassable charges.

[4] [5] *Commercial and Industrial Customers*

As directed by Code § 56-594.3 F(2), all customer classes are allowed to participate in the Shared Solar Program; this necessarily includes commercial and industrial customer classes. As ordered by the Commission (and discussed above), the subscribing customer's minimum bill includes volumetric charges that reflect the distribution and transmission costs currently built into the applicable tariff rates for purposes of serving that retail customer;²³ this, likewise, necessarily includes commercial and industrial customers.

The Final Order, like the Hearing Examiner's Report ("Report"), used the residential class to illustrate the volumetric distribution and transmission components of the minimum bill.²⁴ For the residential class, the charges for these components in the applicable tariffs are already presented on a volumetric basis. For non-residential classes, however, certain charges for these

²² Final Order at 6 (emphasis added).

²³ See, e.g., *id.* at 5-6.

²⁴ See, e.g., *id.* at 5 n.16.

components in the applicable tariffs are *not* volumetric. Accordingly, for purposes of the volumetric portion of the minimum bill, the non-volumetric components of the applicable tariff rates for non-residential classes must be converted to volumetric charges.²⁵

[6] *Shared Solar Working Group*

Rule 20 VAC 5-340-100 provides that "[t]he Commission shall initiate a stakeholder process including low-income community representatives and community solar providers to facilitate low-income customer and low-income service organization participation in the program." That process, after significant efforts and meetings on this matter among numerous interested stakeholders, resulted in the *Low Income Stakeholder Working Group Report on the Virginia Shared Solar and Multi-Family Shared Solar Programs (2020-2021)* ("*Working Group Report*").²⁶

The Commission supports the "Recommendation(s)" presented in the *Working Group Report* for purposes of implementing shared solar at this time. At this nascent stage in the development of shared solar programs, however, the Commission will not adopt amendments regarding low-income participation to its promulgated shared solar rules. Rather, as implementation proceeds pursuant to the recommendations in the *Working Group Report*, the instant docket shall remain open to further address, as necessary, any additional delineation or other modifications attendant to low-income qualification and verification.

Accordingly, IT IS SO ORDERED, the Final Order is no longer suspended, and this matter is CONTINUED.

²⁵ See, e.g., Dominion's Response at 12-13.

²⁶ See Staff Update (Sep. 30, 2021).