

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JULY 7, 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

FINAL ORDER

During its 2020 Session, the Virginia General Assembly enacted Chapters 1238 (HB 1634) and 1264 (SB 629) of the 2020 Virginia Acts of Assembly. These Acts of Assembly amend the Code of Virginia ("Code") by adding a section numbered 56-594.3, effective July 1, 2020. Code § 56-594.3 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") the opportunity to participate in a shared solar program ("Shared Solar Program" or "Program").¹ Pursuant to Code § 56-594.3 E, the Commission must approve a Shared Solar Program of 150 megawatts with a minimum requirement of 30 percent low-income customers as defined in Code § 56-594.3 A. Also under the Program, each subscriber will pay a minimum bill to Dominion and receive a bill credit based on the subscriber's customer class.² The Commission must establish the minimum bill, which may be modified over time, and must set the bill credit rate annually.³ Dominion

¹ Under this Program, Dominion will provide a bill credit for the proportional output of a shared solar facility attributable to a utility customer that is a subscriber to a shared solar facility. *See* Code § 56-594.3 B.

² Code § 56-594.3 C.

³ Code § 56-594.3 C and D.

must file any tariffs, agreements, or forms necessary to implement the Program within 60 days of its full implementation of a new customer information platform or by July 1, 2023, whichever occurs first.⁴

On December 23, 2020, the Commission issued its Order Adopting Rules in this docket, in which the Commission adopted the Rules Governing Shared Solar Program, 20 VAC 5-340-10 *et seq.* ("Rules").⁵ The Order Adopting Rules required Dominion to file a minimum bill proposal ("Proposal") in this docket.⁶ Further, the Order Adopting Rules noted that, pursuant to 20 VAC 5-340-80, the Commission would convene a proceeding to consider any monthly administrative charge and the components of the minimum bill to be applied by Dominion pursuant to the Rules.⁷

Dominion filed its Proposal on March 1, 2021, 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. On April 14, 2021, the Commission issued an Order for Notice and Comment, which provided interested persons the opportunity to file comments or request a hearing on Dominion's Proposal.

Pursuant to the Order for Notice and Comment, the Coalition for Community Solar Access ("CCSA") together with the Chesapeake Solar & Storage Association ("CHESSA"); the

⁴ Code § 56-594.3 F.

⁵ On December 30, 2020, the Commission issued a Correcting Order to correct a scribal error on page 13 of Attachment A to the Order Adopting Rules.

⁶ *Id.* at 12, Ordering Paragraph (7).

⁷ *See id.* at 3, n.2.

Virginia Department of Mines, Minerals and Energy ("DMME");⁸ Senator Scott A. Surovell and Delegate Jay Jones ("Legislator Commenters"); and Mr. Jay Epstein filed comments. In addition to their comments, CCSA and CHESSA together with other entities,⁹ DMME, and the Legislator Commenters requested an evidentiary hearing. The Staff filed a reply to the Proposal on May 14, 2021, and on May 21, 2021, Dominion filed a reply in which it supported the requests for an evidentiary hearing on the Proposal.

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. The Order for Notice and Hearing directed Dominion to file testimony in support of its Proposal on these two issues.

CCSA, Appalachian Voices, and Culpeper County filed notices of participation. On November 18, 2021, the evidentiary hearing was convened, as scheduled. Dominion, CCSA, Appalachian Voices and Staff participated in the hearing. On January 13, 2022, Dominion, CCSA, Appalachian Voices, and Staff filed their post-hearing briefs.

On February 16, 2022, Hearing Examiner D. Mathias Roussy, Jr. filed his Report ("Report"). The Hearing Examiner made the following recommendations:

- (1) Approve 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;

⁸ DMME is now the Virginia Department of Energy.

⁹ This Joint Hearing Request was filed by CCSA, CHESSA, 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.

- (2) Approve Staff Alternative B as the minimum bill for the Shared Solar Program, which results in a minimum bill of \$55.10 for a residential customer with 1,000 kWh of usage and a 1,000 kWh shared solar subscription; and
- (3) Approve 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.¹⁰

Dominion, CCSA and Appalachian Voices filed responses to the Hearing Examiner's Report. Staff filed a letter indicating that it did not oppose the findings and recommendations in the Report.

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

As an initial matter, the Commission adopts the Hearing Examiner's finding that the fuel factor is a reasonable mechanism for the recovery of Shared Solar Program costs associated with low-income customers.¹¹

The Commission also adopts the bill credit rates recommended by the Hearing Examiner.¹² As required by statute, "[e]ach [customer] class's applicable [bill] 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)."¹³ Because the volumetric bill credit rates reflect generation, transmission, and distribution revenues, such credit

¹⁰ Report at 61.

¹¹ See, e.g., Report at 59.

¹² See, e.g., *id.* at 30-33, 61.

¹³ Code § 56-594.3 C.

"will approach the retail rates that customers pay."¹⁴ In this manner, the statute results in a bill credit that generally offsets the full costs typically included in the customer's bill.¹⁵

As to the minimum bill, the Commission finds that such shall reflect both fixed and volumetric costs. The fixed costs shall include the Customer Charge and the Administrative Charge. The volumetric costs shall include: (1) Statutorily Non-Bypassable Generation Charges; (2) Base Distribution Charges; (3) Distribution RAC Charges; (4) Base Transmission Charges; and (5) Transmission RAC Charges.¹⁶ The Commission, having considered the record and the Commission's promulgated rules for implementing this statute, finds that these costs fall within the authority delegated to the Commission in Code § 56-594.3. For example, the above costs fall within those that "the Commission deems relevant to ensure subscribing customers pay a fair share of the costs of providing electric services."¹⁷

Next, the Commission adopts the Hearing Examiner's finding that the structure of Dominion's minimum bill proposal satisfies the requirements of Code § 56-594.3. As explained by the Hearing Examiner, this structure does not result in double recovery and, as required by statute, results in "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

¹⁴ Report at 33.

¹⁵ For example, if a customer subscribes to 1,000 kWh of shared solar per month, and then consumes 1,000 kWh in a month, the bill credit will be approximately the same as the customer's normal total bill amount. *See, e.g.*, Ex. 9.

¹⁶ *See, e.g.*, Report at 24 (for table listing charge types and amounts).

¹⁷ Code § 56-594.3 D. In addition, the Commission approves the costs above for the minimum bill after having also considered the other requirements in Code § 56-594.3, including but not limited to "[r]easonably allow[ing] for the creation of shared solar facilities." Code § 56-594.3 F. The Commission finds that these other requirements do not prohibit the inclusion of costs that fall within the specific minimum bill authority in Code § 56-594.3 D.

for any bill credits."¹⁸ We also agree with the Hearing Examiner that this is "potentially confusing because of Dominion's terminology"¹⁹ and, thus, warrants further explanation.

Specifically, the Commission has found that the amount a subscriber shall be required to pay Dominion is calculated as follows: [total bill] – [total bill credit for the amount of the kWh shared solar subscription] + [costs identified in the above paragraph (*i.e.*, Customer and Administrative Charges, and the volumetric transmission and distribution costs for the amount of the kWh shared solar subscription)]. This calculation results in a minimum bill that reasonably *excludes* the utility's generation costs for the amount of the kWh shared solar subscription. In this manner, the Commission has established, pursuant to its delegated discretion under this statute, a minimum bill that reasonably includes costs the Commission deems relevant to ensure subscribing customers pay a fair share of the generation, transmission, distribution, and fixed costs of providing electric service.²⁰

Finally, the Commission makes the additional legal findings necessary for implementation of the instant order, including: (1) low income customers are statutorily exempt from the entire minimum bill; (2) Shared Solar Program Customers cannot bypass statutorily non-bypassable charges without a concomitant statutory exemption; (3) the plain language of Code § 56-594.3 D is not limited to incremental costs (*i.e.*, it may include an existing cost if the

¹⁸ Code § 56-594.3 A. *See, e.g.*, Report at 39-41, 42-43.

¹⁹ Report at 43.

²⁰ As required by statute, this also effectuates the statutory requirement 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 next month's bill." Code § 56-594.3 B 1. That is, if the customer's shared solar kWh subscription is greater than the customer's actual usage such that the bill credit exceeds the fair share of costs the Commission has determined such customer must pay, then the excess is carried over as a credit to the next month's bill. *See, e.g.*, Ex. 9.

Commission finds that such satisfies a provision of the statute);²¹ and (4) the statute does not require the minimum bill to be a fixed amount regardless of a customer's usage or subscription amounts.²²

The Company forthwith shall file revised tariffs, terms and conditions of service and supporting workpapers with the Clerk of the Commission and submit the same to the Commission's Divisions of Public Utility Regulation and Utility Accounting and Finance, as is necessary to comply with the directives set forth in this Order. The Clerk of the Commission shall retain such filings for public inspection in person and on the Commission's website: scc.virginia.gov/pages/Case-Information.

Accordingly, IT IS ORDERED and this matter is DISMISSED.

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

²¹ Moreover, to the extent parties to this case have argued that Code § 56-594.3 D has been limited to incremental costs by the Commission's rules (a position that the Commission does not adopt), we note that a Commission rule obviously cannot re-write or supersede a statute.

²² See, e.g., Report at 39, 38-39, 43-46, and 41-42, respectively.