

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, SEPTEMBER 21, 2020

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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 FOR NOTICE AND COMMENT

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 Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion") customers the opportunity to participate in shared solar projects.

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

On July 20, 2020, Dominion filed a Motion for Limited Extension of Time to File Proposed Regulations and for Expedited Consideration ("Motion"). Through its Motion, Dominion requested that the Commission extend the deadline for submitting proposed

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regulations by three weeks to August 14, 2020. The Commission granted Dominion's Motion on July 22, 2020.

The following parties filed comments: the Coalition for Community Solar Access and the Maryland-DC-Delaware-Virginia Solar Energy Industries Association (collectively, "CCSA/MDV-SEIA"); the Virginia Department of Mines, Minerals and Energy; Health E Community Enterprises of Virginia, Inc.; the Virginia Clean Energy Advisory Board; the Sierra Club; the Southern Environmental Law Center and Appalachian Voices; Dominion; GRID Alternatives Mid-Atlantic; Vote Solar and Solar United Neighbors; Arcadia; Senator Scott A. Surovell; Virginia Advanced Energy Economy; and SynerGen Solar.¹ On August 14, 2020, Dominion and CCSA/MDV-SEIA filed proposed regulations.

Based on input received from the filings in this docket, the Commission's Staff ("Staff") has prepared proposed rules ("Proposed Rules"), which are attached to this Order for Notice and Comment ("Order").

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that Staff's Proposed Rules should be considered for adoption, that notice of the Proposed Rules be given to the public, and that interested persons have an opportunity to file written comments on, propose modifications or supplements to, or request a hearing on the Proposed Rules. We further find that a copy of the Proposed Rules should be sent to the Registrar of Regulations for publication in the *Virginia Register of Regulations*.

¹ Any of these comments submitted after the July 24, 2020 deadline hereby are accepted into the record despite their being filed out of time.

Accordingly, IT IS ORDERED THAT:

(1) The Commission's Division of Information Resources shall forward a copy of this Order, including a copy of the Proposed Rules, to the Registrar of Regulations for publication in the *Virginia Register of Regulations*.

(2) An electronic copy of the Proposed Rules may be obtained by submitting a request to David R. Eichenlaub in the Commission's Division of Public Utility Regulation at the following email address: David.Eichenlaub@scc.virginia.gov. An electronic copy of the Proposed Rules can be found at the Division of Public Utility Regulation's website:

<https://scc.virginia.gov/pages/Rulemaking>. Interested persons may also download unofficial copies of this Order and the Proposed Rules from the Commission's website:

<https://scc.virginia.gov/pages/Case-Information>.

(3) The Commission's Division of Public Utility Regulation shall provide copies of this Order by electronic transmission, or when electronic transmission is not possible, by mail, to individuals, organizations, and companies who have been identified by Staff as interested in this matter, including those entities and individuals that previously filed comments in this proceeding.

(4) On or before November 2, 2020, any interested person may file comments on the Proposed Rules by following the instructions found on the Commission's website:

<https://scc.virginia.gov/casecomments/Submit-Public-Comments>. Such comments also may include proposals and hearing requests. All comments shall refer to Case No. PUR-2020-00125. Any request for hearing shall state with specificity why the issues raised in the request for hearing cannot be adequately addressed in written comments. If a sufficient request for hearing

is not received, the Commission may consider the matter and enter an order based upon the papers filed herein.

(5) On or before November 16, 2020, the Staff shall file with the Clerk of the Commission a report on or response to any comments, proposals, or requests for hearing submitted to the Commission on the Proposed Rules.

(6) This matter is continued.

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

STATE CORPORATION COMMISSION

Chapter 340 Rules Governing Shared Solar Program

CHAPTER 340CHAPTER 340 RULES GOVERNING SHARED SOLAR PROGRAM**20VAC5-340-10. Applicability.**

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

B. The maximum cumulative size of the shared solar program initially shall not exceed 150 megawatts, at least 30% of which must be comprised of low-income customers.

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

D. Customers participating in this program shall remain in their present customer class but may not participate in the multi-family solar program, pursuant to Chapters 1187, 1188, 1189, and 1239 of the 2020 Acts of Assembly, or the net metering program, pursuant to 20VAC5-315-10 et seq., while participating in this program.

E. Implementation of the shared solar program shall not commence until the earlier of July 1, 2023, or within sixty days of the Phase II Utility's full implementation of a new customer information platform.

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

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

20VAC5-340-20. Definitions.

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

"Applicable bill credit rate" means the dollar-per-kilowatt-hour rate used to calculate the subscriber's bill credit.

"Bill credit" means the monetary value of the electricity, in kilowatt-hours, generated by the shared solar facility allocated to a subscriber to offset that subscriber's electricity bill.

"Low-income customer" means any person or household whose income is no more than 80% of the median income of the locality in which the customer resides. The median income of the locality is determined by the U.S. Department of Housing and Urban Development.

"Low-income service organization" means a nonresidential customer of an investor-owned utility whose primary purpose is to serve low-income individuals and households.

"Low-income shared solar facility" means a shared solar facility at least 30% of the capacity of which is subscribed by low-income customers or low-income service organizations.

"Minimum bill" means an amount determined by the Commission as described in 20VAC-340-80 of this chapter that subscribers are required to, at a minimum, pay on their utility bill each month after accounting for any bill credits.

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

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

"Shared solar facility" means a facility that:

1. Generates electricity by means of a solar photovoltaic device with a nameplate capacity rating that does not exceed 5,000 kilowatts of alternating current;
2. Is located in the service territory of an investor-owned electric utility;
3. Is connected to the electric distribution grid serving the Commonwealth;
4. Has at least three subscribers;
5. Has at least 40% of its capacity subscribed by customers with subscriptions of 25 kilowatts or less; and
6. Is located on a single parcel of land.

"Shared solar program" or "program" means the program created through this chapter to allow for the development of shared solar facilities.

"Subscriber" means a retail customer of a utility that (i) owns one or more subscriptions of a shared solar facility that is interconnected with the utility, and (ii) receives service in the service territory of the same utility in whose service territory the shared solar facility is located.

"Subscriber organization" means any for-profit or nonprofit entity that owns or operates one or more shared solar facilities. A subscriber organization shall not be considered a utility solely as a result of its ownership or operation of a shared solar facility.

"Subscription" means a contract or other agreement between a subscriber and the owner of a shared solar facility. A subscription shall be sized such that the estimated bill credits do not exceed the subscriber's average annual bill for the customer account to which the subscription is attributed.

"Utility" means a Phase II utility.

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

A. Other than a utility, each entity seeking to conduct business as a subscriber organization shall obtain a license from the commission prior to commencing business operations. Each entity applying for a license to conduct business as a subscriber organization shall file an application with the clerk of the commission and contemporaneously provide a copy of the application to the utility. If the applicant becomes aware of any material changes to any information while the application is still pending, the applicant shall inform the commission within 10 calendar days. Applications shall include the following information:

1. Legal name of the applicant, as well as any trade names.
2. Physical business addresses and telephone numbers of the applicant's principal office and all offices in Virginia.
3. A description of the applicant's authorized business structure, identifying the state authorizing such structure and the associated date (e.g., if incorporated, the state and date of incorporation; if a limited liability company, the state issuing the certificate of organization and the date of issuance).

4. Name and business address of all principal corporate officers and directors, partners, and LLC members, as appropriate.

5. If a foreign corporation, a copy of the applicant's authorization to conduct business in Virginia from the commission or if a domestic corporation, a copy of the certificate of incorporation from the commission.

6. A list of the states in which the applicant and the applicant's affiliates conduct business related to participation in a shared solar program, the names under which such business is conducted, and a description of the business conducted.

7. The applicant shall disclose if it is an affiliate of the incumbent utility. If it is, it shall further provide a description of internal controls the applicant has designed to ensure that it and its employees, contractors, and agents that are engaged in the (i) merchant, operations, transmission, or reliability functions of the electric generation systems, or (ii) customer service, sales, marketing, metering, accounting or billing functions, do not receive information from the utility or from entities that provide similar functions for or on behalf of the utility as would give the affiliated subscriber organization an undue advantage over non-affiliated subscriber organizations.

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

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

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

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

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

c. A continuous or renewable performance or surety bond, an irrevocable letter of credit, or an irrevocable guaranty from a creditworthy corporate parent of the applicant in a minimum amount of \$50,000 in a form to be prescribed by the commission staff. A certified copy of the bond, letter of credit, or guaranty shall be provided to the State Corporation Commission's Division of Utility Accounting and Finance within 30 days of the issuance of a license to the applicant by the commission.

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

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

b. The names and a description of the managerial and technical experience of each principal officer and appropriate senior management person with direct responsibility

for the business operations conducted in Virginia. Include a description of their experience related to developing solar facilities and providing shared solar services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. Subscriber organizations shall provide the identity of the shared solar facility participating in the shared solar program, including an address of record and a copy of the executed interconnection agreement for the shared solar facility.

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

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

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

H. The utility shall notify the subscriber organization within 30 days of the commission's issuance of a subscriber organization's licensure whether the shared solar facility has been awarded capacity in the program queue or placed on a waiting list. When awarded capacity in the program queue, the subscriber organization shall pay to the utility a security deposit in the amount of \$50 per kW of alternating-current rated capacity of the shared solar facility within 10 days. This deposit shall be held by the utility in an interest-bearing account. Deposits shall be returned in full, including interest, upon commercial operation of the shared solar facility.

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

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

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

L. As part of its public program queue, the utility shall monitor and report the amount of capacity that has been allocated to low-income customers. Upon qualification of 45 MW AC of capacity committed to low income subscribers as demonstrated by the approved low-income subscription plans of projects that have secured capacity in the program, the utility shall submit a request to the commission to release an additional 50 MW of capacity for the program and address how the expansion shall be allocated.

20VAC5-340-50. Marketing and enrollment.

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

B. A subscriber organization shall not enroll customers until after it receives the executed Small Generator Interconnection Agreement pursuant to 20VAC5-314-40 through 20VAC5-314-70, and any other applicable local and state permits for the shared solar facility.

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

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

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

F. A subscriber organization shall provide to prospective subscribers, prior to executing a written contract, a description of how the shared solar program will function. Such description

shall include explanations of the respective roles of the subscriber organization and the utility, and a detailed description of how customers will be billed.

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

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

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

a. Customer name

b. Billing address and premise address

c. Utility account number

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

(1) Pricing

(2) Subscription size

(3) Contract start date and length

(4) Terms of subscription

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

H. Upon a customer's request, the subscriber organization may re-enroll a subscriber at a new address under the existing contract without the need to acquire a new authorization record, but the subscriber organization must provide the utility with updated billing information set forth in subdivision F 12 of this section.

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

J. In the event multiple enrollment requests are submitted for the same customer, the utility shall process the request with the earliest dated contract and shall notify the customer within five business days of receipt of the enrollment request of such enrollment. The utility shall only

terminate enrollment with sufficient proof of termination presented by either the customer or the subscriber organization.

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

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

20VAC5-340-60. Billing and payment.

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

1. Subscriber organizations must provide, on a monthly basis and in a standard electronic format and pursuant to this chapter, a subscriber list indicating the kilowatt-hours of generation attributable to each of the subscribers participating in a shared solar facility in accordance with the subscriber's portion of the output of the shared solar facility.

2. Subscriber lists must be updated monthly to reflect canceling subscribers and to add new subscribers.

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

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

a. Data components

b. Data format

c. Timing of monthly data exchanges

d. Encryption level

e. Channel of data submission

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

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

2. Where a subscriber organization chooses to use net crediting, any shared solar subscription fees charged via the net crediting model shall be set to ensure that subscribers do not pay more in subscription fees than they receive in bill credits.

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

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

D. Each utility shall, on a monthly basis and in a standardized electronic format, provide the subscriber organization a report indicating the total value of bill credits generated by the shared solar facility in the prior month, as well as the amount of the bill credit applied to each subscriber.

E. Failure of subscriber to pay any regulated charges shall subject the subscriber to the same credit consequences set forth in the utility's commission-approved terms and conditions of service, including the potential requirement to post a security or disconnection of service. The utility shall advise the subscriber directly of any pending disconnection action for nonpayment consistent with current practice, separate from the customer bill. Such notice shall identify clearly

the amount that must be paid and the date by which such amount must be received and provide instructions for direct payment to the utility to avoid disconnection. A subscriber may not be disconnected for nonpayment of unregulated service charges.

F. Bill credits.

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

2. Bill credits shall be calculated by multiplying the subscriber's portion of the kilowatt-hour electricity production from the shared solar facility by the applicable bill credit rate for the subscriber. Any portion of a bill credit that exceeds the subscriber's monthly bill, minus the minimum bill, shall be carried over and applied to the next month's bill. Such carry-over plus the next month's credit cannot exceed the next month's bill, minus the minimum bill.

3. In the event that all of the electricity generated by a shared solar facility is not allocated to subscribers in a given month, a subscriber organization may accumulate bill credits. The subscriber organization shall provide the utility allocation instructions for distributing excess bill credits to subscribers on an annual basis.

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

5. The utility shall provide bill credits to a shared solar facility's subscribers for not less than 25 years from the date the shared solar facility becomes commercially operational.

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

G. Minimum bill.

1. In an annual proceeding, as prescribed in 20VAC5-340-80, the commission will set a minimum bill for program participants.

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

H. Net crediting.

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

2. Under net crediting, the utility shall include the shared solar subscription fee on the customer's utility bill and provide the customer with a net credit equivalent to the total bill credit value for that generation period minus the shared solar subscription fee as set by the subscriber organization.

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

4. Net crediting shall be optional for subscriber organizations, and any shared solar subscription fees charged via the net crediting model shall be set to ensure that subscribers do not pay more in subscription fees than they receive in bill credits.

I. Shared solar facility requirements.

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

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

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

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

20VAC5-340-70. Disputes.

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

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

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

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

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

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

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

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

20VAC5-340-80. Annual proceeding.

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

With respect to the minimum bill:

1. Each subscriber shall pay a minimum monthly bill, which shall, as approved by the commission, include the costs of all utility infrastructure and services used to provide electric service and administrative costs of the shared solar program. The commission may modify the minimum bill over time. In establishing the minimum bill, the commission shall (i) consider further costs the commission deems relevant to ensure subscribing customers pay a fair share of the

costs of providing electric services to the subscribers, and (ii) minimize the costs shifted to customers not in a shared solar program.

2. The minimum bill established annually as set forth in subdivision 1 of this section must include, at a minimum, the following four general categories of costs, to be demonstrated by the utility:

a. Transmission and distribution costs;

b. Standby generation and balancing costs;

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

d. Administrative costs.

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

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

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

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

A. Subscriber organizations

Prior to commercial operation of any shared solar facility, each subscriber organization shall report to the commission and the applicable utility its achievement of contracting with low-income

customers. Thereafter, this report shall be updated and filed semi-annually with the commission by January 31 and July 31, respectively, of each calendar year for the previous calendar year, commencing in 2024. When making the annual report, the subscriber organization shall provide the following information:

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

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

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

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

B. Affordable housing providers.

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

C. Utility.

In accordance with the commission's Regulations Governing Interconnection of Small Electric Generators and Storage (20VAC5-314), and specifically, 20VAC5-314-130:

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

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

a. Queue number.

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

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

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

e. The feeder or circuit to which the project will be interconnected.

f. The date of submission of final completed Interconnection Request Form, as provided in 20VAC5-314-170.

g. Interdependency status (e.g., Project A or Project B).

h. Status of the request in the interconnection process (e.g., interconnection agreement executed, connected, canceled).

i. The date of final completed signed interconnection agreement.

STATE CORPORATION COMMISSION

AT RICHMOND, JULY 1, 2020

*Document Control Center 07/01/20@8.15 AM*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 DIRECTING COMMENT

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 ("Statute") requires the Commission to establish by regulation a program affording Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion") customers the opportunity to participate in shared solar projects.¹

Under the Statute, customers may purchase subscriptions in a shared solar facility, which the Statute defines as a facility that, among other things, generates electricity by means of a solar photovoltaic device with a nameplate capacity rating that does not exceed 5,000 kilowatts.² Each subscriber then receives a bill credit for the proportional output of the shared solar facility attributable to that subscriber.³

¹ Code § 56-585.1:12, also effective July 1, requires the Commission to establish by regulation a program that affords eligible multi-family customers of Dominion and Kentucky Utilities Company d/b/a Old Dominion Power Company the opportunity to participate in shared solar projects. The Commission has established Case No. PUR-2020-00124 to receive comments from interested persons and entities in that matter.

² See Code § 56-594.3 A (2020).

³ Code § 56-594.3 B (2020).

Under the Statute, subscribers pay a minimum bill that includes the costs of all utility infrastructure and services used to provide electric service and administrative costs of the shared solar program.⁴ The Statute directs the Commission to establish the minimum bill, from which low-income customers shall be exempt.⁵

The Statute further directs the Commission to approve a shared solar program of 150 megawatts with a minimum requirement of 30 percent low-income customers.⁶ Moreover, the Commission shall approve an additional 50 megawatts of capacity upon determining that at least 45 megawatts of the aggregated shared solar capacity in the Commonwealth have been subscribed to by low-income customers.⁷ The Commission, in collaboration with the Department of Mines, Minerals and Energy, may adopt mechanisms to ensure low-income customer participation.⁸

Finally, the Statute requires that by January 1, 2021, the Commission shall establish by regulation this shared solar program in accordance with the terms of the Statute.⁹ Accordingly, the Commission initiates this docket to receive comments from Dominion and any other interested persons or entities concerning the shared solar program and the regulations that will be necessary to establish it.

⁴ Code § 56-594.3 B, C, D (2020).

⁵ Code § 56-594.3 D (2020).

⁶ Code § 56-594.3 E (2020).

⁷ *Id.*

⁸ *Id.*

⁹ Code § 56-594.3 F (2020).

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that it should receive comments on the shared solar program and associated regulations required by the Statute. To assist the Commission in drafting proposed regulations, we herein direct comments from Dominion and invite comments from any interested persons and entities. Specifically, we direct Dominion to comment on the following items: (1) program administration, including the provisions of Code § 56-594.3 B; (2) any proceedings and filings that will be necessary for the program; (3) establishing a minimum bill; (4) program size, as set forth in Code § 56-594.3 E, including compliance measures and low-income customer participation requirements; (5) program requirements, including those set forth in Code § 56-594.3 F; and (6) any other relevant items or issues Dominion wishes to address. Interested persons and entities also may comment on any of those items or any other relevant issues they wish to address. In addition, commenters may also propose specific regulations.

We direct that the Clerk of the Commission provide copies of this Order Directing Comment ("Order") to Dominion and the Office of the Attorney General's Division of Consumer Counsel. We also direct the Staff of the Commission's Division of Public Utility Regulation ("Staff") to consider other persons or entities that may be interested in this matter and to provide such persons or entities with copies of this Order by electronic transmission. Further, we direct Staff to provide copies of this Order to the Department of Mines, Minerals, and Energy, and the Department of Environmental Quality, and any other agency that Staff determines may be interested in this matter.

The Commission further takes judicial notice of the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, and the declarations of emergency issued

at both the state and federal levels.¹⁰ The Commission has taken certain actions, and may take additional actions going forward, that could impact the procedures in this proceeding.¹¹

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUR-2020-00125.
- (2) Within five (5) business days of the date of this Order, Staff shall electronically transmit copies of this Order to those persons and entities identified by Staff as potentially having an interest in this matter. Staff also shall electronically transmit copies of this Order to the Department of Mines, Minerals, and Energy, the Department of Environmental Quality, and any other agency that Staff determines may be interested in this matter.
- (3) On or before July 24, 2020, Dominion shall file comments addressing the items listed above or any other relevant items or issues it wishes to address.
- (4) On or before July 24, 2020, any interested persons or entities may file comments addressing any of the items listed above or any other relevant issues they wish to address.

¹⁰ See, e.g., Executive Order No. 51, Declaration of a State of Emergency Due to Novel Coronavirus, COVID-19, issued March 12, 2020, by Gov. Ralph S. Northam. See also, Executive Order No. 53, Temporary Restrictions on Restaurants, Recreational, Entertainment, Gatherings, Non-Essential Retail Businesses, and Closure of K-12 Schools Due to Novel Coronavirus (COVID-19), issued March 23, 2020, by Governor Ralph S. Northam, and Executive Order No. 55, Temporary Stay At Home Order Due to Novel Coronavirus (COVID-19), issued March 30, 2020, by Governor Ralph S. Northam. These and subsequent Executive Orders related to COVID-19 may be found at: <https://www.governor.virginia.gov/executive-actions/>.

¹¹ See, e.g., *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders*, Case No. CLK-2020-00004, Doc. Con. Cen. No. 200330035, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, Doc. Con. Cen. No. 200330042, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020) ("Revised Operating Procedures Order"), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *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).

Comments may be filed by following the instructions on the Commission's website:

<https://scc.virginia.gov/casecomments/Submit-Public-Comments>. All comments shall refer to Case No. PUR-2020-00125.

(5) All comments and other documents and pleadings filed in this matter should be submitted electronically to the extent authorized by Rule 5 VAC 5-20-150, *Copies and Format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"),¹² as modified herein.¹³ Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and shall comply with Rule 5 VAC 5-20-170, *Confidential information*. For the duration of the COVID-19 emergency, any person seeking to hand deliver and physically file or submit any pleading or document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.¹⁴

(6) This matter is continued for further orders of the Commission.

A COPY HEREOF shall be sent electronically by the Clerk of the Commission to: Paul E. Pfeffer, Esquire, Virginia Electric & Power Company d/b/a Dominion Energy Services, Inc., Riverside 2, Legal, 120 Tredegar Street, Richmond, Virginia 23219, paul.e.pfeffer@dominionenergy.com; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424, MBrowder@oag.state.va.us.

¹² 5 VAC 5-20-10 *et seq.*

¹³ *See supra* note 11.

¹⁴ As noted in the Revised Operating Procedures Order, submissions to the Commission's Clerk's Office via U.S. mail or commercial mail equivalents may not be processed for an indefinite period of time due to the COVID-19 emergency. *See supra* note 11.