

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1842 Session of 2023

INTRODUCED BY SCHWEYER, MATZIE, MADDEN, GUENST, SMITH-WADE-EL, HOHENSTEIN, McNEILL, SANCHEZ, SCHLOSSBERG, BRENNAN, VITALI, KHAN, ROZZI, HILL-EVANS, CEPEDA-FREYTIZ, STEELE, HADDOCK, CIRESI, NEILSON, GREEN, MEHAFFIE, TOMLINSON, RYNCAVAGE, KAUFER, ADAMS, KIM, STURLA, FIEDLER, FREEMAN, WAXMAN, BOROWSKI, TAKAC, BOYD, MENTZER, ISAACSON, DALEY, PARKER, D. WILLIAMS, CONKLIN, PIELLI, WARREN, FRIEL AND FRANKEL, NOVEMBER 13, 2023

AS REPORTED FROM COMMITTEE ON CONSUMER PROTECTION, TECHNOLOGY AND UTILITIES, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 19, 2024

AN ACT

1 Providing for community solar facilities; imposing duties on the
2 Pennsylvania Public Utility Commission, electric distribution
3 companies and subscriber organizations; and providing for
4 prevailing wage for construction of community solar
5 facilities.

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12 SECTION 13. PREVAILING WAGE FOR CONSTRUCTION OF COMMUNITY SOLAR <--
13 FACILITIES.

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15 Section 15. Effective date.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Short title.

19 This act shall be known and may be cited as the Community
20 Solar Act.

21 Section 2. Findings and declarations.

22 The General Assembly finds and declares as follows:

23 (1) Growth in solar generation will provide family-
24 sustaining jobs and investments in this Commonwealth.

25 (2) Programs for community solar generation provide
26 customers with additional energy choices and access to
27 affordable energy options.

28 (3) Community solar programs provide customers,
29 including homeowners, renters and businesses, access to the
30 benefits of Pennsylvania community solar energy generation

1 that is unconstrained by the physical attributes of their
2 home or business, including roof space, shading or ownership
3 status.

4 (4) In addition to its provision of standard electricity
5 market commodities and services, local solar energy
6 generation can contribute to a more resilient grid and defer
7 the need for costly new transmission and distribution system
8 investment.

9 (5) The intent of this act is to:

10 (i) Allow electric distribution customers of this
11 Commonwealth to subscribe to a portion of a community
12 solar facility and have the result of the subscription be
13 guaranteed savings.

14 (ii) Reasonably allow for the creation, financing,
15 accessibility and operation of third-party-owned
16 community solar generating facilities and enable robust
17 customer participation.

18 (iii) Encourage the development of community solar
19 programs that will facilitate participation by and for
20 accessibility and operation of third-party-owned
21 community solar generating facilities and enable robust
22 customer participation.

23 (iv) Encourage the development of community solar
24 programs that will facilitate participation by and for
25 the benefit of low-income and moderate-income customers
26 and the communities where they live, reduce barriers to
27 participation by renters and small businesses, promote
28 affordability and improve access to basic public utility
29 services.

30 (V) MAXIMIZE THE USE OF FEDERAL MONEY TO PROVIDE FOR <--

1 THE DEVELOPMENT OF COMMUNITY SOLAR PROGRAMS.

2 Section 3. Definitions.

3 The following words and phrases when used in this act shall
4 have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Bill credit." The commission-approved monetary value of
7 each kilowatt hour of electricity generated by a community solar
8 facility and allocated to a subscriber's monthly bill to offset
9 any part of the subscriber's retail electric bill other than
10 volumetric or demand-based distribution charges.

11 ~~"Brownfield or rooftop community solar facility." A~~ <--
12 ~~community solar facility that is primarily located on rooftops~~
13 ~~or land that is regulated by the department under the following~~
14 ~~programs:~~

15 ~~(1) The Land Recycling Program.~~

16 ~~(2) The Solid Waste Program.~~

17 ~~(3) The Abandoned Mine Reclamation Program.~~

18 "BROWNFIELD." REAL PROPERTY, THE EXPANSION, REDEVELOPMENT OR <--
19 REUSE OF WHICH MAY BE COMPLICATED BY THE PRESENCE OR POTENTIAL
20 PRESENCE OF A HAZARDOUS SUBSTANCE, POLLUTANT OR CONTAMINANT.

21 "BROWNFIELD OR ROOFTOP COMMUNITY SOLAR FACILITY." A
22 COMMUNITY SOLAR FACILITY THAT IS PRIMARILY LOCATED ON ROOFTOPS
23 OR LAND THAT IS A BROWNFIELD.

24 "Commission." The Pennsylvania Public Utility Commission.

25 "Community solar facility." A facility that meets all of the
26 following criteria:

27 (1) Is located within this Commonwealth.

28 (2) Is connected to and delivers electricity to a
29 distribution system operated by an electric distribution
30 company operating in this Commonwealth and in compliance with

1 requirements under this act.

2 (3) Generates electricity by means of a solar
3 photovoltaic device with a nameplate capacity rating that
4 does not exceed:

5 (i) 5,000 kilowatts of alternating current for a
6 facility that is not a brownfield or rooftop community
7 solar facility; and

8 (ii) 20,000 kilowatts of alternating current for a
9 facility that is ~~not~~ a brownfield or rooftop community <--
10 solar facility.

11 (4) Has no single subscriber who subscribes to more than
12 50% of the facility capacity in kilowatts or output in
13 kilowatt hours, except for a master-metered multifamily
14 residential ~~and~~ OR commercial building. <--

15 (5) No less than 50% of the facility capacity is
16 subscribed by subscriptions of 25 kilowatts or less.

17 (6) Credits some or all of the facility-generated
18 electricity to the bills of subscribers.

19 (7) May be located remotely from a subscriber's premises
20 and is not required to provide energy to on-site load.

21 (8) Is owned or operated by a community solar
22 organization.

23 (9) DELIVERS THE AMOUNT OF ENERGY AND CAPACITY THAT IS <--
24 CONTRACTED BY EACH CUSTOMER.

25 "Community solar organization." As follows:

26 (1) An entity that owns or operates a community solar
27 facility and is not required to:

28 (i) be an existing retail electric customer;

29 (ii) purchase electricity directly from the electric
30 distribution company;

1 (iii) serve electric load independent of the
2 community solar facility; or
3 (iv) operate under an account held by the same
4 individual or legal entity of the subscribers to the
5 community solar facility.

6 (2) For the purpose of this definition, a community
7 solar organization shall not be deemed a public utility
8 solely as a result of the organization's ownership or
9 operation of a community solar facility.

10 ~~"Decommissioning plan." A document on file with a county <--~~
11 ~~recorder of deeds detailing the measures that will be taken to~~
12 ~~decommission a community solar facility and the amount, form and~~
13 ~~timing of financial assurance.~~

14 "Department." The Department of Environmental Protection of
15 the Commonwealth.

16 "Electric distribution company." As defined in 66 Pa.C.S. §
17 2803 (relating to definitions).

18 "Electric distribution customer." A customer that takes
19 electric distribution service from an electric distribution
20 company, regardless of whether the company is the customer's
21 supplier of electric generation or not.

22 "Guaranteed savings." Realized savings BY A SUBSCRIBER FROM <--
23 A COMMUNITY SOLAR ORGANIZATION MANIFESTED as the difference
24 between the cost of a subscription PAID to a community solar <--
25 facility and the credit received ON THE SUBSCRIBER'S ELECTRIC <--
26 BILL for the generation attributed to the subscription.

27 "Initial and replacement subscribers." Each subscriber to a
28 single community solar facility over the life of the facility.

29 "LOW-INCOME." A FAMILY INCOME AT OR BELOW 150% OF THE <--
30 POVERTY LINE AS DEFINED IN 42 U.S.C. § 9902(2) (RELATING TO

1 DEFINITIONS) BASED ON THE SIZE OF THE FAMILY.

2 "Pennsylvania Prevailing Wage Act." The act of August 15,
3 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing
4 Wage Act.

5 "Public utility." As defined in 66 Pa.C.S. § 102 (relating
6 to definitions).

7 "Subscriber." An electric distribution customer of an
8 electric distribution company who contracts for a subscription
9 of a community solar facility interconnected with the customer's
10 electric distribution company. The term includes an electric
11 distribution customer who owns a portion of a community solar
12 facility.

13 "Subscriber administrator." An entity that recruits and
14 enrolls a subscriber, administers subscriber participation in a
15 community solar facility and manages the subscription
16 relationship between subscribers and an electric distribution
17 company. The term includes a community solar organization. For
18 the purpose of this definition, a subscriber administrator shall
19 not be considered a public utility solely as a result of the
20 subscriber administrator's operation or ownership of a community
21 solar facility.

22 "Subscription." A contract between a subscriber and a
23 subscriber administrator of a community solar facility that
24 entitles the subscriber to a bill credit, measured in kilowatt
25 hours, and applied against the subscriber's retail electric
26 bill.

27 "Unsubscribed energy." The output of a community solar
28 facility, measured in kilowatt hours, that is not allocated to
29 subscribers.

30 Section 4. Authorization to own or operate community solar

1 facilities.

2 A community solar organization or subscriber administrator
3 may develop, build, own or operate a community solar facility. A
4 community solar organization may serve as a subscriber
5 administrator or may contract with a third party to serve as a
6 subscriber administrator on behalf of the community solar
7 organization. Renewable energy credits that are associated with
8 the generation of electricity by a community solar facility
9 shall be the property of the community solar organization and
10 may be retired or transferred by the community solar
11 organization or retired on behalf of the subscribers.

12 Section 5. Bill credit for subscribers to community solar
13 facilities.

14 (a) Credit.--A subscriber to a community solar facility
15 shall receive a monetary bill credit for every kilowatt hour
16 produced by the subscriber's subscription. A community solar
17 facility that demonstrates all of the following to the
18 commission shall have the initial and replacement subscribers of
19 the community solar facility receive a bill credit from the date
20 the community solar facility is authorized by the commission to
21 operate:

22 (1) An executed interconnection agreement with an
23 electric distribution company obtained in accordance with 52
24 Pa. Code Ch. 75 (relating to alternative energy portfolio
25 standards).

26 (2) Proof of site control.

27 (3) The required nonministerial permits.

28 (4) Proof that the community solar facility will be at
29 least ~~75%~~ 50% subscribed on the date the community solar
30 facility receives permission to operate. <--

1 (5) A signed agreement for a commission-approved
2 workforce development requirement.

3 (6) Proof that the community solar facility is
4 constructed or, if not yet constructed, an attestation that
5 the community solar facility will be in compliance with
6 section ~~14.~~ 13. <--

7 (7) A COMMUNITY SOLAR ORGANIZATION OR SUBSCRIBER
8 ADMINISTRATOR WILL NOT BILL A SUBSCRIBER FOR SERVICES
9 PROVIDED BY AN ELECTRIC DISTRIBUTION COMPANY. AN ELECTRIC
10 DISTRIBUTION COMPANY MAY NOT BILL A SUBSCRIBER FOR
11 SUBSCRIPTION COSTS TO A COMMUNITY SOLAR ORGANIZATION.

12 (b) Establishment of credit.--Within 180 days of the
13 effective date of this subsection, the commission shall
14 establish a bill credit for a public utility that appropriately
15 values the energy, capacity and transmission values produced by
16 a community solar facility and is not less than the bill credit
17 established under 52 Pa. Code § 75.13(e) (relating to general
18 provisions). The terms and conditions of receiving the bill
19 credit may not limit or inhibit participation of subscribers
20 from any rate class.

21 Section 6. Protection for customers.

22 (a) Customer protection provisions.--~~A community solar~~ <--
23 ~~organization or subscriber administrator shall be subject to the~~
24 ~~customer protection provisions under 66 Pa.C.S. Chs. 14~~
25 ~~(relating to responsible utility customer protection) and 15~~
26 ~~(relating to service and facilities) and 52 Pa. Code Ch. 56~~
27 ~~(relating to standards and billing practices for residential~~
28 ~~public utility service).~~ The commission shall promulgate
29 regulations providing for the protection of a residential
30 customer who has a subscription with a community solar

1 organization or subscriber administrator.

2 (b) Standardized customer disclosure form.--The commission
3 shall develop a standardized customer disclosure form IN ENGLISH <--
4 AND SPANISH for a residential customer that identifies key
5 information that is required to be provided by a subscriber
6 administrator to a potential residential subscriber, including
7 future costs and benefits of a subscription and the subscriber's
8 rights and obligations pertaining to a subscription.

9 (c) Subscription costs.--The subscription costs for a
10 subscriber may not exceed the value of the bill credit and may
11 not include any upfront or sign-on fees or credit checks. The
12 subscription costs shall be nonbasic public utility charges.
13 Failure to pay a subscription may result in the loss of a
14 subscription but shall not impact public utility services.

15 (d) Benefits and costs.--The commission shall maximize
16 benefits and minimize costs to each rate class, notwithstanding
17 participation in a community solar program.

18 (E) FEES PROHIBITED.--A COMMUNITY SOLAR ORGANIZATION MAY NOT <--
19 IMPOSE A TERMINATION OR CANCELLATION FEE ON A SUBSCRIBER.

20 (F) ENERGY EFFICIENCY CHARGES.--A COMMUNITY SOLAR
21 ORGANIZATION SHALL BILL A SUBSCRIBER FOR UNIVERSAL SERVICES OR
22 ENERGY EFFICIENCY CHARGES AND REMIT THE MONEY COLLECTED TO AN
23 ELECTRIC DISTRIBUTION COMPANY TO PREVENT THE DISTRIBUTION OF
24 CHARGES TO CUSTOMERS OF THE ELECTRIC DISTRIBUTION COMPANY WHO DO
25 NOT SUBSCRIBE TO THE COMMUNITY SOLAR ORGANIZATION.

26 Section 7. Duties of electric distribution companies.

27 (a) Report on bill credit.--On a monthly basis, an electric
28 distribution company shall provide to a community solar
29 organization or subscriber administrator a report in a
30 standardized electronic format indicating the total value of the

1 bill credit generated by the community solar facility in the
2 prior month, the calculation used to arrive at the total value
3 of the bill credit and the amount of the bill credit applied to
4 each subscriber.

5 (b) Application of bill credit.--An electric distribution
6 company shall apply a bill credit to a subscriber's next monthly
7 electric bill for the proportional output of a community solar
8 facility attributable to the subscriber. Excess credits on a
9 subscriber's bill shall roll over from month to month. An
10 electric distribution company shall automatically apply excess
11 credits to the final electric bill when a subscription is
12 terminated for any cause.

13 (c) Transferability.--An electric distribution company shall
14 permit the transferability and portability of subscriptions if a
15 subscriber relocates within the same electric distribution
16 company territory.

17 Section 8. Compensation and cost recovery for electric
18 distribution companies.

19 (a) Compensation.--A community solar organization shall
20 compensate an electric distribution company for the electric
21 distribution company's reasonable costs of interconnection of a
22 community solar facility.

23 (b) Cost recovery.--An electric distribution company may
24 recover reasonable costs from each subscriber ORGANIZATION, <--
25 subject to approval by the commission, to administer a community
26 solar program within the electric distribution company's service
27 territory of a community solar facility. The Commonwealth shall
28 maximize Federal and State funds for energy assistance, clean
29 energy deployment or any other applicable funding to minimize
30 the cost recovery impact on each subscriber.

1 Section 9. Interconnection standards for community solar
2 facilities.

3 (a) Applications.--Beginning on the effective date of this
4 subsection, an electric distribution company shall have the
5 following duties:

6 (1) Accept interconnection applications for community
7 solar facilities on a nondiscriminatory basis and study the
8 impact of interconnecting the facilities to the grid using
9 the current commission-approved interconnection rules and
10 tariffs and in accordance with best practices.

11 (2) Include, in an interconnection application for
12 ~~community solar facilities, proof of site control~~ A COMMUNITY <--
13 SOLAR FACILITY, PROOF OF SITE CONTROL BY THE COMMUNITY SOLAR
14 FACILITY for the purposes of the study under paragraph (1).

15 (b) Interconnection working group.--Within 90 days of the
16 effective date of this subsection, the commission shall
17 establish an interconnection working group between electric
18 distribution companies and stakeholders with oversight from
19 commission staff. The interconnection working group shall review
20 and recommend changes to policies, processes, tariffs, rules or
21 standards associated with the interconnection of community solar
22 facilities with the goal of transparency, accuracy and
23 efficiency to support the purposes of this act. The
24 interconnection working group shall submit a report to the
25 commission of the recommended changes within 270 days of the
26 effective date of this subsection. Based on the recommended
27 changes in the report, the commission shall adopt the changes in
28 the State jurisdictional interconnection rules as the commission
29 deems necessary or appropriate.

30 (c) Administrative fees.--The commission may impose an

1 administrative fee on an initial interconnection application for
2 community solar facilities under subsection (a). The commission
3 may impose a fee equivalent to up to 5% of the electric
4 distribution company's initial interconnection application fee.
5 The commission may use fees collected under this subsection for
6 the administrative costs directly associated with this act.

7 Section 10. Unsubscribed energy.

8 An electric distribution company shall purchase ~~bill credits~~ <--
9 UNSUBSCRIBED ENERGY from a community solar facility at the <--
10 electric distribution company's wholesale energy cost as
11 ~~approved~~ DETERMINED by the commission. To offset real or <--
12 perceived costs, an electric distribution company shall sell
13 unsubscribed energy to PJM Interconnection, L.L.C., regional
14 transmission organization (PJM) or its successor service
15 territory markets or otherwise decrease energy purchases.

16 Section 11. Customer participation in community solar programs.

17 (a) Participation in programs. ~~--No later than one year after~~ <--
18 ~~the effective date of this subsection, the commission shall~~
19 ~~promulgate~~ THE COMMISSION SHALL PROMULGATE PERMANENT regulations <--
20 to enable participation in community solar programs by each
21 customer class and economic group IN ACCORDANCE WITH THE LAWS OF <--
22 THIS COMMONWEALTH.

23 (b) Temporary regulations. ~~--In order to facilitate the~~
24 prompt implementation of this section, the commission and
25 department may promulgate temporary regulations. The temporary
26 regulations shall expire ~~no later than two years following the~~ <--
27 ~~date of publication of the temporary regulations~~ FOLLOWING THE <--
28 DATE OF PUBLICATION OF THE PERMANENT REGULATIONS UNDER
29 SUBSECTION (A) in the Pennsylvania Bulletin. The temporary
30 regulations shall not be subject to any of the following:

1 (1) Section 612 of the act of April 9, 1929 (P.L.177,
2 No.175), known as The Administrative Code of 1929.

3 (2) Sections 201, 202, 203, 204 and 205 of the act of
4 July 31, 1968 (P.L.769, No.240), referred to as the
5 Commonwealth Documents Law.

6 (3) Sections 204(b) and 301(10) of the act of October
7 15, 1980 (P.L.950, No.164), known as the Commonwealth
8 Attorneys Act.

9 (4) The act of June 25, 1982 (P.L.633, No.181), known as
10 the Regulatory Review Act.

11 (c) Expiration.--The authority of the commission and
12 department to promulgate temporary regulations under subsection

13 ~~(b) shall expire six months after the effective date of this~~ <--

14 ~~subsection. Regulations promulgated by the commission and~~

15 ~~department after six months from the effective date of this~~

16 ~~subsection shall be promulgated as provided by law. SHALL NOT~~ <--

17 EXPIRE UNTIL THE COMMISSION PROMULGATES THE PERMANENT

18 REGULATIONS UNDER SUBSECTION (A).

19 (d) Contents.--The temporary regulations under subsection

20 (b) shall meet all of the following criteria:

21 (1) Be based on consideration of formal and informal
22 input from all stakeholders.

23 (2) Establish requirements that ensure access to
24 programs and equitable opportunities for participation for
25 residential and small commercial customer classes.

26 (3) Establish a registration process for community solar
27 organizations.

28 (4) Address the reasonable enforcement of minimum
29 subscription requirements for a community solar facility.

30 (e) Low-income customers.--The commission, in collaboration

1 with the Office of Consumer Advocate, electric distribution
2 companies, community solar organizations and low-income
3 stakeholders, may promulgate regulations adopting mechanisms to
4 increase participation by low-income customers in community
5 solar programs. The commission shall increase participation by
6 low-income customers in community solar programs in a manner
7 that allows the commission to use available Federal funds to do
8 all of the following:

9 (1) Deliver larger guaranteed savings to income
10 qualified households than those households that would receive
11 guaranteed savings without the Federal funds.

12 (2) Maximize State energy assistance programs.

13 Section 12. Location of multiple community solar facilities.

14 The commission shall promulgate regulations establishing
15 limitations on the location of multiple community solar
16 facilities in close proximity. The regulations shall meet all of
17 the following criteria:

18 (1) Prohibit an entity or affiliated entity under common
19 control from developing, owning or operating more than one
20 community solar facility on the same parcel or contiguous
21 parcels of land.

22 (2) Authorize a brownfield or rooftop community solar
23 facility to be sited on contiguous parcels if the total
24 brownfield or rooftop community solar facility capacity on
25 all contiguous parcels does not exceed the limits established
26 by the commission.

27 ~~Section 13. Decommissioning, recycling and photovoltaic panel~~ <--
28 ~~removal requirements.~~

29 ~~A subscriber organization shall have the duty of~~
30 ~~decommissioning a community solar facility, including the~~

1 ~~removal, potential reuse and recycling of panels and the~~
2 ~~remediation of the site at the end of the useful life of the~~
3 ~~facility, and to file a decommissioning plan with the county~~
4 ~~recorder of deeds.~~

5 Section 14 13. Prevailing wage for construction of community <--
6 solar facilities.

7 (a) Prevailing wage.--A community solar facility for which a
8 bill credit is sought and awarded to a subscriber under this act
9 shall be deemed to meet each of the minimum requirements
10 necessary to apply the wage and benefit rates and related
11 certification of payroll records required under the
12 Pennsylvania Prevailing Wage Act. A community solar organization
13 and each of the organization's agents, contractors and
14 subcontractors shall comply with the Pennsylvania Prevailing
15 Wage Act as attested under section 5 for work undertaken at the
16 community solar facility in which a bill credit for a subscriber
17 is sought and awarded.

18 (b) Violations.--The Department of Labor and Industry shall
19 enforce this section and apply the same administration and
20 enforcement applicable under the requirements of the
21 Pennsylvania Prevailing Wage Act to ensure compliance. In
22 addition to enforcement authorized under the Pennsylvania
23 Prevailing Wage Act, if the Department of Labor and Industry
24 determines that the community solar organization intentionally
25 failed to pay prevailing wage rates or benefit rates in
26 violation of section 11(h) of the Pennsylvania Prevailing Wage
27 Act for work specified under subsection (a), the community solar
28 organization or the organization's agents, contractors and
29 subcontractors shall pay a fine equivalent to 10% of the value
30 of the bill credit multiplied by the estimated 25-year

1 production of the community solar facility.

2 SECTION 14. CONSTRUCTION.

<--

3 NOTHING IN THIS ACT SHALL BE CONSTRUED TO PERMIT RECOVERY OF
4 DIRECT OR INDIRECT COSTS RELATED TO COMMUNITY SOLAR FACILITIES
5 FROM RATEPAYERS OF AN ELECTRIC DISTRIBUTION COMPANY THAT ARE NOT
6 SUBSCRIBERS. THE COMMISSION SHALL MAXIMIZE BENEFITS AND MINIMIZE
7 COSTS TO ALL RATE CLASSES, REGARDLESS OF PARTICIPATION IN A
8 COMMUNITY SOLAR PROGRAM.

9 Section 15. Effective date.

10 This act shall take effect in 60 days.