

# SENATE BILL No. 313

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-41.

**Synopsis:** Community solar facility program. Requires each electric utility other than a municipally owned utility or a rural electric membership corporation (electricity provider) to biennially establish, or issue a request for third party proposals to establish, at least five community solar facilities, in which customers of the electricity provider: (1) subscribe to pay for and receive a specified amount of electricity generated by the community solar facility; and (2) are credited by the electricity provider in each billing cycle for the amount of electricity from the community solar facility for which the customer subscribes. Establishes a process for: (1) solicitation and selection of proposals by an electricity provider for the construction, ownership, and operation of community solar facilities in the electricity provider's service area; (2) submission of a community solar facility project plan by each electricity provider to the Indiana utility regulatory commission (commission); and (3) review and approval of submitted community solar facility project plans by the commission.

**Effective:** Upon passage.

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January 11, 2022, read first time and referred to Committee on Utilities.

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Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

## SENATE BILL No. 313

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 8-1-41 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
3 PASSAGE]:

4 **Chapter 41. Community Solar Facility Program**

5 **Sec. 1. The definitions in IC 8-1-40 apply throughout this**  
6 **chapter.**

7 **Sec. 2. As used in this chapter, "bill credit" means the monetary**  
8 **value of the kilowatt hours generated by a community solar facility**  
9 **and allocated as a line item credit on a subscriber's electricity bill.**

10 **Sec. 3. As used in this chapter, "community solar facility"**  
11 **means a facility that generates electricity:**

12 **(1) by means of one (1) or more ground mounted or roof**  
13 **mounted solar voltaic devices; and**

14 **(2) for which a subscriber receives a bill credit in proportion**  
15 **to the size of the subscriber's subscription.**

16 **Sec. 4. (a) As used in this chapter, "community solar facility**  
17 **organization" means an organization whose purpose is to**



beneficially own and operate a community solar facility for the subscribers to the community solar facility.

(b) A community solar facility organization may be a for-profit, nonprofit, cooperative, or governmental entity authorized by Indiana law.

(c) An electricity provider or affiliate of an electricity provider may be a community solar facility organization only as provided under section 17 of this chapter.

Sec. 5. As used in this chapter, "disadvantaged business enterprises" has the meaning set forth in IC 5-16-6.5-1.

Sec. 6. (a) As used in this chapter, "electricity provider" means an entity providing retail electricity service to customers under IC 8-1-2.

(b) The term does not include an entity providing retail electric service under IC 8-1-2.2 or IC 8-1-13.

Sec. 7. As used in this chapter, "low or moderate income" means a household income that is not more than two hundred percent (200%) of the federal poverty level.

Sec. 8. As used in this chapter, "nameplate capacity" has the meaning set forth in 170 IAC 4-4.2-1.

Sec. 9. As used in this chapter, "residential customer" means the owner or lessee of residential property to which an electricity provider provides retail electricity service under IC 8-1-2.

Sec. 10. As used in this chapter, "subscriber" means a retail customer of an electricity provider who:

- (1) owns a subscription to a community solar facility located in the electricity provider's service area; and
- (2) has identified one (1) or more individual meters or accounts located within the electricity provider's service area to which bill credits based on the subscription will be attributed.

Sec. 11. As used in this chapter, "subscription" means a contract between a subscriber and a community solar facility organization.

Sec. 12. As used in this chapter, "total aggregate retail rate" means the total retail rate that would be charged to a subscriber if all electric rate components of the subscriber's electric bill:

- (1) including any riders or other additional tariffs; and
- (2) excluding minimum monthly charges, such as meter reading fees or customer charges;

were expressed as per kilowatt hour charges.

Sec. 13. (a) Not later than September 30, 2022, each electricity



1 provider shall develop a plan for the operation of a community  
 2 solar facility program in the electricity provider's service area. The  
 3 electricity provider shall:

4 (1) publish the plan on the electricity provider's Internet web  
 5 site and allow customers and other stakeholders to submit  
 6 comments regarding the plan through the Internet web site;

7 (2) hold at least three (3) meetings with customers and other  
 8 stakeholders regarding the plan;

9 (3) make any modifications to the plan:

10 (A) that the electricity provider considers advisable based  
 11 on comments and testimony received by the electricity  
 12 provider under subdivisions (1) and (2); and

13 (B) as necessary to ensure that the plan reasonably  
 14 provides for:

15 (i) creation and financing of the community solar facility  
 16 program; and

17 (ii) the community solar facility program to be accessible  
 18 by all customers of the electricity provider, including  
 19 customers described in section 15(d) of this chapter;

20 (4) issue a request for proposals from community solar facility  
 21 organizations for the ownership, construction, operation, or  
 22 any combination of ownership, construction, and operation of  
 23 a community solar facility in the electricity provider's service  
 24 area;

25 (5) publish concise but accurate summaries of submitted  
 26 proposals on the electricity provider's Internet web site and  
 27 allow customers and other stakeholders to submit comments  
 28 regarding the proposals through the Internet web site;

29 (6) hold one (1) or more meetings with customers and other  
 30 stakeholders regarding the proposals;

31 (7) select five (5) or more proposals, with a combined  
 32 nameplate capacity of at least twenty-five (25) megawatts AC,  
 33 with which to proceed after evaluating each proposal based  
 34 on:

35 (A) the proposal's responsiveness to the criteria specified  
 36 in the request for proposals;

37 (B) the financial, technical, and operational ability of the  
 38 organization to:

39 (i) own, build, and operate; or

40 (ii) build and operate;

41 a community solar facility in a manner that will maximize  
 42 economic benefit to subscribers, increase the reliability of



- the electricity provider's distribution grid, and provide economic opportunity for disadvantaged business enterprises (as defined by IC 5-16-6.5-1); and
- (C) customer and stakeholder comments and testimony received under subdivisions (5) and (6); and
- (8) not later than June 30, 2023, submit to the commission:
- (A) the electricity provider's community solar facility program plan;
  - (B) the community solar facility proposals selected by the electricity provider under subdivision (7); and
  - (C) an application to proceed with the selected proposals that includes:
    - (i) the proposed location of each community solar facility in each selected proposal;
    - (ii) a description of each community solar facility in each selected proposal, including the expected nameplate capacity of the community solar facility;
    - (iii) a construction and implementation schedule for each community solar facility in each selected proposal;
    - (iv) a plan for providing the electricity provider's customers with information regarding each community solar facility in each selected proposal, including the process for subscribing to the community solar facility; and
    - (v) any other information required by the commission.
- (b) Upon receipt of an electricity provider's application under subsection (a)(8)(C), the commission may review and approve the application or may require that the electricity provider amend and resubmit the application. If the commission requires that the electricity provider amend and resubmit the application, the commission may require that the electricity provider:
- (1) publish the amended application on the electricity provider's Internet web site and allow customers and other stakeholders to submit comments regarding the amended application through the Internet web site; or
  - (2) hold one (1) or more meetings with customers and other stakeholders regarding the amended application before submitting the amended application to the commission.
- (c) The commission may approve or modify a community solar facility program. A program approved by the commission:
- (1) must reasonably allow for the creation, financing, and accessibility of each community solar facility under the



program, particularly to the extent that the creation, financing, and accessibility of each community solar facility are affected by the duration of each community solar facility's purchased power agreement with the electricity provider;

(2) must establish uniform standards, fees, and processes for the interconnection of community solar facilities that allow the electricity provider to recover reasonable interconnection costs for each community solar facility;

(3) except as provided in section 17 of this chapter, may not apply requirements to community solar facility organizations and facilities that are affiliated with the electricity provider that differ from the requirements applied to community solar facility organizations and facilities that are not affiliated with the electricity provider;

(4) must be consistent with the public interest;

(5) must identify the information that must be provided to potential subscribers to ensure fair disclosure of future costs and benefits of subscriptions;

(6) must include a program implementation schedule;

(7) must identify all proposed rules, fees, and charges;

(8) must identify the means by which the program will be promoted;

(9) must provide for an annual report to the commission, in a form determined by the commission, of the ownership, management, operation, statistical results, and future plans of each approved community solar facility;

(10) must provide for implementation of local hiring preferences for disadvantaged business enterprises in a manner that meets or exceeds standards for disadvantaged business enterprise engagement in United States Department of Transportation Special Experimental Project No. 14 (SEP-14) for Federal Highway Administration and Federal Transit Authority contracts; and

(11) must comply with this chapter, except as the commission may specifically find, based on substantial evidence of record, to be required by the public interest.

(d) Not later than one hundred eighty (180) days after the commission approves an electricity provider's community solar facility program plan under this section, the electricity provider shall:

(1) approve each community solar facility the proposal for which was selected by the electricity provider under



subsection (a)(7);

(2) issue an interconnection agreement for each community facility approved under subdivision (1);

(3) begin crediting subscriber accounts for each community solar facility in the electricity provider's service territory for the billing period during which the community solar facility is placed in service; and

(4) file with the commission a description of the electricity provider's bill crediting system.

(e) Not later than June 30, 2025, and every two (2) years thereafter:

(1) an electricity provider shall issue a request for proposals under subsection (a)(4) for five (5) or more additional community solar facilities with a combined nameplate capacity of at least twenty-five (25) megawatts AC;

(2) the electricity provider shall complete the process under subsection (a)(5) through (a)(8) for the proposals selected by the electricity provider;

(3) the commission shall complete the review and approval process under subsections (b) and (c) for the selected proposals; and

(4) the electricity provider shall comply with subsection (d) with respect to proposals approved by the commission under subdivision (3).

(f) An electricity provider that is not required to file a community solar facility program plan under this section may elect to file a community solar facility program plan under this section in the manner provided by subsection (a). A community solar facility program plan submitted under this subsection is subject to the review and approval requirements of subsections (b) and (c).

**Sec. 14. (a) A community solar facility's generation facility must be located in the service area of the electricity provider that files the community solar facility program plan under which the community solar facility operates.**

**(b) A community solar facility may be built, owned, operated, or any combination of built, owned, or operated, by one (1) or more for-profit, nonprofit, cooperative, or governmental entities under contract with a community solar facility organization.**

**(c) Subscribers to a community solar facility must be retail customers of the electricity provider that files the community solar facility program plan under which the community solar facility operates.**



1        **Sec. 15. (a) A community solar facility operated under this**  
 2 **chapter must have a nameplate capacity of not less than two**  
 3 **hundred fifty (250) kilowatts and not more than ten (10)**  
 4 **megawatts.**

5        **(b) A community solar facility must be designed to offset the**  
 6 **energy use of a specified set of subscribers, with no single**  
 7 **subscriber having more than a twenty percent (20%) interest in the**  
 8 **community solar facility.**

9        **(c) A subscription to a community solar facility operated under**  
 10 **this chapter must be sized as follows:**

11        **(1) Subject to subdivision (2), a subscription must be sized to**  
 12 **represent the nameplate generating capacity, measured in**  
 13 **watts, of one (1) or more full panels in the community solar**  
 14 **facility.**

15        **(2) A subscription to a community solar facility must be sized**  
 16 **to supply, in combination with any other distributed**  
 17 **generation resources serving the subscriber's premises and**  
 18 **any subscription owned by the subscriber in any other**  
 19 **community solar facility, not more than one hundred twenty**  
 20 **percent (120%) of the subscriber's average annual electrical**  
 21 **consumption at the premises to which the subscription is**  
 22 **attributed. A subscriber participating in meter aggregation**  
 23 **may choose individual meters or accounts that the subscriber**  
 24 **wishes to aggregate, as permitted under state law and rules**  
 25 **adopted by the commission, for purposes of calculating the**  
 26 **limit under this subdivision.**

27        **(d) The operator of a community solar facility under this**  
 28 **chapter shall allocate not less than forty percent (40%) of the**  
 29 **nameplate capacity of the community solar facility to subscription**  
 30 **by residential customers of the energy provider, of which not less**  
 31 **than fifty percent (50%) must be low or moderate income**  
 32 **residential customers.**

33        **(e) Except as provided:**

34        **(1) in subsection (c); or**

35        **(2) in rules adopted by the commission;**

36 **the number or cumulative generating capacity of community solar**  
 37 **facilities under a community solar facility program is not subject**  
 38 **to limitation.**

39        **(f) The electricity provider that files the community solar**  
 40 **facility program plan under which a community solar facility**  
 41 **operates shall:**

42        **(1) purchase from the community solar facility all electricity**





1 generated by the community solar facility at a purchase price  
2 equal to the electricity provider's full avoided costs; and

3 (2) credit the community solar facility's subscribers for all  
4 electricity generated by the community solar facility.

5 (g) A subscriber's portion of the electricity purchased by the  
6 electricity provider under subsection (f) shall be credited to the  
7 subscriber by the electricity provider on the subscriber's bill from  
8 the electricity provider. The amount of the bill credits allocated to  
9 a subscriber shall be calculated by multiplying:

10 (1) the subscriber's share of the electricity production of the  
11 community solar facility, as measured in kilowatt hours; by

12 (2) the total aggregate retail rate for the subscriber.

13 (h) A community solar facility is eligible for any incentive  
14 programs offered to such facilities under applicable state or federal  
15 law.

16 Sec. 16. Notwithstanding any other law, an owner, operator, or  
17 subscriber of a community solar facility shall not be considered to  
18 be a public utility subject to IC 8-1-2 solely as a result of the  
19 owner's, operator's, or subscriber's participation in the community  
20 solar facility program.

21 Sec. 17. An electricity provider or affiliate of an electricity  
22 provider may be a community solar facility organization for  
23 purposes of this chapter if, with respect to each community solar  
24 facility built, owned, or operated by the electricity provider or  
25 affiliate:

26 (1) at least forty percent (40%) of the ownership equity in the  
27 community solar facility is:

28 (A) held by one (1) or more Indiana nonprofit  
29 corporations:

30 (i) directly; or

31 (ii) through one (1) or more for-profit subsidiaries owned  
32 by the Indiana nonprofit corporation; or

33 (B) held by a cooperative entity (as defined in  
34 IC 23-15-12-2); and

35 (2) either:

36 (A) the community solar facility is located in:

37 (i) a community that is a low income community or  
38 community of color and that has experienced inequitable  
39 environmental hardships;

40 (ii) a census tract with a poverty rate of at least twenty  
41 percent (20%);

42 (iii) a census tract in a metropolitan area in which the



1            **median family income does not exceed eighty percent**  
2            **(80%) of the greater of the median family income of the**  
3            **metropolitan area or the statewide median family**  
4            **income; or**  
5            **(iv) a census tract in a non-metropolitan area in which**  
6            **the median family income does not exceed eighty percent**  
7            **(80%) of the statewide median family income; or**  
8            **(B) the subscriptions to the community solar facility by**  
9            **subscribers who reside in locations described in clause (A)**  
10           **represent more than fifty percent (50%) of the total**  
11           **capacity of the community solar facility.**  
12        **SECTION 2. An emergency is declared for this act.**

