

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, FRANKEL, OTTEN, BRIGGS, WEBSTER, GUZMAN AND T. DAVIS, NOVEMBER 13, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MARCH 25, 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 AND LABOR REQUIREMENTS. <-- <--

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11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Short title.

14 This act shall be known and may be cited as the Community
15 Solar Act.

16 Section 2. Findings and declarations.

17 The General Assembly finds and declares as follows:

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

20 (2) Programs for community solar generation provide
21 customers with additional energy choices and access to
22 affordable energy options.

23 (3) Community solar programs provide customers,
24 including homeowners, renters and businesses, access to the
25 benefits of Pennsylvania community solar energy generation
26 that is unconstrained by the physical attributes of their
27 home or business, including roof space, shading or ownership
28 status.

29 (4) In addition to its provision of standard electricity
30 market commodities and services, local solar energy

1 generation can contribute to a more resilient grid and defer
2 the need for costly new transmission and distribution system
3 investment.

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

5 (i) Allow electric distribution customers of this
6 Commonwealth to subscribe to a portion of a community
7 solar facility and have the result of the subscription be
8 guaranteed savings.

9 (ii) Reasonably allow for the creation, financing,
10 accessibility and operation of third-party-owned
11 community solar generating facilities and enable robust
12 customer participation.

13 (iii) Encourage the development of community solar
14 programs that will facilitate participation by and for
15 accessibility and operation of third-party-owned
16 community solar generating facilities and enable robust
17 customer participation.

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

25 (v) Maximize the use of Federal money to provide for
26 the development of community solar programs.

27 Section 3. Definitions.

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

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

6 "Brownfield." Real property, the expansion, redevelopment or
7 reuse of which may be complicated by the presence or potential
8 presence of a hazardous substance, pollutant or contaminant.

9 "Brownfield or rooftop community solar facility." A
10 community solar facility that is primarily located on rooftops
11 or land that is a brownfield.

12 "Commission." The Pennsylvania Public Utility Commission.

13 "Community solar facility." A facility that meets all of the
14 following criteria:

15 (1) Is located within this Commonwealth.

16 (2) Is connected to and delivers electricity to a
17 distribution system operated by an electric distribution
18 company operating in this Commonwealth and in compliance with
19 requirements under this act.

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

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

26 (ii) 20,000 kilowatts of alternating current for a
27 facility that is a brownfield or rooftop community solar
28 facility.

29 (4) Has no single subscriber who subscribes to more than
30 50% of the facility capacity in kilowatts or output in

1 kilowatt hours, except for a master-metered multifamily
2 residential or commercial building.

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

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

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

9 (8) Is owned or operated by a community solar
10 organization.

11 (9) Delivers the amount of energy and capacity that is
12 contracted by each customer.

13 "Community solar organization." As follows:

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

16 (i) be an existing retail electric customer;

17 (ii) purchase electricity directly from the electric
18 distribution company;

19 (iii) serve electric load independent of the
20 community solar facility; or

21 (iv) operate under an account held by the same
22 individual or legal entity of the subscribers to the
23 community solar facility.

24 (2) For the purpose of this definition, a community
25 solar organization shall not be deemed a public utility
26 solely as a result of the organization's ownership or
27 operation of a community solar facility.

28 "Department." The Department of Environmental Protection of
29 the Commonwealth.

30 "Electric distribution company." As defined in 66 Pa.C.S. §

1 2803 (relating to definitions).

2 "Electric distribution customer." A customer that takes
3 electric distribution service from an electric distribution
4 company, regardless of whether the company is the customer's
5 supplier of electric generation or not.

6 "Guaranteed savings." Realized savings by a subscriber from
7 a community solar organization manifested as the difference
8 between the cost of a subscription paid to a community solar
9 facility and the credit received on the subscriber's electric
10 bill for the generation attributed to the subscription.

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

13 "Low-income." A family income at or below 150% of the
14 poverty line as defined in 42 U.S.C. § 9902(2) (relating to
15 definitions) based on the size of the family.

16 "Pennsylvania Prevailing Wage Act." The act of August 15,
17 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing
18 Wage Act.

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

21 "Subscriber." An electric distribution customer of an
22 electric distribution company who contracts for a subscription
23 of a community solar facility interconnected with the customer's
24 electric distribution company. The term includes an electric
25 distribution customer who owns a portion of a community solar
26 facility.

27 "Subscriber administrator." An entity that recruits and
28 enrolls a subscriber, administers subscriber participation in a
29 community solar facility and manages the subscription
30 relationship between subscribers and an electric distribution

1 company. The term includes a community solar organization. For
2 the purpose of this definition, a subscriber administrator shall
3 not be considered a public utility solely as a result of the
4 subscriber administrator's operation or ownership of a community
5 solar facility.

6 "Subscription." A contract between a subscriber and a
7 subscriber administrator of a community solar facility that
8 entitles the subscriber to a bill credit, measured in kilowatt
9 hours, and applied against the subscriber's retail electric
10 bill.

11 "Unsubscribed energy." The output of a community solar
12 facility, measured in kilowatt hours, that is not allocated to
13 subscribers.

14 Section 4. Authorization to own or operate community solar
15 facilities.

16 A community solar organization or subscriber administrator
17 may develop, build, own or operate a community solar facility. A
18 community solar organization may serve as a subscriber
19 administrator or may contract with a third party to serve as a
20 subscriber administrator on behalf of the community solar
21 organization. Renewable energy credits that are associated with
22 the generation of electricity by a community solar facility
23 shall be the property of the community solar organization and
24 may be retired or transferred by the community solar
25 organization or retired on behalf of the subscribers.

26 Section 5. Bill credit for subscribers to community solar
27 facilities.

28 (a) Credit.--A subscriber to a community solar facility
29 shall receive a monetary bill credit for every kilowatt hour
30 produced by the subscriber's subscription. A community solar

1 facility that demonstrates all of the following to the
2 commission shall have the initial and replacement subscribers of
3 the community solar facility receive a bill credit from the date
4 the community solar facility is authorized by the commission to
5 operate:

6 (1) An executed interconnection agreement with an
7 electric distribution company obtained in accordance with 52
8 Pa. Code Ch. 75 (relating to alternative energy portfolio
9 standards).

10 (2) Proof of site control.

11 (3) The required nonministerial permits.

12 (4) Proof that the community solar facility will be at
13 least 50% subscribed on the date the community solar facility
14 receives permission to operate.

15 (5) A signed agreement for a commission-approved
16 workforce development requirement.

17 (6) Proof that the community solar facility is
18 constructed or, if not yet constructed, an attestation that
19 the community solar facility will be in compliance with
20 section 13.

21 (7) A community solar organization or subscriber
22 administrator will not bill a subscriber for services
23 provided by an electric distribution company. An electric
24 distribution company may not bill a subscriber for
25 subscription costs to a community solar organization.

26 (b) Establishment of credit.--Within 180 days of the
27 effective date of this subsection, the commission shall
28 establish a bill credit for a public utility that appropriately
29 values the energy, capacity and transmission values produced by
30 a community solar facility and is not less than the bill credit

1 established under 52 Pa. Code § 75.13(e) (relating to general
2 provisions). The terms and conditions of receiving the bill
3 credit may not limit or inhibit participation of subscribers
4 from any rate class.

5 Section 6. Protection for customers.

6 (a) Customer protection provisions.--The commission shall
7 promulgate regulations providing for the protection of a
8 residential customer who has a subscription with a community
9 solar organization or subscriber administrator.

10 (b) Standardized customer disclosure form.--The commission
11 shall develop a standardized customer disclosure form in English
12 and Spanish for a residential customer that identifies key
13 information that is required to be provided by a subscriber
14 administrator to a potential residential subscriber, including
15 future costs and benefits of a subscription and the subscriber's
16 rights and obligations pertaining to a subscription.

17 (c) Subscription costs.--The subscription costs for a
18 subscriber may not exceed the value of the bill credit and may
19 not include any upfront or sign-on fees or credit checks. The
20 subscription costs shall be nonbasic public utility charges.
21 Failure to pay a subscription may result in the loss of a
22 subscription but shall not impact public utility services.

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

26 (e) Fees prohibited.--A community solar organization may not
27 impose a termination or cancellation fee on a subscriber.

28 (f) Energy efficiency charges.--A community solar
29 organization shall bill a subscriber for universal services or
30 energy efficiency charges and remit the money collected to an

1 electric distribution company to prevent the distribution of
2 charges to customers of the electric distribution company who do
3 not subscribe to the community solar organization.

4 Section 7. Duties of electric distribution companies.

5 (a) Report on bill credit.--On a monthly basis, an electric
6 distribution company shall provide to a community solar
7 organization or subscriber administrator a report in a
8 standardized electronic format indicating the total value of the
9 bill credit generated by the community solar facility in the
10 prior month, the calculation used to arrive at the total value
11 of the bill credit and the amount of the bill credit applied to
12 each subscriber.

13 (b) Application of bill credit.--An electric distribution
14 company shall apply a bill credit to a subscriber's next monthly
15 electric bill for the proportional output of a community solar
16 facility attributable to the subscriber. Excess credits on a
17 subscriber's bill shall roll over from month to month. An
18 electric distribution company shall automatically apply excess
19 credits to the final electric bill when a subscription is
20 terminated for any cause.

21 (c) Transferability.--An electric distribution company shall
22 permit the transferability and portability of subscriptions if a
23 subscriber relocates within the same electric distribution
24 company territory.

25 Section 8. Compensation and cost recovery for electric
26 distribution companies.

27 (a) Compensation.--A community solar organization shall
28 compensate an electric distribution company for the electric
29 distribution company's reasonable costs of interconnection of a
30 community solar facility.

1 (b) Cost recovery.--An electric distribution company may
2 recover reasonable costs from each subscriber organization,
3 subject to approval by the commission, to administer a community
4 solar program within the electric distribution company's service
5 territory of a community solar facility. The Commonwealth shall
6 maximize Federal and State funds for energy assistance, clean
7 energy deployment or any other applicable funding to minimize
8 the cost recovery impact on each subscriber.

9 Section 9. Interconnection standards for community solar
10 facilities.

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

14 (1) Accept interconnection applications for community
15 solar facilities on a nondiscriminatory basis and study the
16 impact of interconnecting the facilities to the grid using
17 the current commission-approved interconnection rules and
18 tariffs and in accordance with best practices.

19 (2) Include, in an interconnection application for a
20 community solar facility, proof of site control by the
21 community solar facility for the purposes of the study under
22 paragraph (1).

23 (b) Interconnection working group.--Within 90 days of the
24 effective date of this subsection, the commission shall
25 establish an interconnection working group between electric
26 distribution companies and stakeholders with oversight from
27 commission staff. The interconnection working group shall review
28 and recommend changes to policies, processes, tariffs, rules or
29 standards associated with the interconnection of community solar
30 facilities with the goal of transparency, accuracy and

1 efficiency to support the purposes of this act. The
2 interconnection working group shall submit a report to the
3 commission of the recommended changes within 270 days of the
4 effective date of this subsection. Based on the recommended
5 changes in the report, the commission shall adopt the changes in
6 the State jurisdictional interconnection rules as the commission
7 deems necessary or appropriate.

8 (c) Administrative fees.--The commission may impose an
9 administrative fee on an initial interconnection application for
10 community solar facilities under subsection (a). The commission
11 may impose a fee equivalent to up to 5% of the electric
12 distribution company's initial interconnection application fee.
13 The commission may use fees collected under this subsection for
14 the administrative costs directly associated with this act.

15 Section 10. Unsubscribed energy.

16 An electric distribution company shall purchase unsubscribed
17 energy from a community solar facility at the electric
18 distribution company's wholesale energy cost as determined by
19 the commission. To offset real or perceived costs, an electric
20 distribution company shall sell unsubscribed energy to
21 PJM Interconnection, L.L.C., regional transmission organization
22 (PJM) or its successor service territory markets or otherwise
23 decrease energy purchases.

24 Section 11. Customer participation in community solar programs.

25 (a) Participation in programs.--The commission shall
26 promulgate permanent regulations to enable participation in
27 community solar programs by each customer class and economic
28 group in accordance with the laws of this Commonwealth.

29 (b) Temporary regulations.--In order to facilitate the
30 prompt implementation of this section, the commission and

1 department may promulgate temporary regulations. The temporary
2 regulations shall expire following the date of publication of
3 the permanent regulations under subsection (a) in the
4 Pennsylvania Bulletin. The temporary regulations shall not be
5 subject to any of the following:

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

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

11 (3) Sections 204(b) and 301(10) of the act of October
12 15, 1980 (P.L.950, No.164), known as the Commonwealth
13 Attorneys Act.

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

16 (c) Expiration.--The authority of the commission and
17 department to promulgate temporary regulations under subsection
18 (b) shall not expire until the commission promulgates the
19 permanent regulations under subsection (a).

20 (d) Contents.--The temporary regulations under subsection
21 (b) shall meet all of the following criteria:

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

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

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

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

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

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

13 (2) Maximize State energy assistance programs.

14 Section 12. Location of multiple community solar facilities.

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

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

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

28 Section 13. ~~Prevailing wage for construction of community solar~~ <--
29 ~~facilities~~ AND LABOR REQUIREMENTS. <--

30 (a) Prevailing wage.--A community solar facility for which a

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

11 ~~(b) Violations. The Department of Labor and Industry shall <--~~
12 ~~enforce this section and apply the same administration and~~

13 (B) SOLAR ENERGY PROJECTS.--ANY CONTRACTOR, SUBCONTRACTOR OR <--
14 WORKER PERFORMING CONSTRUCTION, RECONSTRUCTION, DEMOLITION,
15 REPAIR OR MAINTENANCE WORK ON A SOLAR ENERGY PROJECT FUNDED
16 UNDER THIS ACT SHALL MEET ALL OF THE FOLLOWING REQUIREMENTS:

17 (1) MAINTAIN ALL VALID LICENSES, REGISTRATIONS OR
18 CERTIFICATES REQUIRED BY THE FEDERAL GOVERNMENT, THE
19 COMMONWEALTH OR A LOCAL GOVERNMENT ENTITY THAT IS NECESSARY
20 TO DO BUSINESS OR PERFORM APPLICABLE WORK.

21 (2) MAINTAIN COMPLIANCE WITH THE ACT OF JUNE 2, 1915
22 (P.L.736, NO.338), KNOWN AS THE WORKERS' COMPENSATION ACT,
23 THE ACT OF DECEMBER 5, 1936 (2ND SP.SESS., 1937 P.L.2897,
24 NO.1), KNOWN AS THE UNEMPLOYMENT COMPENSATION LAW, AND
25 BONDING AND LIABILITY INSURANCE REQUIREMENTS AS SPECIFIED IN
26 THE CONTRACT FOR THE SOLAR ENERGY PROJECT.

27 (3) HAS NOT DEFAULTED ON A PROJECT, DECLARED BANKRUPTCY,
28 BEEN DEBARRED OR SUSPENDED ON A PROJECT BY THE FEDERAL
29 GOVERNMENT, THE COMMONWEALTH OR A LOCAL GOVERNMENT ENTITY
30 WITHIN THE PREVIOUS THREE YEARS.

1 (4) HAS NOT BEEN CONVICTED OF A MISDEMEANOR OR FELONY
2 RELATING TO THE PERFORMANCE OR OPERATION OF THE BUSINESS OF
3 THE CONTRACTOR OR SUBCONTRACTOR WITHIN THE PREVIOUS 10 YEARS.

4 (5) HAS COMPLETED A MINIMUM OF THE UNITED STATES
5 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION'S 10-HOUR
6 SAFETY TRAINING COURSE OR SIMILAR TRAINING SUFFICIENT TO
7 PREPARE WORKERS FOR ANY HAZARDS THAT MAY BE ENCOUNTERED
8 DURING THEIR WORK.

9 (C) VIOLATIONS.--THE DEPARTMENT OF LABOR AND INDUSTRY SHALL
10 ENFORCE THIS SECTION IN ACCORDANCE WITH THE LAWS OF THIS
11 COMMONWEALTH. THE DEPARTMENT OF LABOR AND INDUSTRY SHALL APPLY
12 THE SAME ADMINISTRATION AND enforcement applicable under the
13 requirements of the Pennsylvania Prevailing Wage Act to ensure
14 compliance WITH SUBSECTION (A). In addition to enforcement <--
15 authorized under the Pennsylvania Prevailing Wage Act, if the
16 Department of Labor and Industry determines that the community
17 solar organization intentionally failed to pay prevailing wage
18 rates or benefit rates in violation of section 11(h) of the
19 Pennsylvania Prevailing Wage Act for work specified under
20 subsection (a), the community solar organization or the
21 organization's agents, contractors and subcontractors shall pay
22 a fine equivalent to 10% of the value of the bill credit
23 multiplied by the estimated 25-year production of the community
24 solar facility.

25 Section 14. Construction.

26 Nothing in this act shall be construed to permit recovery of
27 direct or indirect costs related to community solar facilities
28 from ratepayers of an electric distribution company that are not
29 subscribers. The commission shall maximize benefits and minimize
30 costs to all rate classes, regardless of participation in a

- 1 community solar program.
- 2 Section 15. Effective date.
- 3 This act shall take effect in 60 days.