

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 2159**

By Delegate Hansen

[Introduced January 11, 2023; Referred to the  
Committee on Energy and Manufacturing then the  
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §24-2I-1, §24-2I-2, §24-2I-3, and §24-2I-4, all relating to establishing a  
 3 community solar program for subscribers to gain credits against their utility bills; providing  
 4 legislative findings; defining terms; authorizing subscriber based solar projects that allow  
 5 solar power production to be granted credit against electric power costs; providing that an  
 6 authorized project is not deemed as a utility; providing conditions and terms for operation  
 7 for a facility; providing for regulation of the program by the Public Service Commission;  
 8 providing conditions for credits; providing requirements for subscriber organizations; and  
 9 providing Public Service Commission rulemaking authority and directives.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 24. PUBLIC SERVICE COMMISSION.**

### **ARTICLE 2I. COMMUNITY SOLAR PROGRAM.**

#### **§24-2I-1. Legislative Findings.**

1 The Legislature finds that:

2 (1) Solar energy is an abundant, domestic, renewable, and nonpolluting energy  
 3 resource and can contribute to a more resilient grid deferring the need for costly new  
 4 transmission and distribution system build outs, and can provide access to local, affordable,  
 5 and clean energy options to all energy customers;

6 (2) Community solar provides consumers including homeowners, renters, and  
 7 businesses access to the benefits of local solar energy generation, unconstrained by the  
 8 physical attributes of their home or business such as roof space, shading, or ownership  
 9 status; and

10 (3) Community solar programs empower consumers with additional energy choices  
 11 and expand access to solar energy to low-income households, and will foster economic  
 12 growth as well as opportunities for competition and innovative business models; and the

13 deployment of solar energy facilities including community solar can reduce the cost of energy  
14 for consumers, while lowering carbon emissions.

15 Therefore, it is the intent of this article to expand the state's energy innovation and  
16 provide residents with access to community solar power in an affordable and accessible  
17 manner.

**§24-2I-2. Definitions.**

1 (a) "Applicable bill credit rate" means the dollar-per-kilowatt-hour rate previously approved  
2 by the commission and already used to calculate a subscriber's electricity bill.

3 (b) "Bill credit" means the monetary value of the electricity generated by the community  
4 solar facility allocated to a subscriber to offset that subscriber's electricity bill, which shall be on a  
5 one-to-one basis in kilowatt-hours, and calculated by multiplying the kilowatt-hours by the  
6 applicable bill credit rate.

7 (c) "Commission" means the West Virginia Public Service Commission.

8 (d) "Community solar facility" means a facility that generates electricity by means of a solar  
9 photovoltaic device whereby subscribers receive a bill credit for the electricity generated in  
10 proportion to the size of their subscription. A community solar facility must:

11 (1) Be located in the service territory of the utility submitting compliance filings under  
12 section 3 of this article;

13 (2) Be connected to the electric distribution grid serving the state;

14 (3) Have at least three subscribers;

15 (4) Be limited to five megawatts alternating current per facility and be subject to a 100  
16 megawatt alternating current aggregate limit for each utility;

17 (5) Set aside no less than 40 percent of its capacity for customers with subscriptions of 25  
18 kilowatts or less; and

19 (6) Be located on a parcel or contiguous parcels of land.

20 (e) "Community solar program" or "Program" means the program created through the  
21 adoption of rules pursuant to this article to allow for the development of community solar facilities as

22 provided in section 3 of this article. This program is distinct and separate from the existing net  
23 metering program as provided pursuant to §24-2F-8 of this code.

24 (f) "Low-income customer" means an individual or household with an income of not more  
25 than 80 percent of the area's median income based on United States Department of Housing and  
26 Urban Development guidelines.

27 (g) "Low-income service organization" means an organization or nonprofit whose primary  
28 function is to provide services or assistance to low-income individuals.

29 (h) "Subscriber" means a retail electric customer of a utility who owns one or more  
30 subscriptions of a community solar facility interconnected with that utility. A subscriber must be  
31 located in the same electric utility service territory where the community solar facility is located.

32 (i) "Subscriber organization" means any for-profit or nonprofit entity that owns or operates  
33 one or more community solar facilities. A subscriber organization shall not be considered a utility  
34 pursuant to this chapter solely as a result of its ownership or operation of a community solar facility.

35 (j) "Subscription" means a contract between a subscriber and a subscriber organization. A  
36 subscription shall be sized such that the estimated bill credits do not exceed the subscriber's  
37 average annual bill for the customer account to which the subscription is attributed.

38 (k) "Utility" means a public utility as defined pursuant to §24-1-2 of this code.

### **§24-2I-3. Program Administration.**

1 (a) A utility shall provide a bill credit to a subscriber's subsequent monthly electric bill  
2 for the proportional output of a community solar facility attributable to that subscriber. The  
3 value of the bill credit for the subscriber shall be calculated by multiplying the subscriber's  
4 portion of the kilowatt-hour electricity production from the community solar facility by the  
5 applicable bill credit rate for the subscriber. Any amount of the bill credit that exceeds the  
6 subscriber's monthly bill shall be carried over and applied to the next month's bill in perpetuity.

7 (b) The utility shall provide bill credits to a community solar facility's subscribers for not  
8 less than 25 years from the date the community solar facility is first interconnected.

9           (c) The subscriber organization shall, on a monthly basis and in a standardized  
10 electronic format, provide to the utility a subscriber list indicating the kilowatt hours of  
11 generation attributable to each of the retail customers participating in a community solar  
12 facility in accordance with the subscriber's portion of the output of the community solar facility.  
13 Subscriber lists may be updated monthly to reflect canceling subscribers and to add new  
14 subscribers. The utility shall apply bill credits to subscriber bills within one billing cycle  
15 following the cycle during which the energy was generated by the community solar facility.

16           (d) The utility shall, on a monthly basis and in a standardized electronic format, provide  
17 to the subscriber organization a report indicating the total value of bill credits generated by the  
18 community solar facility in the prior month as well as the amount of the bill credit applied to  
19 each subscriber.

20           (e) A subscriber organization may accumulate bill credits in the event that all of the  
21 electricity generated by a community solar facility is not allocated to subscribers in a given  
22 month. On an annual basis, the subscriber organization must furnish to the utility allocation  
23 instructions for distributing excess bill credits to subscribers. Otherwise-unallocated excess  
24 bill credits will be sold to the utility at the wholesale electricity rate.

25           (f) All environmental attributes associated with a community solar facility, including  
26 renewable energy certificates, shall be considered property of the subscriber organization. At  
27 the subscriber organization's discretion, those attributes may be distributed to subscribers,  
28 sold, accumulated, or retired.

**§24-21-4. Public Service Commission Rulemaking.**

1           (a) The commission shall file rules in accordance with §24-1-7 of the code to establish  
2 a community solar program by January 1, 2024, and shall require each utility to file any tariffs,  
3 agreements, or forms necessary for implementation of the program. The rules filed by the  
4 commission and any associated filing approved by the commission shall:

5           (1) Ensure broad competition for the development, ownership, and operation of community

6 solar facilities, including a separate and distinct program for third-party, non-utility entities that  
7 produces at least 50 percent of program capacity;

8 (2) Reasonably allow for the creation and financing of community solar facilities;

9 (3) Value bill credits using the methodology provided in subsection (a) of section three of  
10 this article;

11 (4) Allow all customer classes to participate in the program, and ensure participation  
12 opportunities for all customer classes;

13 (5) Include one or more mechanisms sufficient to ensure accessibility for low-income  
14 customers and low-income service organizations. The commission shall ensure that  
15 mechanisms targeted toward low-income customers and low-income service organizations  
16 are crafted to achieve tangible economic benefits for low-income customers and should  
17 integrate with existing complementary programs, including, but not limited to, energy  
18 efficiency, energy assistance, and/or workforce development programs. In determining the  
19 appropriate mechanism(s), the commission, utilities, and stakeholders shall work with the  
20 Legislature and appropriate state agencies to consider the development of financing options,  
21 financial incentives, education and outreach programs, or appropriate program participation  
22 goals or minimums;

23 (6) Shall not remove a customer from its otherwise applicable customer class in order  
24 to subscribe to a community solar facility;

25 (7) Reasonably allow for the transferability and portability of subscriptions, including  
26 allowing a subscriber to retain a subscription to a community solar facility if the subscriber  
27 moves within the same utility territory;

28 (8) Establish uniform standards, fees, and processes for the interconnection of  
29 community solar facilities that allow the utility to recover reasonable interconnection costs for  
30 each community solar facility;

31 (9) Provide for consumer protection in accordance with existing laws;

- 32           (10) Allow the utility to recover reasonable costs of administering the program;
- 33           (11) Ensure nondiscriminatory and efficient requirements and utility procedures for
- 34 interconnecting projects;
- 35           (12) Address the co-location of two or more community solar facilities on a single
- 36 parcel of land, and provide guidelines for determining when two or more facilities are co-
- 37 located; and
- 38           (13) Include a program implementation schedule.
- 39           (b) Within 180 days of the effective date of the commission’s rules for the community
- 40 solar program, utilities shall begin crediting subscriber accounts of each community solar
- 41 facility interconnected in its service territory.

NOTE: The purpose of this bill is to create a community solar program where subscribers can purchase an interest in a solar facility and use credits against their electric utility costs; establishing parameters and conditions for the program; and provided for administration and rulemaking by the Public Service Commission.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.