

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Introduced**

## **Senate Bill 627**

By Senators Rucker and Oliverio

[Introduced February 14, 2023; referred  
to the Committee on Government Organization]

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, and §24-2I-3, all relating to establishing a community solar  
 3 program for subscribers to gain credits against their utility bills; providing legislative  
 4 findings; defining terms; authorizing subscriber-based solar projects that allow solar power  
 5 production to be granted credit against electric power costs; providing that an authorized  
 6 project is not deemed as a utility; providing conditions and terms for operation for a facility;  
 7 providing for regulation of the program by the Public Service Commission; providing  
 8 conditions for credits; providing requirements for subscriber organizations; and providing  
 9 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. Definitions.**

1 (a) "Applicable bill credit rate" means the dollar-per-kilowatt-hour rate previously  
 2 approved 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  
 5 on a one-to-one basis in kilowatt-hours, and calculated by multiplying the kilowatt-hours by  
 6 the 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  
 9 solarphotovoltaic device whereby subscribers receive a bill credit for the electricity generated  
 10 in 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 an  
16 aggregate capacity limitation for each utility as provided by the commission in accordance  
17 with §24-2I-2(b)(13) of this code;

18 (5) Set aside no less than 40 percent of its capacity for customers with subscriptions of  
19 25 kilowatts or less; and

20 (6) Be located on a parcel or contiguous parcels of land, so that no single or contiguous  
21 parcel has more than one community solar project on it.

22 (e) "Community solar program" or "Program" means the program created through the  
23 adoption of rules by the Public Service Commission pursuant to this article to allow for the  
24 development of community solar facilities as provided in section 2 of this article. This program is  
25 distinct and separate from the existing net metering program as provided pursuant to §24-2F-  
26 8 of this code.

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

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

32 (h) "Net crediting" shall mean a program under which the utility, upon authorization by  
33 or on behalf of an eligible customer, remits the portion of the bill credit that represents the  
34 subscription fee direction to the subscriber organization of a project and places the remaining  
35 bill credit on the eligible customer's bill. In order to participate in net crediting, a customer's  
36 subscription fee shall be calculated as a percent of the value of the bill credit that appears on a  
37 subscriber's bill. Such percent must be less than 100%. The utility may charge the subscriber  
38 organization a fee of up to 1 percent of the bill credit value to cover the costs implementing net  
39 crediting.

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

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

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

52 (l) "Utility" means a public utility as defined pursuant to §24-1-2 of this code: *Provided,*  
53 That for purposes of this article, utility shall not include rural electric cooperatives, municipal  
54 utilities, nor utilities serving less than 30,000 customers

**§24-21-2. Program creation and implementation; Public Service Commission Rulemaking.**

1 (a) The commission shall file rules in accordance with §24-1-7 of the code to establish a  
2 community solar program that is substantively similar in nature to community solar programs  
3 offered by peer utilities in other states. Such rules shall establish a community solar program in  
4 West Virginia by January 1, 2024, and shall require each utility to file any tariffs, agreements, or  
5 forms necessary for implementation of the program, which shall be subject to comment by  
6 interested parties and final commission approval. Any such tariffs shall be consistent with the bill  
7 credit rates established by this article.

8 (b) The rules promulgated by the commission and any associated filing approved by the  
9 commission shall:

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

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

13 (2) Reasonably allow for the creation and financing of community solar facilities by non-  
14 utility subscriber organizations;

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

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

19 (5) Prohibit punitive fees or other charges that undermine the feasibility of a community  
20 solar project's economics or customer energy bill savings;

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

30 (7) Not remove a customer from its otherwise applicable customer class in order to  
31 subscribe to a community solar facility;

32 (8) Reasonably allow for the transferability and portability of subscriptions, including  
33 allowing a subscriber to retain a subscription to a community solar facility if the subscriber moves  
34 within the same utility territory;

35 (9) Clarify existing interconnection standards for distributed customer generator  
36 generation facilities to efficiently and effectively interconnect community solar projects and to

37 ensure that projects shall not be prohibited from apply for interconnection and being placed in the  
38 interconnection queue after the effective date of this article;

39 (10) Provide for consumer protection in accordance with existing laws and consistent with  
40 consumer protections provided in programs managed by peer utilities;

41 (11) Allow the utility to recover reasonable costs of administering the program;

42 (12) Address the co-location of two or more community solar facilities on a single or  
43 contiguous parcel of land, and provide guidelines for determining when two or more facilities are  
44 co-located;

45 (13) Establish an aggregate capacity limitation for each utility such that generation from  
46 community solar facilities does not exceed:

47 (A) Six percent of total retail sales for a utility prior to January 1, 2025;

48 (B) Eight percent of total retail sales for a utility prior to January 1, 2027; and

49 (C) Ten percent of total retail sales by January 1, 2029.

50 The Commission may increase the aggregate capacity limitations for a community solar  
51 project if the project provides additional electric service to businesses making a capital investment  
52 in a new or expanded industrial facility located in West Virginia and resulting in new electric  
53 generating load to the utility.

54 (14) Include a program implementation schedule.

55 (c) Within 180 days of the effective date of the commission’s rules for the community solar  
56 program, utilities shall begin crediting subscriber accounts of each community solar facility  
57 interconnected in its service territory.

**§24-21-3. 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 utility shall offer a net crediting program as defined in §24-2l-1(h) of this code.

10 (d) The subscriber organization shall, on a monthly basis and in a standardized  
11 electronic format, provide to the utility a subscriber list indicating percentage of generation  
12 attributable to each of the retail customers participating in a community solar facility in  
13 accordance with the subscriber's portion of the output of the community solar facility. Such  
14 percentages shall be specific in as many as three decimal points (e.g. "99.999%").  
15 Subscriber lists may be updated monthly to reflect canceling subscribers and to add new  
16 subscribers. The utility shall apply bill credits to subscriber bills within one billing cycle  
17 following the cycle during which the energy was generated by the community solar facility:  
18 *Provided, That failure to accurately apply credits to a subscriber's bill within two months of*  
19 *production shall be deemed a violation of §24-3-2 of this code.*

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

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

29 (f) All environmental attributes associated with a community solar facility, including  
30 renewable energy certificates, shall be considered property of the subscriber organization. At

- 31 the subscriber organization's discretion, those attributes may be distributed to subscribers,  
32 sold, accumulated, or retired.

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.