

Chapter 347

(House Bill 1087)

AN ACT concerning

Electricity – Community Solar Energy Generating System Program

FOR the purpose of establishing a pilot program on community solar energy generating systems under the authority of the Public Service Commission; providing for the structure and operation of the program, including the generation of electricity and allocation of costs to subscribers to a community solar energy generating system; ~~authorizing an electric company to submit a petition to own and operate a community solar energy generating system to the Commission; authorizing the Commission to approve a petition if the Commission makes a certain determination; requiring the Commission to approve or deny a petition within a certain period of time; specifying when an electric company may recover the costs associated with developing and owning a community solar energy generating system through base rates; requiring an electric company to sell certain services and attributes associated with the community solar energy generating system; requiring an electric company to use a certain method to refund or credit certain proceeds to ratepayers; requiring the Commission to determine an appropriate method for an electric company to distribute its proceeds to ratepayers;~~ providing for the beginning and termination of the pilot program; requiring the Commission to adopt certain regulations by a certain date; providing for the continuation of certain contracts under certain circumstances; providing for the inclusion of certain generation in a certain limitation; defining certain terms; stating certain findings of the General Assembly; requiring the Public Service Commission to study certain matters and report its findings to certain committees on or before a certain date; and generally relating to a program for community solar energy generating systems.

BY adding to

Article – Public Utilities

Section 7–306.1

Annotated Code of Maryland

(2010 Replacement Volume and 2014 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Public Utilities**7–306.1.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “BASELINE ANNUAL USAGE” MEANS:

(I) A SUBSCRIBER’S ACCUMULATED ELECTRICITY USE IN KILOWATT-HOURS FOR THE 12 MONTHS BEFORE THE SUBSCRIBER’S MOST RECENT SUBSCRIPTION; OR

(II) FOR A SUBSCRIBER THAT DOES NOT HAVE A RECORD OF 12 MONTHS OF ELECTRICITY USE AT THE TIME OF THE SUBSCRIBER’S MOST RECENT SUBSCRIPTION, AN ESTIMATE OF THE SUBSCRIBER’S ACCUMULATED 12 MONTHS OF ELECTRICITY USE IN KILOWATT-HOURS, DETERMINED IN A MANNER THE COMMISSION APPROVES.

(3) “COMMUNITY SOLAR ENERGY GENERATING SYSTEM” MEANS A SOLAR ENERGY SYSTEM THAT:

(I) IS CONNECTED TO THE ELECTRIC DISTRIBUTION GRID SERVING THE STATE;

(II) IS LOCATED IN THE SAME ELECTRIC SERVICE TERRITORY AS ITS SUBSCRIBERS;

(III) IS ATTACHED TO THE ELECTRIC METER OF A SUBSCRIBER OR IS A SEPARATE FACILITY WITH ITS OWN ELECTRIC METER;

(IV) CREDITS ITS GENERATED ELECTRICITY, OR THE VALUE OF ITS GENERATED ELECTRICITY, TO THE BILLS OF THE SUBSCRIBERS TO THAT SYSTEM THROUGH VIRTUAL NET ENERGY METERING;

(V) HAS AT LEAST TWO SUBSCRIBERS;

(VI) DOES NOT HAVE SUBSCRIPTIONS LARGER THAN 200 KILOWATT-HOURS KILOWATTS CONSTITUTING MORE THAN 60% OF ITS SUBSCRIPTIONS;

(VII) HAS A GENERATING CAPACITY THAT DOES NOT EXCEED 2 MEGAWATTS AS MEASURED BY THE ALTERNATING CURRENT RATING OF THE SYSTEM’S INVERTER; AND

(VIII) MAY BE OWNED BY ANY PERSON, ~~INCLUDING A SUBSCRIBER ORGANIZATION, AN ELECTRIC COMPANY, OR AN ELECTRICITY SUPPLIER.~~

(4) “PROGRAM” MEANS THE COMMUNITY SOLAR ENERGY GENERATING SYSTEMS PILOT PROGRAM.

(5) “SUBSCRIBER” MEANS A RETAIL CUSTOMER OF AN ELECTRIC COMPANY THAT:

(I) HOLDS A SUBSCRIPTION TO A COMMUNITY SOLAR ENERGY GENERATING SYSTEM; AND

(II) HAS IDENTIFIED ONE OR MORE INDIVIDUAL METERS OR ACCOUNTS TO WHICH THE SUBSCRIPTION SHALL BE ATTRIBUTED.

(6) “SUBSCRIBER ORGANIZATION” MEANS:

(I) A PERSON THAT OWNS OR OPERATES A COMMUNITY SOLAR ENERGY GENERATING SYSTEM; OR

(II) THE COLLECTIVE GROUP OF SUBSCRIBERS OF A COMMUNITY SOLAR ENERGY GENERATING SYSTEM.

(7) “SUBSCRIPTION” MEANS THE PORTION OF THE ELECTRICITY GENERATED BY A COMMUNITY SOLAR ENERGY GENERATING SYSTEM THAT IS CREDITED TO A SUBSCRIBER.

(8) “UNSUBSCRIBED ENERGY” MEANS ANY COMMUNITY SOLAR ENERGY GENERATING SYSTEM OUTPUT IN KILOWATT-HOURS THAT IS NOT ALLOCATED TO ANY SUBSCRIBER.

(9) “VIRTUAL NET ENERGY METERING” MEANS MEASUREMENT OF THE DIFFERENCE BETWEEN THE KILOWATT-HOURS OR VALUE OF ELECTRICITY THAT IS SUPPLIED BY AN ELECTRIC COMPANY AND THE KILOWATT-HOURS OR VALUE OF ELECTRICITY ATTRIBUTABLE TO A SUBSCRIPTION TO A COMMUNITY SOLAR ENERGY GENERATING SYSTEM AND FED BACK TO THE ELECTRIC GRID OVER THE SUBSCRIBER’S BILLING PERIOD, AS CALCULATED UNDER THE TARIFFS ESTABLISHED UNDER SUBSECTION (E)(2) OF THIS SECTION.

(B) THE GENERAL ASSEMBLY FINDS THAT:

(1) COMMUNITY SOLAR ENERGY GENERATING SYSTEMS:

(I) PROVIDE RESIDENTS AND BUSINESSES, INCLUDING THOSE THAT LEASE PROPERTY, INCREASED ACCESS TO LOCAL SOLAR ELECTRICITY WHILE ENCOURAGING PRIVATE INVESTMENT IN SOLAR RESOURCES;

~~(II) STIMULATE IN STATE ECONOMIC GROWTH AND ENTREPRENEURIAL INNOVATION;~~

~~(III)~~ ENHANCE CONTINUED DIVERSIFICATION OF THE STATE'S ENERGY RESOURCE MIX TO ACHIEVE THE STATE'S RENEWABLE ENERGY PORTFOLIO STANDARD AND GREENHOUSE GAS EMISSIONS REDUCTION ACT GOALS; AND

~~(IV)~~ (III) PROVIDE ELECTRIC COMPANIES AND RATEPAYERS THE OPPORTUNITY TO REALIZE THE MANY BENEFITS ASSOCIATED WITH DISTRIBUTED ENERGY; AND

(2) IT IS IN THE PUBLIC INTEREST THAT THE STATE ENABLE THE DEVELOPMENT AND DEPLOYMENT OF ENERGY GENERATION FROM COMMUNITY SOLAR ENERGY GENERATING SYSTEMS IN ORDER TO:

(I) ALLOW RENTERS AND LOW-INCOME AND MODERATE-INCOME RETAIL ELECTRIC CUSTOMERS TO OWN AN INTEREST IN A COMMUNITY SOLAR ENERGY GENERATING SYSTEM;

(II) FACILITATE MARKET ENTRY FOR ALL POTENTIAL SUBSCRIBERS WHILE GIVING PRIORITY TO SUBSCRIBERS WHO ARE THE MOST SENSITIVE TO MARKET BARRIERS; AND

(III) ENCOURAGE DEVELOPERS TO PROMOTE PARTICIPATION BY RENTERS AND LOW-INCOME AND MODERATE-INCOME RETAIL ELECTRIC CUSTOMERS.

(C) A COMMUNITY SOLAR ENERGY GENERATING SYSTEM, INCLUDING A SUBSCRIBER OR SUBSCRIBER ORGANIZATION ASSOCIATED WITH THE COMMUNITY SOLAR ENERGY GENERATING SYSTEM, IS NOT:

- (1) AN ELECTRIC COMPANY;
- (2) AN ELECTRICITY SUPPLIER; OR
- (3) A GENERATING STATION.

(D) (1) (I) THE COMMISSION SHALL ESTABLISH A PILOT PROGRAM FOR A COMMUNITY SOLAR ENERGY GENERATING SYSTEM PROGRAM.

(II) THE STRUCTURE OF THE PROGRAM THE PILOT PROGRAM IS AS PROVIDED IN THIS SUBSECTION.

(2) ALL RATE CLASSES MAY PARTICIPATE IN ~~THE PROGRAM~~ THE PILOT PROGRAM.

(3) SUBSCRIBERS SERVED BY ELECTRIC STANDARD OFFER SERVICE AND ELECTRICITY SUPPLIERS MAY HOLD SUBSCRIPTIONS TO THE SAME COMMUNITY SOLAR ENERGY GENERATING SYSTEM.

(4) A SUBSCRIBER ORGANIZATION SHALL:

(I) DETERMINE HOW TO ALLOCATE SUBSCRIPTIONS TO SUBSCRIBERS; AND

(II) ~~CALCULATE THE NUMBER OF CREDITS THAT AN ELECTRIC COMPANY WILL PROVIDE TO A SUBSCRIBER FOR EACH BILLING CYCLE; AND~~

~~(III)~~ NOTIFY AN ELECTRIC COMPANY AND, IF APPLICABLE, A RELEVANT ELECTRICITY SUPPLIER ABOUT THE REGULATIONS THE COMMISSION ADOPTS UNDER SUBSECTION ~~(F)~~ (E) OF THIS SECTION.

(5) AN ELECTRIC COMPANY SHALL USE THE TARIFF STRUCTURE UNDER SUBSECTION ~~(F)(2)~~ (E)(2) OF THIS SECTION TO PROVIDE EACH SUBSCRIBER WITH THE CREDITS ~~CALCULATED BY A SUBSCRIBER ORGANIZATION.~~

(6) A SUBSCRIBER MAY NOT RECEIVE CREDIT FOR VIRTUAL NET EXCESS GENERATION THAT EXCEEDS ~~120%~~ 200% OF THE SUBSCRIBER'S BASELINE ANNUAL USAGE.

(7) ANY UNSUBSCRIBED ENERGY GENERATED BY A COMMUNITY SOLAR ENERGY GENERATING SYSTEM THAT IS NOT OWNED BY AN ELECTRIC COMPANY SHALL BE PURCHASED UNDER THE ELECTRIC COMPANY'S PROCESS FOR PURCHASING THE OUTPUT FROM QUALIFYING FACILITIES AT THE AMOUNT IT WOULD HAVE COST THE ELECTRIC COMPANY TO PROCURE THE ENERGY.

(8) AN ELECTRIC COMPANY SHALL USE ENERGY GENERATED FROM A COMMUNITY SOLAR ENERGY GENERATING SYSTEM TO OFFSET PURCHASES FROM WHOLESALE ELECTRICITY SUPPLIERS FOR STANDARD OFFER SERVICE.

~~(8)~~ (9) ALL COSTS ASSOCIATED WITH SMALL GENERATOR INTERCONNECTION STANDARDS UNDER COMAR 20.50.09 ARE THE RESPONSIBILITY OF THE SUBSCRIBER ORGANIZATION.

~~(9)~~ (10) A SUBSCRIBER ORGANIZATION MAY PETITION AN ELECTRIC COMPANY TO COORDINATE THE INTERCONNECTION AND COMMENCEMENT OF OPERATIONS OF A COMMUNITY SOLAR ENERGY GENERATING SYSTEM AFTER THE

COMMISSION ADOPTS REGULATIONS REQUIRED UNDER SUBSECTION ~~(F)~~ (E) OF THIS SECTION.

~~(10)~~ (11) A SUBSCRIBER ORGANIZATION MAY CONTRACT WITH A THIRD PARTY FOR THE THIRD PARTY TO FINANCE, BUILD, OWN, OR OPERATE A COMMUNITY SOLAR ENERGY GENERATING SYSTEM.

~~(11)~~ (12) A MUNICIPAL UTILITY OR COOPERATIVE UTILITY MAY PARTICIPATE IN ~~THE PROGRAM~~ THE PILOT PROGRAM.

~~(12)~~ (13) EQUIPMENT FOR A COMMUNITY SOLAR ENERGY GENERATING SYSTEM MAY NOT BE BUILT ON CONTIGUOUS PARCELS OF LAND UNLESS THE EQUIPMENT IS INSTALLED ONLY ON BUILDING ROOFTOPS.

~~(13)~~ (14) THE PILOT PROGRAM SHALL:

(I) BEGIN ON THE EARLIER OF:

1. THE DATE OF SUBMISSION OF THE FIRST PETITION OF A SUBSCRIBER ORGANIZATION UNDER ~~SUBSECTION (D)(9) OF THIS SECTION~~ PARAGRAPH (10) OF THIS SUBSECTION AFTER THE COMMISSION ADOPTS THE REGULATIONS REQUIRED UNDER SUBSECTION (E) OF THIS SECTION; OR

2. 6 MONTHS AFTER THE COMMISSION ADOPTS THOSE REGULATIONS; AND

(II) END 3 YEARS AFTER THE BEGINNING DATE.

(15) THE COMMISSION SHALL LIMIT THE PILOT PROGRAM IN SUCH A WAY THAT THE COMMISSION MAY CONDUCT A MEANINGFUL STUDY OF THE PILOT PROGRAM AND ITS RESULTS, INCLUDING:

(I) THE APPROPRIATE NUMBER OF COMMUNITY SOLAR ENERGY GENERATING SYSTEMS TO BE INCLUDED IN THE PILOT PROGRAM;

(II) THE APPROPRIATE AMOUNT OF GENERATING CAPACITY OF THE COMMUNITY SOLAR ENERGY GENERATING SYSTEMS TO BE INCLUDED IN THE PILOT PROGRAM; AND

(III) A VARIETY OF APPROPRIATE GEOGRAPHICAL AREAS IN THE STATE FOR LOCATING COMMUNITY SOLAR ENERGY GENERATING SYSTEMS TO BE INCLUDED IN THE PILOT PROGRAM.

~~(E) (1) (i) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, AN ELECTRIC COMPANY MAY SUBMIT A PETITION TO OWN AND OPERATE A COMMUNITY SOLAR ENERGY GENERATING SYSTEM TO THE COMMISSION.~~

~~(ii) THE COMMISSION MAY APPROVE A PETITION SUBMITTED UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH IF THE COMMISSION DETERMINES THAT THE COMMUNITY SOLAR ENERGY GENERATING SYSTEM WILL:~~

~~1. RESULT IN JUST AND REASONABLE RATES WHEN INCLUDED IN THE ELECTRIC COMPANY'S BASE RATE; AND~~

~~2. PROVIDE BENEFITS TO RATEPAYERS THROUGH:~~

~~A. AVOIDED TRANSMISSION AND DISTRIBUTION LINE LOSSES;~~

~~B. TRANSMISSION AND DISTRIBUTION UPGRADE DEFERRALS;~~

~~C. AVOIDED INTERCONNECTION COSTS;~~

~~D. ANCILLARY SERVICES AND VOLT AMPERE REACTIVE (VAR) SUPPORT;~~

~~E. REDUCED LAND COSTS;~~

~~F. DEMAND CHARGE MANAGEMENT;~~

~~G. ELECTRIC SERVICE RELIABILITY; OR~~

~~H. ANY OTHER ADDITIONAL FACTORS THE COMMISSION CONSIDERS APPROPRIATE.~~

~~(iii) THE COMMISSION SHALL APPROVE OR DENY A PETITION WITHIN 120 DAYS AFTER THE ELECTRIC COMPANY FILES THE PETITION.~~

~~(2) AN ELECTRIC COMPANY MAY RECOVER THROUGH BASE RATES THE COSTS ASSOCIATED WITH BUILDING AND MAINTAINING A COMMUNITY SOLAR ENERGY GENERATING SYSTEM THAT IS ACTIVELY USED AND IN SERVICE.~~

~~(3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, AN ELECTRIC COMPANY SHALL SELL:~~

~~(I) UNSUBSCRIBED ENERGY, CAPACITY, AND ANCILLARY SERVICES PRODUCED BY THE ELECTRIC COMPANY'S COMMUNITY SOLAR ENERGY GENERATING SYSTEM OWNED BY THE ELECTRIC COMPANY TO THE MARKETS OPERATED BY PJM INTERCONNECTION, LLC; AND~~

~~(H) ENVIRONMENTAL ATTRIBUTES ASSOCIATED WITH THE ELECTRICITY GENERATED BY THE ELECTRIC COMPANY'S COMMUNITY SOLAR ENERGY GENERATING SYSTEM TO ANY PERSON.~~

~~(4) (I) AN ELECTRIC COMPANY SHALL USE A METHOD DETERMINED BY THE COMMISSION TO REFUND OR CREDIT TO RATEPAYERS THE PROCEEDS FROM:~~

~~1. THE SALES REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION; AND~~

~~2. THE SALE OF ANY SUBSCRIPTIONS TO THE ELECTRIC COMPANY'S COMMUNITY SOLAR ENERGY GENERATING SYSTEM.~~

~~(H) THE COMMISSION SHALL DETERMINE AN APPROPRIATE METHOD FOR AN ELECTRIC COMPANY TO DISTRIBUTE ITS PROCEEDS TO RATEPAYERS.~~

~~(F)~~ (E) ON OR BEFORE ~~JANUARY~~ APRIL 1, MAY 15, 2016, THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION, INCLUDING REGULATIONS FOR:

(1) CONSUMER PROTECTION;

(2) A TARIFF STRUCTURE FOR AN ELECTRIC COMPANY TO PROVIDE A SUBSCRIBER WITH THE ~~CREDITS CALCULATED BY A SUBSCRIBER ORGANIZATION THAT IS CONSISTENT WITH THE TARIFF STRUCTURE USED FOR NET ENERGY METERING UNDER § 7-306 OF THIS SUBTITLE~~ KILOWATT-HOURS OR VALUE OF THE SUBSCRIBER'S SUBSCRIPTION, AS THE COMMISSION DETERMINES;

(3) A CALCULATION FOR VIRTUAL NET ENERGY METERING ~~THAT IS CONSISTENT WITH THE CALCULATION USED FOR NET ENERGY METERING UNDER § 7-306 OF THIS SUBTITLE~~ AS THE COMMISSION DETERMINES;

(4) A PROTOCOL FOR ELECTRIC COMPANIES, ELECTRICITY SUPPLIERS, AND SUBSCRIBER ORGANIZATIONS TO COMMUNICATE THE INFORMATION NECESSARY TO CALCULATE AND PROVIDE THE MONTHLY ELECTRIC

BILL CREDITS AND YEARLY NET EXCESS GENERATION PAYMENTS REQUIRED BY THIS SECTION; AND

(5) A PROTOCOL FOR A SUBSCRIBER ORGANIZATION TO COORDINATE WITH AN ELECTRIC COMPANY FOR THE INTERCONNECTION AND COMMENCEMENT OF OPERATIONS OF A COMMUNITY SOLAR ENERGY GENERATING SYSTEM.

(F) (1) SUBJECT TO REGULATIONS OR ORDERS OF THE COMMISSION, A CONTRACT RELATING TO A COMMUNITY SOLAR ENERGY GENERATING SYSTEM OR SUBSCRIBER ORGANIZATION THAT IS ENTERED INTO DURING THE PILOT PROGRAM SHALL REMAIN IN EFFECT ACCORDING TO THE TERMS OF THE CONTRACT, INCLUDING AFTER THE TERMINATION OF THE PILOT PROGRAM.

(2) AFTER TERMINATION OF THE PILOT PROGRAM, IN ACCORDANCE WITH THE OPERATIONAL AND BILLING REQUIREMENTS IN SUBSECTION (D) OF THIS SECTION:

(I) A SUBSCRIBER ORGANIZATION MAY CONTINUE THE OPERATION OF A COMMUNITY SOLAR ENERGY GENERATING SYSTEM THAT BEGAN OPERATION DURING THE PILOT PROGRAM, INCLUDING THE CREATION AND TRADING OF SUBSCRIPTIONS; AND

(II) IN ACCORDANCE WITH THE TARIFFS ESTABLISHED UNDER SUBSECTION (E)(2) OF THIS SECTION, AN ELECTRIC COMPANY SHALL CONTINUE TO FACILITATE THE OPERATION OF A COMMUNITY SOLAR ENERGY GENERATING SYSTEM THAT BEGAN OPERATION DURING THE PILOT PROGRAM.

(G) THE CUMULATIVE INSTALLED NAMEPLATE CAPACITY UNDER THE PILOT PROGRAM SHALL COUNT TOWARD THE OVERALL LIMITATION OF 1,500 MEGAWATTS FOR ALL NET METERING PROJECTS IN § 7-306(D) OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Public Service Commission, in consultation with the Maryland Energy Administration, shall convene a stakeholder workgroup to study the value and costs of the pilot program established under § 7-306.1 of the Public Utilities Article, as enacted by Section 1 of this Act and make recommendations to the Commission on the advisability of establishing a permanent program.

(b) In conducting the study, the workgroup shall identify and examine:

(1) a framework for valuation of the costs and benefits related to community solar and virtual net energy metering;

(2) the costs and benefits of community solar energy generating systems to participating subscribers and to nonsubscriber ratepayers;

(3) an appropriate credit mechanism and operational structure that allows a community renewable solar energy generating system to minimize administrative costs to an electric company, electric supplier, or subscriber organization;

(4) the benefits to and the technical and cost impacts of community solar programs and virtual net energy metering on an electric company's distribution grid;

(5) issues, benefits, and concerns related to the participation of electric companies, including investor-owned utilities, in community solar programs and projects, including owners and operators of the projects;

(6) whether and how community solar projects or virtual net energy metering have a substantially different technical impact on the distribution system than traditional net energy metering;

(7) identification of any impacts on the standard offer service procurement process;

(8) a review of community solar programs and cost-benefit studies in other states;

(9) whether and how community solar programs can help reduce the cost of compliance with the renewable energy portfolio standard;

(10) how community solar energy generating systems can impact locational marginal prices in Maryland;

(11) the impacts of the pilot program on energy costs, reliability, and equitable cost allocation for ratepayers;

(12) how community solar project developers can increase participation by low- and moderate-income retail electric customers in community solar projects;

(13) the progress of the community solar energy generating pilot program under § 7-306.1 of the Public Utilities Article, as enacted by Section 1 of this Act, in attracting low- and moderate-income retail electric customers;

(14) whether community solar energy generating systems are an overall net benefit in helping Maryland achieve its distributed generation and renewable goals;

(15) any other matters the workgroup considers relevant; and

(16) any additional factors the Public Service Commission considers appropriate.

(c) On or before July 1, 2019, the Public Service Commission shall report its findings and recommendations, based on the study conducted under this section, to the Senate Finance Committee and the House Economic Matters Committee in accordance with § 2-1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That the Public Service Commission shall notify the General Assembly and Department of Legislative Services when the pilot program begins in accordance with ~~§ 7-306.1(f)~~ § 7-306.1(d)(14) of the Public Utilities Article, as enacted by this Act.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2015.

Approved by the Governor, May 12, 2015.