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**SENATE BILL 5280**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators McCoy, Hasegawa, and Palumbo

AN ACT Relating to community solar gardens; and adding a new chapter to Title 80 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  It is the intent of the legislature to establish a framework for community solar gardens to be created and exist outside of tax-related subsidy programs. The legislature finds that community solar gardens represent a low-cost point of entry for Washington consumers who want solar electricity, as well as for consumers who do not have access to a sun regime that would make a residential solar energy system viable. It is the intent of the legislature to allow renters and low-income electric utility customers to own interests in solar generation facilities.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commission" means the utilities and transportation commission.

(2) "Community solar garden" means a facility, including a community solar project as defined in RCW 82.16.160, that generates electricity by means of a ground-mounted or roof-mounted solar photovoltaic device whereby subscribers receive a bill credit for the electricity generated in proportion to the size of their subscription.

(3) "Electric utility" means any electrical company, public utility district, irrigation district, port district, electric cooperative, or municipal electric utility that is engaged in the business of distributing electricity to retail electric customers in the state.

(4) "Electrical company" has the same meaning as defined in RCW 80.04.010.

(5) "Subscriber" means a retail electric customer of an electric utility who owns one or more subscriptions of a community solar garden facility interconnected with that utility.

(6) "Subscriber organization" means any for-profit or nonprofit entity that owns or operates one or more community solar gardens.

(7) "Subscription" means a contract between a subscriber and the owner of a community solar garden.

NEW SECTION. **Sec.**  (1) A community solar garden:

(a) May not have fewer than five subscribers, with no single subscriber having more than forty percent interest in the project;

(b) Must have subscribers for all electricity generated by a project;

(c) Must be located on the distribution system of an electric utility filing a plan under section 4 of this act. If the electric utility's plan identifies preferred locations within the electric utility's distribution system, the community solar garden must be located within a preferred location;

(d) Must allocate not less than forty percent of project capacity to residential and small business customers under twenty-five kilowatts; and

(e) Must allocate not less than ten percent of project capacity to low-income customers eligible under the state's plan for low-income energy assistance prepared in accordance with 42 U.S.C. Sec. 8624(C)(1).

(2)(a) A subscriber must be located in the same electric utility service territory as the community solar garden facility.

(b) A subscription must be sized to represent at least one kilowatt of the generating capacity of the community solar garden and may supply, when combined with other distributed generation resources serving the premises, no more than one hundred twenty percent of the average annual consumption of electricity by each subscriber at the premises to which the subscription is attributed.

(3)(a) A subscriber organization must, on a monthly basis, provide to the electric utility the total kilowatt-hours of generation attributable to each of the utility's retail electric customers participating in a community solar garden project in accordance with the subscriber's share of the output of the community solar garden. The subscriber organization shall electronically submit the information and associated documentation to the utility monthly.

(b) An electric utility must provide a monetary credit or other compensatory mechanism to a subscriber's monthly electric bill for the proportional output of a community solar garden attributable to that subscriber. The monetary credit must be equivalent to the subscriber's applicable retail rate, and be provided for not less than twenty-five years from the date the community solar garden becomes interconnected and energized. Subscription credits that exceed a subscriber's monthly bill must be carried over and applied to the next month's bill.

(4) The number or cumulative generating capacity of community solar garden facilities is not limited under this section.

(5) All environmental attributes associated with a community solar garden, including but not limited to renewable energy credits under chapter 19.285 RCW, are considered property of the community solar garden owner and may be distributed, sold, accumulated, or retired at the discretion of the community solar garden owner.

(6) A subscriber organization that is not subject to the requirements under RCW 82.16.170 or 80.28.375 must have a process in place for dispute resolution between the subscriber organization and its subscribers.

NEW SECTION. **Sec.**  (1) An electrical company must file a plan by January 1, 2020, with the commission to operate a community solar garden program consistent with the requirements of this section. The commission may approve, disapprove, or modify a community solar garden program plan as submitted by an electrical company.

(2) An electric utility that is not an electrical company must file a plan by January 1, 2020, with the department of commerce to operate a community solar garden program consistent with the requirements of this section.

(3) Any community solar garden program plan approved by the commission or the department of commerce under this section must:

(a) Reasonably allow for the creation, financing, and accessibility of community solar gardens;

(b) Provide guidelines for including low-income customers as subscribers to a community solar garden, including allowing a preference for community solar gardens that have low-income subscribers;

(c) Establish uniform standards, fees, and processes for the interconnection of community solar garden facilities that allow the utility to recover reasonable interconnection costs for each community solar garden;

(d) Be consistent with the public interest;

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

(f) Include a program implementation schedule;

(g) Identify all proposed rules, fees, and charges;

(h) Identify the means by which the program will be promoted;

(i) Include a description of the system used to apply credit to each subscriber's monthly bill; and

(j) Identify locations, if any, within the electric utility's distribution that are preferred locations for community solar gardens for purposes of section 3(1)(c) of this act. Any designation of preferred locations must be based on an analysis of the utility's distribution system and must not unreasonably restrict the development of community solar gardens.

(4) The commission and department of commerce may coordinate in developing rules as necessary to implement this chapter. To the extent practicable, the commission and the department of commerce must apply the same requirements on community solar garden program plans, regardless of utility type.

(5) A subscriber or subscriber organization may not be considered an electric utility solely as a result of participation in a community solar garden program.

(6) Each electric utility must maintain on a publicly accessible web site containing the community solar garden program information required in subsection (3) of this section and information about each community solar garden within the utility's service area.

NEW SECTION. **Sec.**  Sections 1 through 4 of this act constitute a new chapter in Title 80 RCW.

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