Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Environment & Energy Committee

HB 2253

Brief Description: Concerning fair access to community solar.

Sponsors: Representatives Hackney, Doglio, Ryu, Orwall, Duerr, Berry, Ramel, Paul, Springer, Macri, Bergquist, Pollet and Tharinger.

Brief Summary of Bill

- Establishes a new community solar program that requires utilities to provide credits on customers' utility bills and requires participation by investor-owned utilities.
- Requires the Utilities and Transportation Commission to develop the program through rulemaking, which must involve workshops with stakeholders and reports to the Legislature.
- Changes existing law for community solar projects, including by increasing the maximum allowable size of community solar projects from 1000 kilowatts (kW) to 5000kW.
- Amends the Washington State University Extension Energy Community Solar Expansion Program, including by allowing larger projects under the new definition to participate.

Hearing Date: 1/16/24

Staff: Zachary Blinkinsop (786-7296) and Megan McPhaden (786-7114).

Background:

Community Solar Projects.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

A community solar project is a solar energy system that that has a direct current nameplate generating capacity (capacity) of no more than 1000 kilowatts (kW) of direct current electricity. A company that develops a community solar project is known as a community solar company.

Customers of a community solar company may be involved in a community solar project through lease agreements, power purchase agreements, loans, or financial agreements other than direct ownership of a community solar project.

Community Solar Companies.

A community solar company is a person, firm, or corporation, other than an electric utility, that owns a community solar project and provides services to participants. Community solar companies that wish to engage in business in the state must register annually with the Utilities and Transportation Commission (UTC). The UTC's rules establish requirements for registration, consumer protection, records keeping, and reporting for community solar projects.

The UTC may require the procurement of a performance bond or other mechanism that covers any advances that a community solar company may collect from subscribers, or it may order that the advances of the deposits be held in escrow or trust.

The UTC may charge a community solar company an annual application fee for a community solar project.

Low-Income Subscribers.

The Department of Commerce or the UTC sets the definition of low-income, provided that the definition may not exceed the higher of 80 percent of area median household income or two hundred percent of the federal poverty level, adjusted for size.

Community Solar Incentive Program.

The Washington State University Extension Energy Program (WSU Energy Program) administers the Community Solar Expansion Program (incentive program), which is authorized to provide $100 million in payments until June 30, 2036, for the development of community solar projects benefitting low-income subscribers, low-income provider subscribers, and tribal and public agency subscribers.

Under the incentive program, a community solar project: (1) has a generating capacity that is more than 12kW and no greater than 199kW; (2) has at least two low-income subscribers or one low-income service provider; and (3) meets the eligibility requirements of the incentive program. To receive certification for a low-income community solar incentive payment, a community solar project must meet various eligibility requirements, including:

- The administrator must demonstrate how the project will deliver continuing direct benefits to low-income subscribers. These benefits could include credit for the power generated by

a community solar project or other mechanisms that lower the energy burden.
- The administrator must verify that subscribers meet the definition of low-income. An entity with authority to maintain the confidentiality of the income status of the qualified subscriber must provide the administrator with this verification. If this entity incurs costs to verify low-income status, the administrator must reimburse the entity for those costs.
- The project must be located on "preferred sites" as determined by the WSU Energy Program. "Preferred sites" are rooftops, structures, existing impervious surfaces, landfills, brownfields, previously developed sites, irrigation canals and ponds, stormwater collection ponds, industrial areas, dual-use solar projects that ensure ongoing agricultural operations, and other sites that do not displace critical habitat or productive farmland as defined by state and county planning processes.

Utilities, nonprofits, tribal housing authorities, and other local housing authorities may administer projects under the incentive program. Beginning July 1, 2022, through June 30, 2023, an administrator of an eligible community solar project (administrator) may apply to the WSU Energy Program for pre-certification of a project. If the WSU Energy Program then certifies a project, the utility serving the site of a community solar project is authorized to remit a one-time low-income solar incentive payment to the administrator. The administrator accepts the payment on behalf of, and for the purpose of providing direct benefits to, the project's qualifying subscribers. Qualified subscribers are low-income subscribers, low-income service provider subscribers, and tribal and public agency subscribers. For tribal and public agencies, only the portion of their subscription to a community solar project that demonstrates benefits to low-income beneficiaries is considered qualified.

Utility Participation in the Incentive Program.

Utility participation in the incentive program is voluntary.

Participating utilities must provide incentive payments to cover administrative start-up costs and the cost of the portion of the project that provides direct benefits to subscribers. The administrator must provide all of the compensation as a direct benefit to the project subscribers, except that the administrator may keep allowable amounts for ongoing administrative and maintenance costs.

A participating utility must provide compensation for the electricity generated by a community solar project as follows:
- for a community solar project that generates more than 12kW but no greater than 100kW and that is connected behind the electric service meter, compensation must follow the state's net metering requirements;
- for a community solar project greater than 100kW but not greater than 199kW and whose administrator is not a utility, the utility provides the compensation to the interconnection customer, who passes the compensation to the administrator to ultimately reach the customers; and
- for a community solar project greater than 100kW but not greater than 199kW and whose

administrator is a utility, compensation must be delivered in a way that provides continuing direct benefits to subscribers.

A utility is allowed a credit against its public utility tax obligations in an amount equal to low-income solar incentive payments made under the incentive program. The credit for the fiscal year may not exceed 1.5 percent of the business's taxable Washington power sales generated in calendar year 2014 or $250,000, whichever is greater. The credit may not exceed the tax that would otherwise be due. Refunds may not be granted in place of credits. No credits may be earned after June 30, 2036, and credits may not be claimed after June 30, 2037.

Summary of Bill:

Community Solar Projects.

A community solar project consists of at least one solar energy system that provides subscribers a community solar bill credit. It must also:

- have an alternate current capacity that is no larger than 5,000 kilowatts (kW);
    - projects with an alternate current capacity of more than 1,000 kW must use in their construction prevailing wage labor;
- be located in the state and be directly connected to an electric utility's distribution system;
- have a minimum of three subscribers, where no single customer owns or subscribes to more than 49 percent of the project's generating capacity; and
- not be located on the same parcel as another community solar project unless the parcel is a preferred site; and
    - the definition of preferred site now includes projects owned by tribes and Department of Natural Resources properties identified for solar development.

Community Solar Program.

A community solar program is a program that allows for the development of community solar projects and provides customers of a utility with the option of accessing the benefits produced by the community solar projects.

A new community solar program (program) is established that allows for subscribers to community solar programs to apply credits to their monthly retail electricity bills.

Monthly Community Solar Bill Credits.

Subscribers must receive credits on their electricity bills based on their share of the community solar project's electricity generation. Each subscriber's monthly community solar bill credit must be applied to the subscriber's next retail electric bill and may offset all costs on the monthly retail bill. Any unused bill credit must be rolled forward until it is either fully allocated to the customer's bill or the customer's utility account is terminated.

A community solar project manager may enter into a net-crediting program on behalf of a customer. Net-crediting is the process by which a utility includes both the community solar subscription cost and the community solar bill credit on the subscriber's electricity bill. The utility may impose a net-crediting fee of no more than 1 percent of the cost of the subscription.

The UTC shall adopt a community solar bill credit valuation methodology that ensures the development of community solar projects and maximizes the value that ratepayers, subscribers, and host communities receive from projects. The valuation methodology must consider the factors that community solar projects bring to the electrical grid, including the value of:

- the electricity;
- the project to transmission and distribution capacity;
- the project to grid reliability and resilience;
- environmental benefits such as greenhouse gas reductions; and
- other factors associated with locally produced electricity as determined by the UTC.

The valuation methodology must provide additional value when:

- the majority of a project's capacity is subscribed by low-income subscribers;
- the project is owned by or serves a tribal community; or
- the project incorporates energy storage.

The UTC shall also adopt a valuation methodology for unsubscribed energy, which are the bill credits not allocated to any subscriber that accrue when a project produces surplus electricity. Unsubscribed energy may roll forward on a community solar project account until the end of the following calendar year. A community solar project manager or community solar subscription manager may allocate unsubscribed energy credits to subscribers at any time during that period. After that period, the undistributed credits must be compensated to the community solar project manager.

Utility Participation.
An investor-owned utility must adopt the community solar program rules adopted by the UTC. It must efficiently connect a community solar project to its electrical distribution grid and not discriminate against facilities or subscribers.

A consumer-owned utility may voluntarily adopt the community solar program rules adopted by the UTC or it may develop its own rules so long as they comply with requirements such as those regulating low-income subscribers and monthly community solar bill credits. A consumer-owned utility that does not adopt the rules adopted by the UTC or develop its own rules is not otherwise bound by the community solar program rules.

A consumer-owned utility may voluntarily adopt the UTC's solar credit rate valuation methodology, or it may develop its own so long as they comply with the statute's requirements.

A consumer-owned utility must efficiently connect a community solar project to its electrical distribution grid and may not discriminate against facilities or owners. It is not required to

approve a community solar project if that project's system does not comport with the Bonneville Power Administration's definition of a small generator.

A consumer-owned utility must also establish reporting and consumer protections to ensure that participating subscribers are effectively and equitably receiving savings.

Community Solar Project Managers and Subscription Managers.

Requirements for community solar companies are changed so that these requirements, with amendments, apply to community solar project managers instead of community solar companies, which are removed. A community solar project manager owns or operates a community solar project. A community solar project manager must register with the Utilities and Transportation Commission (UTC) before doing business in the state.

A community solar subscription manager markets and administers the program and manages interactions with electric utilities that relate to subscribers to the project. A community solar subscription manager must register with the UTC before doing business in the state.

Any required performance bond that the UTC may require from a community solar project manager must be commensurate to the size of the project and may not be set in such a way as to preclude nonprofits, individuals, and small businesses from participating as community solar project managers.

The UTC may charge a community solar project manager a fee for a community solar project, and the requirement that this fee be an annual fee is removed. Any application fee must not be set in such a way as to preclude nonprofits, individuals, and small businesses from participating as community solar project managers.

Low-Income Subscribers.

The UTC defines the meaning of low-income, provided that the definition may not exceed the higher of 80 percent of area median household income or 200 percent of the federal poverty level, adjusted for household size. A subscriber who is enrolled in a low-income program facilitated by the state or federal government or low-income multifamily housing may also be considered low-income.

A community solar project manager or community subscription manager must collect information about the financial benefits that a community solar project realizes for low-income subscribers and low-income service providers.

At least 50 percent of each electric utility's community solar generating capacity must be subscribed by low-income subscribers, low-income service provider subscribers, or both low-income subscribers and low-income service provider subscribers. The UTC or a consumer-owned utility's board may amend the required low-income subscriber level no earlier than 10

years after the adoption of program rules. The UTC or utility's board may not adopt a required level that is less than the utility's percentage of low-income ratepayers at the time of the most recent United States census.

Community solar capacity or generation allocated to low-income subscribers is exempt from administrative fees.

Working Group, Rulemaking, and Reports.

The UTC shall host at least two workshops with interested parties to adopt or amend rules for the community solar program. The working group shall consist of investor-owned utilities, solar industry representatives, consumer advocates, members of or organizations serving overburdened communities and vulnerable populations, people working with or for tribes on clean energy projects, and other interested parties such as legislative and gubernatorial staff.

Within 18 months of the adoption of the act and after consulting with the working group, the UTC shall adopt rules for the community solar program. These rules shall include a methodology for valuing each subscriber's community solar bill credit rate, a process for the certification of community solar facilities, and protections for consumers and subscribers, among other requirements.

The UTC shall review the community solar program once five years after the adoption of rules and once 10 years after the adoption of rules. After each review, the UTC shall submit a report to the Legislature with information about the number and location of operating community solar facilities, the number of subscribers and the amount of energy those subscribers subscribed to, the number of low-income subscribers and the amount of energy those low-income subscribers subscribed to, and other metrics, including those identified by the UTC or the working group.

Appropriation: None.

Fiscal Note: Requested on January 10, 2024.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.