

Community Solar, Coming to Pennsylvania?

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OVERVIEW - Community solar allows groups of people who perhaps cannot afford large upfront costs or have a property suitable for panels to go solar. Residential rooftop solar is household based, while electricity from community solar is shared by several subscribers. [At least 24 states](#), have passed legislation enabling community solar. For at least ten years some Pennsylvania state lawmakers have tried to add PA to the list. Pressure for legislation has been increasing because of the [Federal 2022 "Inflation Reduction Act."](#) In this light, for the first time ever, the Pennsylvania State House, in a bipartisan fashion, passed on March 26th [House Bill \(HB\) 1842](#) which creates a PA framework for community solar. The title is: An Act providing for community solar facilities; imposing duties on the Pennsylvania Public Utility Commission (PUC), electric distribution companies and subscriber organizations; and providing for prevailing wage for construction of community solar facilities.

The Bill had objections from most Republicans who stated that the proposal does not adequately ensure that costs of those efforts will not end up getting passed onto other consumers. (This is the major objection of the utilities.) The Bill is a win for solar development companies.

In this bill community solar facilities are defined as solar photovoltaic generation facilities with a maximum nameplate capacity of 5 MW (or 20 MW if located on a designated brownfield site) that is interconnected with one of Pennsylvania's electric distribution companies (EDCs). Community solar facilities must have multiple subscribers using their electric output, with no customer consuming more than 50% of the total generation and at least 50% of the generation consumed by small customers with subscriptions of 25 kilowatts or less. Subscribers will receive credits for their subscribed share of the output of the facility, which will be counted against their electric consumption from their EDC.

The PUC will determine the value of those bill credits. Electric distribution companies would be required to purchase any excess power generated by the community solar facilities at the price of wholesale energy, as determined by the PUC.

The stated purpose is to make solar energy more accessible and affordable for people throughout Pennsylvania. It is supposed to promote energy equity and ensure the benefits of community solar reach low and moderate income subscribers. This Bill must now be sent to the Republican controlled Senate where it competes with [Senate Bill \(SB\) 550](#) and where its reception might be tepid.

SUMMARY OF HB 1842 - "The Community Solar Act" provides for community solar facilities; imposes duties on the PUC, electric distribution companies and subscriber organizations; and provides for prevailing wage and labor requirements. It authorizes the ownership and operation of community solar facilities by a community solar organization and provides bill credit for subscribers for every kilowatt hour produced by the subscription. It creates community solar facility requirements before operating the facility, including an executed interconnection agreement with an electric distribution company, proof of site control, the required permits, proof that the community solar facility will be at least fifty percent subscribed on the date that it is permitted to operate, a signed agreement for a commission-

approved workforce development and proof that when the community solar facility is constructed, an attestation that it will be in compliance with the act.

It further provides for the establishment of credit, customer protection provisions and standardized PUC developed customer disclosure forms. It establishes reporting requirements for electric distribution companies for bill credits and provides for applications of bill credit and transferability. It also establishes compensation and cost recovery for electric companies from the community solar organization. The bill also creates interconnection standards, again, as approved by the PUC. It requires the creation of an interconnection working group and allows the imposition of administrative fees. It also provides for unsubscribed energy and for customer participation in community solar programs and authorizes the creation of temporary regulations. Finally, the Bill has prevailing wage and labor requirements.

Senate Bill 550 has many of the same provisions as HB 1842, but it has not seen any movement at all. The Senate Bill provides for a “grid services payment” of \$0.18/watt measured as nominal DC output paid annually for the first five years. (This provision is very strongly opposed by the utility companies and is NOT in HB 1842, which may be one reason HB 1842 moved and the Senate Bill has not)

ANALYSIS - After ten years of trying, a bill has passed the PA House in a Bipartisan manner. This is a major achievement. However, in Pennsylvania the Governor is a Democrat, the State Senate is controlled by the Republicans, and the House, which passed this bill, is narrowly (one member) controlled by the Democrats. Obstacles therefore remain for a passage in the Senate.

First, for many reasons very few bills have passed in this session of the General Assembly. Second, the election cycle – and the accompanying issues that brings – has begun earlier than ever before. This creates a difficult atmosphere. Third, issues like “net metering,” Pennsylvania’s participation in the Regional Greenhouse Gas Initiative, the efficacy of solar as a means to reduce greenhouse gas, and the overall costs remain hotly contested. Moreover, on March 13th the Governor introduced his own [Energy Plan](#) which has not been fully fleshed out and which will play a part in negotiations on any energy related bills.

CONCLUSION - With the current makeup of the General Assembly, the fact that there still remains provisions in HB 1845 such as the bill credits and unsubscribed energy renewable energy credits that the utilities have strong objection to and since the utilities and the natural gas, oil and coal interests have greater sway in the Senate of Pennsylvania than the House it is unlikely that the current bill will pass in the senate as written. However, with so many factors in play and the fact that a bill finally has passed at all, means a version could certainly pass. The exact content of any successful effort remains uncertain.

For more information and assistance with monitoring the progress of Community solar or understanding the current Bills and their status contact [Robert J. DeSousa](#) at rdesousa@eckertseamans.com, or [Renardo \(Rick\) Hicks](#) at rhicks@eckertseamans.com. For questions about existing solar, net metering and interconnection rules contact Bob, Rick, [Carl Shultz](#) at cshultz@eckertseamans.com, or [Dan Clearfield](#) at dclearfield@eckertseamans.com. Eckert Seamans attorneys have practical experience across a broad range of practices, such as government relations, energy, utilities, and public transit, and work with a diverse group of clients, including government entities and private businesses. We are a full-service law firm that can assist with issues in and around solar and other energy platforms.