

**216B.1641 COMMUNITY SOLAR GARDEN.**

Subdivision 1. **Legacy program.** (a) The public utility subject to section 116C.779 shall file by September 30, 2013, a plan with the commission to operate a community solar garden program which shall begin operations within 90 days after commission approval of the plan. Other public utilities may file an application at their election. The community solar garden program must be designed to offset the energy use of not less than five subscribers in each community solar garden facility of which no single subscriber has more than a 40 percent interest. The owner of the community solar garden may be a public utility or any other entity or organization that contracts to sell the output from the community solar garden to the utility under section 216B.164. There shall be no limitation on the number or cumulative generating capacity of community solar garden facilities other than the limitations imposed under section 216B.164, subdivision 4c, or other limitations provided in law or regulations.

(b) A solar garden is a facility 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. The solar garden must have a nameplate capacity of no more than one megawatt. Each subscription shall be sized to represent at least 200 watts of the community solar garden's generating capacity and to supply, when combined with other distributed generation resources serving the premises, no more than 120 percent of the average annual consumption of electricity by each subscriber at the premises to which the subscription is attributed.

(c) The solar generation facility must be located in the service territory of the public utility filing the plan. Subscribers must be retail customers of the public utility located in the same county or a county contiguous to where the facility is located.

(d) The public utility must purchase from the community solar garden all energy generated by the solar garden. The purchase shall be at the rate calculated under section 216B.164, subdivision 10, or, until that rate for the public utility has been approved by the commission, the applicable retail rate. A solar garden is eligible for any incentive programs offered under section 116C.7792. A subscriber's portion of the purchase shall be provided by a credit on the subscriber's bill.

(e) The commission may approve, disapprove, or modify a community solar garden program. Any plan approved by the commission must:

- (1) reasonably allow for the creation, financing, and accessibility of community solar gardens;
- (2) 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;
- (3) not apply different requirements to utility and nonutility community solar garden facilities;
- (4) be consistent with the public interest;
- (5) identify the information that must be provided to potential subscribers to ensure fair disclosure of future costs and benefits of subscriptions;
- (6) include a program implementation schedule;
- (7) identify all proposed rules, fees, and charges; and
- (8) identify the means by which the program will be promoted.

(f) Notwithstanding any other law, neither the manager of nor the subscribers to a community solar garden facility shall be considered a utility solely as a result of their participation in the community solar garden facility.

(g) Within 180 days of commission approval of a plan under this section, a utility shall begin crediting subscriber accounts for each community solar garden facility in its service territory, and shall file with the commissioner of commerce a description of its crediting system.

(h) For the purposes of this section, the following terms have the meanings given:

(1) "subscriber" means a retail customer of a utility who owns one or more subscriptions of a community solar garden facility interconnected with that utility; and

(2) "subscription" means a contract between a subscriber and the owner of a solar garden.

(i) This subdivision applies to a community solar garden that was approved before January 1, 2024.

Subd. 2. **Definitions.** (a) For purposes of subdivisions 3 to 14, the following terms have the meanings given.

(b) "Backup subscriber" means an individual or entity that temporarily assumes all or a portion of a community solar garden subscription in the event a subscriber exits the community solar garden or is delinquent in paying the subscriber's utility bill.

(c) "Community solar garden" means a facility (1) that generates electricity by means of a ground-mounted or roof-mounted solar photovoltaic device, (2) that is owned and operated by a subscriber organization, and (3) for which subscribers receive a bill credit for the electricity generated in proportion to the size of the subscriber's subscription.

(d) "Low- to moderate-income subscriber" or "LMI subscriber" means a subscriber that, at the time the community solar garden subscription is executed, is: (1) a low-income household, as defined under section 216B.2402, subdivision 16; or (2) a household whose income is 150 percent or less of the area median household income.

(e) "Public interest subscriber" means a subscriber that demonstrates status as a public or Tribal entity, school, nonprofit organization, house of worship, or social service provider.

(f) "Subscribed energy" means electricity generated by the community solar garden that is attributable to a subscriber's subscription.

(g) "Subscriber" means a retail customer who owns one or more subscriptions of a community solar garden interconnected with the retail customer's utility.

(h) "Subscriber organization" means a developer or owner of a community solar garden.

(i) "Subscription" means a contract between a subscriber and subscriber organization.

(j) "Utility" means the public utility subject to section 116C.779.

Subd. 3. **Applicability; scope; limitation.** (a) Subdivisions 2 to 13 apply to community solar gardens approved for the program beginning January 1, 2024.

(b) Except as otherwise modified, replaced, or superseded by subdivisions 2 to 13, any commission order that applies to the legacy program under subdivision 1 applies to subdivisions 2 to 13.

(c) Notwithstanding any other law, a subscriber organization or a subscriber must not be deemed a utility solely as a result of the subscriber organization's or subscriber's participation in a community solar garden.

Subd. 4. **Community solar garden program administration.** (a) The commissioner must administer the community garden program. The commissioner must:

- (1) collect and evaluate community solar garden applications from subscriber organizations;
- (2) audit or verify that project eligibility criteria have been met, as necessary;
- (3) pursuant to subdivision 7, allocate community solar garden capacity to approved community solar gardens, subject to the annual capacity limit;
- (4) develop procedures to carry out the duties under this section, including establishing procedures and a timeline to allocate community solar garden capacity under subdivision 7; and
- (5) enforce the consumer protections under subdivisions 9 to 11.

(b) The commissioner is authorized to access information regarding a subscriber's net electricity bill savings or any charges that the subscriber pays.

Subd. 5. **Application; registration.** (a) A subscriber organization must submit an application to the commissioner, on a form prescribed by the commissioner, to receive approval for a proposed community solar garden project.

(b) A community solar garden application must contain, at a minimum:

(1) a copy of a signed interconnection agreement between the subscriber organization and the utility, except that information that the subscriber organization cannot reasonably determine without approval of the proposed community solar garden is not required;

(2) a copy of any required nonministerial permits that have been approved by the local authority that has jurisdiction over the project;

(3) a copy of the community solar garden's subscription contract, including: (i) the information provided to potential subscribers that discloses future costs and benefits of subscriptions; and (ii) any rules, fees, and charges;

(4) information regarding the community solar garden's program design with respect to potential subscribers, itemized by subscriber type;

(5) proof of legally binding site control of the community solar garden's proposed location;

(6) any information necessary for the commissioner to allocate annual community solar garden program capacity under subdivision 7, paragraph (b); and

(7) any other information the commissioner deems necessary to administer the community solar garden program.

(c) The commissioner must approve a community solar garden that submits the information required under paragraph (b), unless the total annual capacity threshold has been met or the commissioner determines approving the community solar garden is not in the public interest. An application that is deemed in the public interest, but not allocated capacity in a particular program year, must be held in queue for the program year and allocated capacity if any capacity becomes available during the program year.

**Subd. 6. Eligible project; other requirements.** (a) In order to be eligible for compensation under subdivision 8, a community solar garden must: (1) be connected to the utility's distribution system; (2) have a capacity, as defined under section 216B.164, subdivision 2a, paragraph (c), of no more than five megawatts; and (3) have at least 25 individual subscribers per megawatt of generation capacity, provided that a single subscriber does not possess more than a 40 percent interest in the community solar garden's total capacity.

(b) A community solar garden subscriber must be located within the Minnesota service territory of the utility.

(c) A contractor or subcontractor that constructs or installs a community solar garden that has a capacity of at least 1 megawatt: (1) must pay no less than the prevailing wage rate, as defined in section 177.42; and (2) is subject to the requirements and enforcement provisions under sections 177.27, 177.30, 177.32, 177.41 to 177.435, and 177.45.

**Subd. 7. Annual capacity limit; allocation.** (a) Each program year the commissioner must allocate the community solar garden program's annual new capacity to eligible community solar gardens. The maximum cumulative annual capacity of new community solar gardens approved each program year under this subdivision is:

- (1) 100 megawatts in 2024, 2025, and 2026;
- (2) 80 megawatts in 2027, 2028, 2029, and 2030; and
- (3) 60 megawatts in 2031 and each year thereafter.

(b) When allocating capacity to eligible community solar gardens, the commissioner must evaluate and prioritize capacity allocation to community solar garden applicants based on information provided in the community solar garden application regarding:

(1) the degree to which subscribers, utility ratepayers, or the community surrounding the project receive the financial benefit of tax benefits and other incentives resulting from the community solar garden;

(2) the scale of financial benefits the community solar garden delivers to LMI subscribers, affordable housing residents, and public interest subscribers, as well as the number of, and project capacity attributable to, LMI subscribers, affordable housing residents, and public interest subscribers;

(3) community solar garden project ownership and financing arrangements that deliver benefits to public, nonprofit, cooperative, and Tribal entities;

(4) whether the community solar garden uses nongreenfield locations, especially rooftops, carports, or sites that contain a hazardous substance, pollutant, or contaminant;

(5) whether the community solar garden provides workforce development and apprenticeship opportunities, especially for workers who are Black, Indigenous, or Persons of Color; and

(6) the resiliency benefits the community solar garden provides to the electrical grid or the local community.

(c) The commissioner may allocate capacity to a community solar garden under this subdivision only if the application includes a subscription plan that ensures:

(1) at least 30 percent of the community solar garden's capacity is subscribed to by LMI subscribers; and

(2) at least 55 percent of the community solar garden's capacity is subscribed to by subscribers that are:

- (i) LMI subscribers;
- (ii) public interest subscribers; or
- (iii) an affordable housing provider, as determined by the commissioner.

(d) A backup subscriber may subscribe to and receive bill credits for up to 15 percent of a community solar garden's annual capacity. In the event a community solar garden subscriber exits the community solar garden or is delinquent on the subscriber's utility bill, the backup subscriber may be automatically subscribed to up to 40 percent of the community solar garden's capacity for up to one year at the rates provided under subdivision 8, paragraph (b), clause (7).

**Subd. 8. Community solar garden compensation.** (a) A utility must purchase electricity generated by a community solar garden approved for a period of 25 years from the date the community solar garden begins operations. A utility must compensate a community solar garden using a bill credit on each individual subscriber's bill, in an amount proportional to the subscriber's share in the community solar garden.

(b) Beginning January 1, 2024, the utility must purchase energy generated by a community solar garden at the following rates provided for each subscriber type, as determined by the commission:

- (1) for a LMI subscriber, the average retail rate for residential customers;
- (2) for a residential subscriber that is not a LMI subscriber, 85 percent of the average retail rate for the applicable residential class customers;
- (3) for master-metered affordable housing, 80 percent of the average retail rate for residential customers;
- (4) for a public interest subscriber that is a small general commercial customer, 75 percent of the average retail rate for the customer's rate class;
- (5) for a public interest subscriber that is a general service commercial customer, 100 percent of the average retail rate for the customer's rate class;
- (6) for other commercial subscribers, 70 percent of the average retail rate for the customer's rate class;
- (7) for a community solar garden with at least 50 percent total capacity subscribed to by LMI subscribers:
  - (i) up to one backup subscriber may receive 90 percent of the average retail rate for the regular commercial subscriber's customer class, plus additional compensation for demand charges based on 50 percent of the comparable photovoltaic demand credit rider; and
  - (ii) a backup subscriber that subscribes to more than 15 percent of a community solar garden's total capacity for more than 12 consecutive months, the rate provided for other commercial subscribers under clause (6); and
- (8) for unsubscribed energy generated that is credited to the subscriber organization, the utility's avoided cost.

**Subd. 9. Subscriber organizations; prohibitions; requirements.** (a) A subscriber organization and a subscriber organization's marketing representatives are prohibited from, with respect to a community solar garden:

- (1) checking the credit score or credit history of a new or existing residential subscriber;

- (2) charging an exit fee to a residential subscriber;
- (3) enrolling a subscriber without the subscriber's prior, voluntary consent;
- (4) engaging in misleading or deceptive conduct; and
- (5) making false or misleading representations.

(b) A subscriber organization must preserve the privacy of subscribers. Except as otherwise authorized under subdivision 4, paragraph (b), a subscriber organization must not publicly disclose a subscriber's account information, energy usage, energy data, or bill credits, unless (1) the subscriber provides express, written, informed consent that authorizes disclosure of the subscriber's information, or (2) the subscription contract otherwise authorizes disclosure of the information.

(c) A subscriber organization and a subscriber organization's marketing representatives must make reasonable efforts to provide subscribers with timely and accurate information regarding the community solar garden. The information must be provided in writing and in plain language, and must include but is not limited to information regarding rates, contract terms, termination fees, and the right to cancel a community solar garden subscription.

(d) Beginning one year after a community solar garden begins operations and annually thereafter, a subscriber organization must publish a signed and notarized report that details the community solar garden's operations for the previous 12-month period. The report must contain, at a minimum: (1) the energy produced by the community solar garden; (2) financial statements, including a balance sheet, income statement, and a sources and uses of funds statement; and (3) a list of the individuals that currently own and manage the subscriber organization. The report under this paragraph must be provided to the commissioner, on a form prescribed by the commissioner, and to each of the community solar garden's subscribers.

(e) A subscriber organization must annually publish a signed and notarized report that details the community solar garden's capacity allocated to relevant subscriber categories, including but not limited to: (1) LMI subscribers; (2) other residential subscribers; (3) affordable housing providers; (4) public interest subscribers, by type; (5) small subscriptions of up to 25 kilowatts; and (6) other subscribers, by type.

**Subd. 10. Subscriber protections.** (a) A community solar garden subscription is transferable and portable, but only within the utility's Minnesota service territory.

(b) The cost of a subscriber's community solar garden subscription must not exceed the value of the subscriber's community solar garden bill credit. For a LMI subscriber, the cost of the community solar garden subscription must not exceed 90 percent of the LMI subscriber's community solar garden bill credit and must not include any fees at the time the subscription is executed.

(c) A utility must offer consolidated billing for community solar garden subscribers so that a subscriber receives only one bill for both the subscribers's monthly electric service and the community solar garden subscription. A utility must offer consolidated billing under this paragraph for community solar garden subscribers no later than January 1, 2024. The commission may modify the date required by this paragraph if the utility demonstrates to the commission that implementing consolidated billing by January 1, 2024, is unreasonably burdensome. A subscriber may elect, but is not required, to use consolidated billing under this paragraph.

(d) A subscriber must be provided an opportunity to submit comments to the subscriber organization regarding the annual report submitted under subdivision 9, paragraph (d), regarding the accuracy and completeness of the report.

Subd. 11. **Nonsubscriber protections.** (a) A utility must exclude from the fuel adjustment charged to a utility customer the net cost of community solar garden generation under this section if the utility customer (1) receives or is eligible for bill payment assistance, and (2) does not subscribe to a community solar garden under this section.

(b) The commission must determine the net cost of community solar garden generation under this section for purposes of paragraph (a).

Subd. 12. **Noncompliance.** A community solar garden that has begun commercial operation must notify the commissioner in writing within 30 days if the community solar garden is not in compliance with subdivision 6, 7, 9 or 10, and must comply within 12 months or the commissioner must revoke the solar garden's participation in the program. Nothing in this subdivision prevents a subscriber organization from reapplying to participate in the program after revocation.

Subd. 13. **Report.** No later than January 31 each year beginning in 2025, the commissioner must prepare and submit to the legislative committees having primary jurisdiction over energy and climate policy a report that aggregates the information received in the reports under subdivision 9, paragraphs (d) and (e).

Subd. 14. **Transition from legacy program.** (a) From May 25, 2023, to the date the commissioner begins allocating capacity under subdivision 7, but no later than December 31, 2023, a subscriber organization may submit a community solar garden project application to the utility for the legacy program under subdivision 1 or to the commissioner for the program under subdivisions 3 to 12.

(b) The utility administering the legacy program under subdivision 1 must act in good faith to continue processing applications for the legacy program until December 31, 2023. An application for the legacy program that is approved on or before December 31, 2023, is eligible to become a community solar garden under subdivisions 3 to 12, provided the proposed community solar garden complies with subdivisions 3 to 12.

**History:** 2013 c 85 art 10 s 2; 2020 c 83 art 1 s 66; 2023 c 60 art 12 s 14