

SENATE BILL NO. 210—SENATORS DENIS, SPEARMAN, BROOKS,
PARKS; ATKINSON, CANCELA, CANNIZZARO, DONDERO
LOOP, OHRENSCHALL, RATTI, SCHEIBLE AND WOODHOUSE

FEBRUARY 18, 2019

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to energy.
(BDR 58-307)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to energy; requiring the Public Utilities Commission of Nevada to adopt regulations establishing a Community Solar Program; enacting provisions governing community solar facilities, organizations that own or operate such facilities and persons who subscribe to such facilities; establishing the requirements for a subscription to a community solar facility; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill enacts provisions governing community solar facilities in this State. **Section 3** of this bill defines a community solar facility as a solar energy facility or system that has a nameplate capacity of not more than 10 megawatts and is owned or operated by a subscriber organization, including a facility or system that operates with or in proximity to an energy storage system. **Section 12** of this bill requires the Public Utilities Commission of Nevada to adopt regulations establishing standards for the operation of community solar facilities in this State, including, without limitation, minimum targets for the generation of electricity by community solar facilities in this State.

Section 13 of this bill entitles a subscriber who participates in a community solar facility to a credit on the subscriber's monthly utility bill for the subscriber's share of the electricity generated by the community solar facility. **Section 13** also provides for a utility to apply a monetary credit on a subscriber's monthly utility bill that is less than the value of a full kilowatt-hour credit, the amount of which is based on the cumulative amount of all interconnected community solar facilities in the State.



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Sections 14-18 of this bill set forth the requirements for the cover page, provisions and summary disclosure statement for a subscription to a community solar facility.

Section 19 of this bill requires a utility to purchase the unsubscribed electricity of a community solar facility located in the utility's service territory. Section 20 of this bill requires the Commission to issue portfolio energy credits for community solar facilities and provides that: (1) such credits must be designated as portfolio energy credits generated, acquired or saved from solar renewable energy systems; (2) all environmental attributes, including portfolio energy credits, associated with a community solar facility must be the property of the subscriber organization that owns or operates the community solar facility; and (3) the subscriber organization is authorized to distribute, sell, accumulate or retire such attributes. Sections 21 and 23 of this bill exempts organizations that own or operate community solar facilities from regulation as public utilities unless the organization otherwise constitutes a public utility.

Section 24 of this bill requires a utility to begin applying the kilowatt-hour credits attributable to a subscriber to the monthly utility bill of each subscriber to a community solar facility which is interconnected in the service territory of the utility by June 30, 2020.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 22, inclusive, of this act.

Sec. 2. *As used in sections 2 to 22, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Community solar facility":*

1. Means a facility or energy system that uses a solar photovoltaic device to generate electricity which:

(a) Has a nameplate capacity of not more than 10 megawatts; and

(b) Is owned or operated by a subscriber organization.

2. Includes, without limitation, a facility or energy system that operates with or in proximity to an energy storage system.

Sec. 4. *"Community Solar Program" means the program which the Commission is required to implement pursuant to section 12 of this act.*

Sec. 5. *"Low-income customer" means a person or household who is a residential customer of a utility and has an income of not more than 80 percent of the area median income based on the guidelines published by the United States Department of Housing and Urban Development.*

Sec. 6. *"Low-income service organization" means an organization, nonprofit entity or affordable housing provider*



1 whose primary function is to provide services and assistance to
2 low-income individuals, including, without limitation, homeless
3 shelters, low-income housing developments, Indian tribal housing
4 authorities and schools with a significant population of low-
5 income pupils.

6 Sec. 7. "Subscriber" means a customer of a utility who
7 subscribes to a community solar facility that is located in the
8 service territory of the utility.

9 Sec. 8. "Subscriber organization" means an entity that owns
10 or operates a community solar facility, which may include, without
11 limitation, a public utility.

12 Sec. 9. "Subscription" means a contract between a
13 subscriber organization and a subscriber setting forth the
14 subscriber's proportional interest in a community solar facility.

15 Sec. 10. "Unsubscribed electricity" means electricity,
16 measured in kilowatt-hours, generated by a community solar
17 facility that is not allocated to a subscriber.

18 Sec. 11. "Utility" means a public utility that supplies
19 electricity in this State.

20 Sec. 12. 1. The Commission shall adopt regulations for the
21 implementation of a Community Solar Program. The regulations
22 must:

23 (a) Establish minimum targets for the procurement of
24 electricity from community solar facilities in this State, including,
25 without limitation:

26 (1) Not less than 500 megawatts of electric energy in this
27 State generated by community solar facilities in calendar year
28 2030 and for each year thereafter.

29 (2) Not less than 100 megawatts of electric energy in this
30 State generated by community solar facilities made available to
31 low-income customers and low-income service organizations in
32 this State in calendar year 2030 and for each year thereafter.

33 (3) Minimum targets for the number of megawatts of
34 electric generating capacity from community solar facilities to be
35 installed in this State in each year after calendar year 2030.

36 (4) A process by which any person may petition for an
37 increase in the community solar target adopted pursuant to
38 subparagraph (1) if the electric energy in this State generated by
39 community solar facilities exceeds 500 megawatts in any year
40 before calendar year 2030.

41 (5) A process by which any person may petition for an
42 increase in the community solar target for any year after calendar
43 year 2030.

44 (b) Establish requirements for community solar facilities and
45 subscriber organizations, which must:



(1) Require a community solar facility to have at least 10 subscribers.

(2) Prohibit a subscriber organization from allowing a subscriber to have a subscription that exceeds 40 percent of a proportional interest in a community solar facility owned or operated by the subscriber organization.

(3) Require a subscriber organization to make at least 40 percent of the total generating capacity of the community solar facility available in subscriptions to the community solar facility that are for 25 kilowatts or less.

(4) Prohibit a subscriber organization from allowing a subscriber to have a subscription that exceeds 120 percent of the electric energy used by the subscriber in this State during the year immediately preceding the year in which the subscriber entered into the subscription.

(5) Prohibit the location of one or more community solar facilities with a combined total nameplate capacity of more than 10 megawatts on a single parcel of land, except for community solar facilities located within the boundaries of an Indian reservation or Indian colony which are intended primarily to serve members of the Indian tribe.

(6) Limit the operation by a person of multiple community solar facilities within close proximity to one another, including, without limitation, prohibiting a person, directly or indirectly through a subsidiary or affiliate, from developing, owning or operating more than one community solar facility on:

(I) The same parcel;

(II) Two or more contiguous parcels; or

(III) Two or more parcels which are not contiguous but which were divided from the same parcel within the immediately preceding 5 years.

(7) Not prohibit the development, ownership or operation of multiple community solar facilities on contiguous parcels if each community solar facility is owned and operated by a different person.

(8) Require each community solar facility to be separately metered and interconnected, unless a utility grants a waiver to authorize joint metering or interconnection.

(c) Authorize a subscriber organization to enter into leases, sale-and-leaseback transactions, operating agreements and ownership arrangements with third parties.

(d) Require at least 10 percent of the total generating capacity of community solar facilities in this State be available for use by low-income customers.



(e) Require at least 10 percent of the total generating capacity of community solar facilities in this State be available for use by low-income service organizations.

(f) Establish a minimum target for participation in the Community Solar Program by Indian tribes.

(g) Authorize any customer of a utility in any rate class of the utility to be a subscriber.

(h) Prohibit a utility from placing a subscriber into a different rate class because the subscriber has subscribed to a community solar facility.

(i) Provide for the transferability and portability of subscriptions, including, without limitation, allowing a subscriber to retain a subscription to a community solar facility if the subscriber moves to a different location within the same utility service territory.

(j) Establish uniform standards, charges, fees and streamlined applications and processes for the interconnection of a community solar facility that allow the utility to recover reasonable interconnection costs for each community solar facility.

(k) Facilitate ownership of community solar facilities in this State by a diverse set of entities, including, without limitation, low-income service organizations, nonprofit entities, Indian tribes, women, racial and ethnic minorities and subscriber organizations that have received a certificate of public convenience and necessity and are subject to the provisions of NRS 704.673, 704.675 or 704.677.

(l) Include a preference for the participation of Indian tribes, low-income customers and low-income service organizations which may include, without limitation, encouraging the participation of Indian tribes, low-income customers and low-income service organizations in the Community Solar Program by offering community solar tariffs, incentives and siting.

(m) Include targeted incentives to ensure that low-income customers are included in the Community Solar Program regardless of housing type and to maximize the benefits of community solar to low-income customers.

(n) Establish one or more programs or mechanisms structured in an assistance model to reduce the energy burden for low-income customers who participate in the Community Solar Program, provided at no cost to such customers and integrated with other complementary programs and co-benefits, including, without limitation, energy efficiency, energy assistance and workforce development programs.

(o) Encourage workforce development and entrepreneurship opportunities for a diverse range of persons, including, without



1 *limitation, low-income customers, women, racial and ethnic*
2 *minorities and other traditionally underrepresented groups.*

3 *(p) Authorize a municipal or other institutional customer's*
4 *subscription to exceed the customer's average monthly usage or*
5 *maximum subscription size if the customer serves as a backup*
6 *subscriber that fills any gap in subscriptions if a community solar*
7 *facility is undersubscribed or customers default on their*
8 *subscriptions.*

9 *(q) Establish a process for the evaluation and adjustment of*
10 *the Community Solar Program every 5 years.*

11 *(r) Reasonably allow for the creation and financing of*
12 *community solar facilities.*

13 *2. The regulations adopted by the Commission pursuant to*
14 *subsection 1 must not impose different requirements for a*
15 *community solar facility that is not owned or operated by a utility*
16 *than the requirements imposed for a community solar facility*
17 *owned or operated by a utility.*

18 *3. On or before September 1 of each year, each subscriber*
19 *organization shall submit a report to the Commission*
20 *demonstrating its compliance with the regulations adopted*
21 *pursuant to this section.*

22 **Sec. 13.** *1. For a period of 25 years after a community*
23 *solar facility owned or operated by a subscriber organization*
24 *begins generating electricity, a subscriber is entitled to a kilowatt-*
25 *hour credit on the subscriber's monthly utility bill for the*
26 *proportional output of the community solar facility attributable to*
27 *that subscriber for the preceding month. The credit for each*
28 *kilowatt-hour of electricity must equal a percentage, as set forth in*
29 *subsection 2, of the rate the subscriber would have paid for a*
30 *kilowatt-hour of electricity supplied by the utility in the preceding*
31 *month.*

32 *2. The percentage to be used to determine the credit pursuant*
33 *to subsection 1 for each kilowatt-hour which is part of the*
34 *proportional output of the community solar facility attributable to*
35 *a subscriber must equal:*

36 *(a) Ninety-five percent, before the date on which the*
37 *Commission determines that the cumulative amount of all*
38 *interconnected community solar facilities in this State is equal to*
39 *80 megawatts.*

40 *(b) Eighty-eight percent:*

41 *(1) On or after the date that the Commission determines*
42 *that the condition set forth in paragraph (a) has been met; and*

43 *(2) Before the date on which the Commission determines*
44 *that the cumulative amount of all interconnected community solar*
45 *facilities in this State is at least 160 megawatts.*



(c) Eighty-one percent:

(1) On or after the date that the Commission determines that the condition set forth in subparagraph (2) of paragraph (b) has been met; and

(2) Before the date on which the Commission determines that the cumulative amount of all interconnected community solar facilities in this State is at least 320 megawatts.

(d) Seventy-five percent, on or after the date on which the Commission determines that the cumulative amount of all interconnected community solar facilities in this State is at least 320 megawatts.

3. A subscriber organization shall, on a monthly basis and at other reasonable times determined by the utility in the service territory in which the community solar facility owned or operated by the subscriber organization is located, provide to the utility information necessary to determine the proportional share of each subscription. Such information must be provided in an electronic format and in the form prescribed by the Commission.

4. Each month, a utility shall provide to each subscriber organization operating a community solar facility which is interconnected in the service territory of the utility a report, in an electronic format and using a standardized form, stating the total value of kilowatt-hour credits applicable to the community solar facility in the immediately preceding month and the number of kilowatt-hour credits applied to the bill of each subscriber of the community solar facility in the preceding month.

5. On or before the 15th day of each calendar month, a utility shall post on its Internet website and report to the Commission the cumulative interconnected capacity of the community solar facilities in this State.

6. A utility shall not, for any purpose, assign a subscriber to a rate class other than the rate class to which the subscriber would belong if the subscriber did not have a subscription to a community solar facility, including, without limitation, for the purpose of any fee or charge.

7. A utility shall assess against a subscriber:

(a) If applicable, the universal energy charge imposed pursuant to NRS 702.160; and

(b) Any charges imposed pursuant to chapter 701B of NRS or NRS 704.7827 or 704.785 which are assessed against other customers in the same rate class as the subscriber.

➤ For any such charges calculated on the basis of a kilowatt-hour rate, the subscriber must only be charged with respect to kilowatt-hours of energy delivered by the utility to the customer-generator.



1 **Sec. 14.** *A subscription to a community solar facility must be*
2 *in writing and comply with the requirements of sections 15, 16 and*
3 *17 of this act.*

4 **Sec. 15.** *A subscription to a community solar facility must*
5 *include a cover page that provides the following information in*
6 *writing in at least 10-point font:*

7 1. *The amount due at the signing of the subscription.*

8 2. *An estimated timeline for the month in which the*
9 *subscriber will begin receiving kilowatt-hour credits on the*
10 *subscriber's monthly utility bill.*

11 3. *The estimated amount of any monthly payments due under*
12 *the subscription for the first year of operation of the community*
13 *solar facility and any known increases in monthly payments for*
14 *the term of the subscription.*

15 4. *The length of the term of the subscription.*

16 5. *A description of any guarantees relating to the*
17 *performance of the community solar facility.*

18 6. *The rate of any payment increases.*

19 7. *The estimated production of the community solar facility*
20 *attributable to the subscription in the first year of operation.*

21 8. *A description of the terms for renewal or any other options*
22 *available at the end of the term of the subscription.*

23 **Sec. 16.** *A subscription to a community solar facility must*
24 *include, without limitation, the following information in writing in*
25 *at least 10-point font:*

26 1. *The name, mailing address and telephone number of the*
27 *subscriber organization.*

28 2. *An estimated timeline for the month in which the*
29 *subscriber will begin receiving kilowatt-hour credits on the*
30 *subscriber's monthly utility bill.*

31 3. *The length of the term of the subscription.*

32 4. *A general description of the community solar facility to*
33 *which the subscription is applied.*

34 5. *The amounts, if any, of the:*

35 (a) *Monthly payments due under the subscription; and*

36 (b) *Total payments due under the subscription, excluding*
37 *taxes.*

38 6. *A description of any other one-time or recurring charges,*
39 *including, without limitation, a description of the circumstances*
40 *that trigger any late fees.*

41 7. *A description of any obligation the subscriber organization*
42 *has regarding the installation, repair or removal of the community*
43 *solar facility.*

44 8. *A description of any guarantees relating to the*
45 *performance of the community solar facility.*



9. A description of:

(a) Any taxes due at the commencement of the subscription;
and

(b) An estimate of the taxes known to be applicable during the term of the subscription, subject to any change in the state or local tax rate or tax structure.

10. A disclosure notifying the subscriber of the transferability of the obligations under the subscription to a subsequent subscriber.

11. The identification of any state or federal tax incentives that are included in calculating the amount of the monthly payments due under the lease.

12. A description of the ownership of any tax credits, tax rebates, tax incentives or portfolio energy credits in connection with the community solar facility.

13. Any terms for renewal of the subscription.

14. A description of all options available to the subscriber in the event of a change of the subscriber's location or residence:

(a) Within the same service territory; or

(b) To another service territory.

15. An estimate of the amount of electricity that could be generated by the community solar facility attributable to the subscription in the first year of operation.

16. The granting to the subscriber of the right to rescind the subscription for a period ending not less than 3 business days after the subscription is signed.

17. A signature block that is signed and dated by the subscriber and the subscriber organization.

Sec. 17. 1. The subscription to a community solar facility must include a written disclosure that is not more than three pages in length and is in at least 10-point font.

2. The disclosure described in subsection 1 must be separate from the cover page and subscription described in sections 15 and 16 of this act.

3. The disclosure described in subsection 1 must include, without limitation:

(a) The name, mailing address, telephone number and electronic mail address of the subscriber organization;

(b) The length of the term of the subscription;

(c) The amount due at the signing of the subscription;

(d) The estimated amount of the monthly payments due under the subscription;

(e) The estimated amount of the total payments due under the subscription;



(f) A description of any one-time or recurring fees, including, without limitation, a description of the circumstances that trigger:

(1) Any late fees; and

(2) Any cancellation fees;

(g) The total number of payments to be made under the subscription;

(h) The due date of any payment and the manner in which the subscriber will receive an invoice for such payments;

(i) The rate of any payment increases and the date on which the first increase in the rate may occur, if applicable;

(j) Assumptions concerning the design of the community solar facility, including, without limitation:

(1) The size of the community solar facility;

(2) The estimated amount of production for the community solar facility in the first year of operation;

(3) The estimated annual degradation to the community solar facility; and

(4) As specified by the subscription at the time of installation of the community solar facility, whether or not an electric utility must credit a subscriber for any excess energy that is generated by the community solar facility attributable to the subscription;

(k) A disclosure notifying the subscriber whether maintenance and repairs of the community solar facility are included in the subscription;

(l) A disclosure describing the transferability of the subscription;

(m) A description of any guarantees relating to the performance of the community solar facility;

(n) A description of the basis for any estimates of savings that were provided to the subscriber, if applicable; and

(o) A disclosure concerning the retention of any portfolio energy credits, if applicable.

Sec. 18. If a subscription to a community solar facility makes a written reference to the price of electricity that is provided by an electric utility, the subscription must also provide, in 12-point font, a disclosure in substantially the following form:

Actual utility rates may go up or down and actual savings may vary. For further information regarding rates, you may contact your local utility or the Public Utilities Commission of Nevada.

Sec. 19. A utility shall purchase unsubscribed electricity generated by a community solar facility within the service area of the utility. Compensation for unsubscribed energy must be



provided to the subscriber organization at the rate offered for short-term purchases from qualifying facilities set forth in regulations adopted pursuant to NRS 704.210.

Sec. 20. 1. After a subscriber organization installs a community solar facility, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 and 704.78213.

2. The Commission shall designate the portfolio energy credits issued pursuant to this section as portfolio energy credits generated, acquired or saved from solar renewable energy systems for the purposes of the portfolio standard.

3. Notwithstanding any other provision of law, all environmental attributes associated with a community solar facility, including, without limitation, portfolio energy credits issued for a community solar facility installed pursuant to the regulations adopted pursuant to section 12 of this act, must be considered the property of the subscriber organization. At the discretion of the subscriber organization, such environmental attributes may be distributed to subscribers of the community solar facility, sold, accumulated or retired.

Sec. 21. Notwithstanding any other provision of law, a subscriber organization is not a public utility and is not subject to regulation as a public utility by the Commission, other than regulation under sections 2 to 22, inclusive, of this act, unless the subscriber organization constitutes a public utility and is subject to regulation by the Commission under the provisions of this chapter other than sections 2 to 22, inclusive, of this act.

Sec. 22. The Commission shall regulate community solar projects or programs operated by investor-owned public utilities in accordance with sections 2 to 22, inclusive, of this act, to ensure that the interests of customers who subscribe to community solar facilities are protected and that such investor-owned public utilities are able to recover the reasonable costs of administering such community solar projects or programs.

Sec. 23. NRS 704.021 is hereby amended to read as follows:
704.021 "Public utility" or "utility" does not include:

1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if:

(a) They serve 25 persons or less; and



(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to \$25,000 or less during the immediately preceding 12 months.

3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

7. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

8. Persons who are video service providers, as defined in NRS 711.151, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.

9. Persons who own or operate a net metering system described in paragraph (c) of subsection 1 of NRS 704.771.

10. Persons who for compensation own or operate individual systems which use renewable energy to generate electricity and sell the electricity generated from those systems to not more than one customer of the public utility per individual system if each individual system is:

(a) Located on the premises of another person;

(b) Used to produce not more than 150 percent of that other person's requirements for electricity on an annual basis for the premises on which the individual system is located; and

(c) Not part of a larger system that aggregates electricity generated from renewable energy for resale or use on premises other than the premises on which the individual system is located.

➤ As used in this subsection, "renewable energy" has the meaning ascribed to it in NRS 704.7811.



11. Persons who own, control, operate or manage a facility that supplies electricity only for use to charge electric vehicles.

12. A subscriber organization, as defined in section 8 of this act, that owns or operates a community solar facility, as defined in section 3 of this act, in accordance with sections 2 to 22, inclusive, of this act and the regulations adopted pursuant thereto.

Sec. 24. 1. Not later than December 31, 2019, the Commission shall:

(a) Adopt the regulations required by section 12 of this act; and
(b) Require each utility to file any tariffs, agreements or forms necessary to implement the provisions of this act.

2. A utility shall, not later than June 30, 2020, begin applying the kilowatt-hour credits required by section 12 of this act to the monthly utility bill of each subscriber to a community solar facility which is interconnected in the service territory of the utility.

3. As used in this section:

(a) "Community solar facility" has the meaning ascribed to it in section 3 of this act.

(b) "Subscriber" has the meaning ascribed to it in section 7 of this act.

(c) "Utility" has the meaning ascribed to it in section 11 of this act.

Sec. 25. This act becomes effective upon passage and approval for the purpose of adopting any regulations or performing any other preparatory administrative tasks necessary to carry out the provisions of this act, and on July 1, 2019, for all other purposes.

