

COMMUNITY SOLAR FACILITIES

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House Bill 4464 as introduced
Sponsor: Rep. Rachel Hood
Committee: Energy, Communications, and Technology
Complete to 11-7-23

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4464 would amend the Clean and Renewable Energy and Energy Waste Reduction Act to require the Michigan Public Service Commission (MPSC) to issue rules concerning community solar facilities and establish applicable bill credit rates for facility subscribers. The bill would add two new sections to Part 8 (Community Solar Facilities). Part 8 is not yet a part of the act, but would be added by Senate Bill 153.¹ For context, that bill is described first below.

Senate Bill 153 would require an *electric provider* to apply a *bill credit* to a subscriber's monthly electric bill for the output of a *community solar facility* attributable to that *subscriber* during the immediately preceding month.

Electric provider, as used in Senate Bill 153 and House Bill 4464, would not include an alternative electric supplier licensed under section 10a of 1939 PA 3, a cooperative electric utility, or a municipally owned electric utility.

Bill credit would mean the monetary value of the electricity in kilowatt-hours generated by the community solar facility that is allocated to a subscriber to offset that subscriber's electricity bill.

Community solar facility would mean a facility (which would not have to be located on a single parcel of land) that meets all of the following requirements:

- The facility is connected to the electric distribution grid serving Michigan.
- The facility generates electricity by means of a solar photovoltaic device.
- The facility's capacity does not exceed five megawatts alternating current.
- The facility has at least three subscribers.
- No subscriber holds more than a 40% proportional interest in the output of the system.
- The facility produces for each subscriber a bill credit for the electricity generated in proportion to the size of the subscriber's subscription.
- For the purpose of initial program qualifications, the facility does not have a point of interconnection located within one mile of the point of interconnection of a solar facility under the *control* of the same entity.
- Beginning one year after commencing operation, at least 60% of the facility's capacity is subscribed by subscriptions of 40 kilowatts or less.

¹ Senate Bill 153 has been referred to the Senate Energy and Environment committee. This summary describes the introduced version of the bill.

Subscriber would mean a retail electric customer of an electric provider that owns one or more **subscriptions** to a community solar facility interconnected with and located in the service territory of the electric provider, as long as the subscriber's property related to the applicable electricity bill and bill credits is located in the same service territory.

Subscription would mean a contract between the owner of a community solar facility and a subscriber under which the subscriber's estimated bill credits do not exceed the average annual bill for the customer account the subscription is attributed to.

Control would mean the possession, directly or indirectly, of the power to direct the management and policies of an entity, whether through the ownership of voting securities, by contract, or otherwise. Control would exist when affiliates have shared sales or revenue-sharing arrangements or common debt and equity financing arrangements, but control would not be limited to such situations.

The value of the bill credit would have to be calculated by multiplying the subscriber's portion of the kilowatt-hour electricity production from the community solar facility by the **applicable bill credit rate** for the subscriber. Any amount of a bill credit that exceeded the subscriber's monthly bill would have to be carried over and applied to the next monthly bill as many times as necessary to use up the entire credit.

Applicable bill credit rate would mean the dollar-per-kilowatt-hour rate established by the MPSC under House Bill 4464 to calculate a subscriber's bill credit.

An electric provider would have to provide bill credits to each of a community solar facility's subscribers for electricity generated by the community solar facility for at least 25 years from the date the community solar facility begins commercial operation. When an electric provider files tariffs with the MPSC, the electric provider would have to include options in the tariffs that allow a subscriber to receive bill credits for the subscriber's electricity bills.

A **subscriber organization** would have to provide a subscriber list to the electric provider whose service territory the organization's community solar facility is located in. The subscriber list would have to be in a standardized electronic format and would have to specify the percentage of the community solar facility's generation attributable to each subscriber. The subscriber organization would have to keep the subscriber list up to date.

Subscriber organization would mean a for-profit or nonprofit entity that owns or operates one or more community solar facilities. A subscriber organization would not be considered to be an electric provider as a result of its ownership or operation of a community solar facility.

On a monthly basis, an electric provider would have to provide a subscriber organization that has a community solar facility in the electric provider's service territory with a report, in a standardized electronic format, that specifies the total value of bill credits generated by the subscriber organization's community solar facility in the prior month and the amount of the bill credit applied to each subscriber.

A subscriber organization could accumulate bill credits if all of the electricity generated by a community solar facility was not allocated to subscribers in a given month. On an annual basis,

the subscriber organization would have to provide the electric provider with instructions for distributing excess bill credits to subscribers.

Any renewable energy credits under the act for electricity generated by a community solar facility would be the property of the subscriber organization that owns or operates the community solar facility. The subscriber organization could sell, accumulate, retire, or distribute to subscribers the subscriber organization's renewable energy credits.

MCL 460.1005 and proposed 460.1231 and 460.1233

House Bill 4464 would require the MPSC to expedite review and approval of a community solar program that will maximize Michigan's participation in the federal Inflation Reduction Act of 2022.

By one year after the bill took effect, the MPSC would have to promulgate rules to do all of the following:

- Allow for the creation and financing of community solar facilities and for subscribers to receive bill credits.
- Ensure that all customer classes have opportunities to participate as subscribers to a community solar facility.
- Require that not less than 30% of the electricity produced by each community solar facility be reserved for *low-income households* and *low-income service organizations*.
- Prohibit an electric provider from removing a customer from the customer's applicable customer class because the customer subscribes to a community solar facility.
- Provide for the transferability and portability of subscriptions, including a subscriber's retention of a subscription to a community solar facility if the subscriber moves within the same electric provider's service territory.
- Provide for consumer protection in compliance with existing laws.
- Allow an electric provider to recover costs of administering bill credits.
- Modify existing interconnection standards, fees, and processes as needed to do both of the following:
 - Facilitate the efficient and cost-effective interconnection of community solar facilities.
 - Allow an electric provider to recover reasonable interconnection costs for each community solar facility.
- Require that electric providers efficiently connect community solar facilities to the electrical distribution grid and not discriminate against community solar facilities.
- Ensure that prospective subscriber organizations have received interconnection agreements, have legal *control* of their sites, and have received all necessary *nonministerial* permits before applying for the program under the new Part 8.
- Otherwise implement Part 8.

Control would mean the possession, directly or indirectly, of the power to direct the management and policies of an entity, whether through the ownership of voting securities, by contract, or otherwise. Control would exist when affiliates have shared sales or revenue-sharing arrangements or common debt and equity financing arrangements, but control would not be limited to such situations.

Low-income household would mean a household that meets any of the following:

- The household income does not exceed 80% of the area median household income published by the U.S. Department of Housing and Urban Development.
- The household income does not exceed 200% of the poverty line defined in section 2110 of the Social Security Act.
- The household is enrolled in a low-income program facilitated by this state or overseen by the electric utility.
- The household meets other low-income criteria as determined by the MPSC.

Low-income service organization would mean an organization that provides services, assistance, or housing to individuals in low-income households and could include a central tribal government or a tribally designated housing authority.

Nonministerial permits means governmental permits and approvals to construct the project, other than ministerial permits such as a building permit.

By one year after the bill took effect, the MPSC would have to establish applicable bill credit rates that meet both of the following requirements:

- The rates result in access to subscriptions for all customer classes.
- The rates are derived from the electric provider's total aggregate retail rate on a per-customer-class basis.

In establishing applicable bill credit rates, the MPSC could consider proposed rules and proposed fees and charges.

Proposed MCL 460.1235 and 460.1237

House Bill 4464 cannot take effect unless Senate Bill 153 is also enacted.

FISCAL IMPACT:

House Bill 4464 would be unlikely to have a significant fiscal impact on the Michigan Public Service Commission. It is unclear whether the MPSC's responsibilities under the bill could be completely absorbed with existing appropriations and resources. In the event that additional resources were required, the MPSC is financed primarily by public utility assessments levied on the utilities, so any additional incurred costs would likely be factored into the assessment and sufficiently mitigated. The bill would not have a fiscal impact on any other units of state or local government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.