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**HOUSE BILL 1509**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Hackney, Doglio, Fitzgibbon, Berry, Ramel, Duerr, Bateman, Paul, Pollet, Macri, Reed, and Bergquist

AN ACT Relating to fair access to community solar; amending RCW 80.28.370, 80.28.375, 82.16.182, and 82.16.183; adding a new section to chapter 80.28 RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature finds and declares that stimulating local investment in solar projects continues to be an important part of a state energy strategy by helping to increase energy independence from fossil fuels, reduce energy burden, promote economic development, hedge against the effects of climate change, create more energy equity, and attain environmental benefits. The legislature finds that the vast majority of Washingtonians still do not have access to the benefits of solar energy. The legislature intends to stimulate the deployment of community solar projects for the benefit of all Washingtonians.

(2) The legislature finds that participation of low-income customers in solar projects is consistent with the goals and intent of the energy assistance provisions of chapter 19.405 RCW, the Washington clean energy transformation act, when this participation achieves a reduction in energy burden for the customers.

(3) The legislature finds that offering energy assistance through renewable energy programs, including community solar, at a discount to low-income customers is consistent with the goal and intent of RCW 80.28.068.

(4) The legislature further intends to facilitate community solar bill crediting options that can help the state cost-effectively meet the mandates in the Washington state energy code.

(5) The legislature finds that participation of low-income customers in community solar projects will support the state capitalizing on the opportunity created by the inflation reduction act. The inflation reduction act modifies and extends solar tax credits through 2035 and structures them to incentivize investment in disadvantaged and low-income communities and ensure newly created jobs are good-paying jobs. This policy is intended to ensure the full benefits of the inflation reduction act's provisions for low-income inclusion by enabling fair access to community solar to all Washingtonians.

**Sec.**  RCW 80.28.370 and 2017 3rd sp.s. c 36 s 10 are each amended to read as follows:

The definitions in this section apply throughout this section and RCW 80.28.375 unless the context clearly requires otherwise.

(1) ((~~"Community solar company" means a person, firm, or corporation, other than an electric utility or a community solar cooperative, that owns a community solar project and provides community solar project services to project participants.~~

~~(2) "Community solar project" means a solar energy system that has a direct current nameplate generating capacity that is no larger than one thousand kilowatts.~~

~~(3)~~)) "Commission" means the utilities and transportation commission.

(2) "Community solar bill credit" means a monetary credit for electricity generated by a community solar project, in proportion to a community solar project subscriber's share of the community solar project's kilowatt-hour output, and allocated to a community solar project subscriber's electricity bill on the utility's monthly billing cycle. Electric utilities must apply community solar bill credits to each subscriber's monthly amount due.

(3) "Community solar program" means the program established in section 3 of this act 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 project in accordance with this act.

(4) "Community solar project" means one or more solar photovoltaic energy systems that provide project subscribers a community solar bill credit and:

(a) If located in an investor-owned utility territory, has an alternating current nameplate generating capacity that is no larger than 5000 kilowatts, or if located in a consumer-owned utility territory, has an alternating current nameplate generating capacity that is no larger than 200 kilowatts, unless a larger size is approved by the utility serving the site of the project;

(b) Is located in the state;

(c) Has a minimum of three subscribers and a single customer does not own or subscribe to more than 49 percent of the generating capacity of the project;

(d) May be located remotely from the subscriber's premises and must not be required to provide energy to on-site load; and

(e) Is interconnected into the distribution system of a utility.

(5) "Community solar project manager" means the entity identified as having responsibility for managing the operation of a community solar project and, if applicable, for maintaining contact with the utility that procures electricity from the community solar project. A community solar project manager may be:

(a) An independent community solar company that has registered with the commission; or

(b) A person or group of individuals who form to manage a community solar project.

(6) "Community solar project services" means ((~~the provision of electricity generated by a community solar project, or~~)) the provision of the financial benefits associated with electricity generated by a community solar project, to multiple project participants, and may include other services associated with the use of the community solar project such as system monitoring and maintenance, warranty provisions, performance guarantees, and customer service.

((~~(4)~~)) (7) "Community solar subscription manager" means an entity that:

(a) Markets community solar projects or otherwise provides community solar-related services under its own brand name; or

(b) Performs any administrative actions to connect or enroll customers with community solar projects or allocates subscriptions.

(8) "Electric utility" means a consumer-owned utility or investor-owned utility as those terms are defined in RCW 19.280.020.

((~~(5) "Project participant" means a customer who enters into a lease, power purchase agreement, loan, or other financial agreement with a community solar company in order to obtain a beneficial interest in, other than direct ownership of, a community solar project.~~

~~(6) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.~~))

(9) "Investor-owned utility" has the same meaning as defined in RCW 19.280.020.

(10) "Low-income" has the same meaning as defined in RCW 19.405.020.

(11) "Low-income service provider" has the same meaning as defined in RCW 82.16.182.

(12) "Minimum bill" means a subscribers' basic charge.

(13) "Net-crediting" means a program under which an electric utility remits the cash value of a subscription fee to a subscription manager of a community solar project, regardless of whether or not the eligible customer has paid their monthly electric bill, and places the remaining bill credit on the eligible customer's bill.

(14) "Program implementation manual" means the set of guidelines and requirements for implementing the community solar program adopted by the commission.

(15) "Renewable energy credit" means a tradable certificate of proof of one megawatt-hour of a renewable resource. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity and the certificate is verified by a renewable energy credit tracking system.

(16) "Solar photovoltaic energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

(17) "Subscriber" means a retail customer of an electric utility who enters into a contractual agreement for part of a community solar project or who has an ownership interest in a community solar project that results in community solar bill credits being applied to that customer's electricity bill.

(18) "Subscription" means a contractual agreement between a subscriber and a community solar project manager.

(19) "Unsubscribed energy" means the bill credits that accrue if a community solar project is not fully subscribed in any given month, which can be rolled forward on the community solar project account for up to two years from its month of generation and allocated by the community solar project manager or community solar subscription manager to subscribers at any time during that period. At the end of that period, any undistributed bill credit will be compensated to the community solar project manager or community solar subscription manager at the applicable electric utilities' avoided cost of wholesale power.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

(1) The commission must adopt rules to implement a community solar program by April 30, 2024. The commission must adopt rules that, at a minimum:

(a) Create appropriate consumer protection guidelines; and

(b) Require investor-owned utilities to file the tariffs, agreements, or forms necessary for implementation of the community solar program.

(2) Commission staff must establish and maintain a publicly available queue of precertified projects in a manner that protects commercially sensitive or competitive information.

(3) A community solar project manager or community solar subscription manager must:

(a) Provide a list of subscribers and the following information about each subscriber to a utility, in a standardized electronic format approved by the commission, for the purpose of bill crediting to subscribers:

(i) The name, address, utility account number, and meter number of each subscriber;

(ii) The subscriber's share of the community solar project, which must be communicated as a percentage of the community solar project's generation or dollar amount;

(iii) If a community solar project manager or a community solar subscription manager is using net-crediting, the fee owed by each subscriber to the community solar project manager, communicated as a percentage of the subscriber's total community solar bill credit received; and

(iv) A community solar project manager or a community solar subscription manager may update the list of subscribers on a monthly basis, at a minimum;

(b) Collect information regarding the financial benefits realized by low-income subscribers and low-income service provider subscribers;

(c) Administer the project in a transparent manner that allows for fair and nondiscriminatory opportunities for participation; and

(d) Provide each subscriber with a disclosure form containing all material terms and conditions of participation in the project including, but not limited to, the following:

(i) The term of participation;

(ii) Contract provisions regulating the disposition or transfer of the subscriber's interest in the project, including any potential costs associated with such a transfer;

(iii) All recurring and nonrecurring charges including any penalties for cancellation;

(iv) A description of the billing and payment procedures;

(v) Projected percentage of the customer's usage that will be allocated to a community solar project and a description of the methodology used to develop the projections;

(vi) Explanation of the subscriber's relationship to renewable energy credits;

(vii) Explanation of the responsibilities of the community solar project manager or community solar subscription manager, electric utility, and commission;

(viii) Contact information for questions and complaints; and

(ix) Any other terms and conditions of the services provided by the community solar subscription manager.

(4) A community solar project manager or a community solar subscription manager may not:

(a) Use credit checks or sign-up fees as qualifying or screening criteria for residential customers to become subscribers; or

(b) Charge early termination fees or other exit fees to residential customers who wish to terminate their subscription to a community solar project.

(5) A subscriber who has a change in the service address associated with the subscriber's subscription must maintain the subscription for the new address if the new address is within the same electric territory as the old address. An electric utility or a subscriber organization may not terminate a subscriber's subscription due to a change of address for the service address associated with the subscription as long as it is within the same electric territory. An electric utility must make any changes necessary to accommodate a subscriber's change of address.

(6)(a) A community solar bill credit must equal the value of a subscriber's total kilowatt-hour rate including, but not limited to, all volumetric charges for generation, transmission, distribution, taxes, and fees.

(b) 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 next monthly retail electric bill except for the minimum bill. Any unused bill credit must be rolled forward on the subscriber's utility account until it is consumed.

(c) Subscribers must be allowed to receive bill credits through the life of the community solar project.

(d) A minimum bill charged by an electric utility may not be increased due to a subscriber's participation in a community solar project.

(7) A community solar project manager or community solar subscription manager may enter into a net-crediting program on behalf of an eligible customer. Net crediting bills must include the subscriber's standard utility bill and the subscriber's subscription fee on the subscriber's monthly electric bill and provide the subscriber with a net credit equivalent to the total bill credit value for that generation period minus the subscription fee, provided the subscription fee is structured as a fixed percentage of bill credit value. The net crediting agreement must set forth payment terms from the electric utility to the community solar project manager or the community solar subscription manager of the community solar project, and the electric utility may charge a net crediting fee to the community solar project manager or community solar subscription manager of a community solar project that may not exceed two percent of the subscription fee.

(8)(a) At least 50 percent of the total community solar program generating capacity must be subscribed by low-income subscribers and low-income service provider subscribers.

(b) Low-income subscribers and low-income service provider subscribers are exempt from community solar program related fees.

(9) Costs incurred by an electric utility during the development and implementation of the community solar program are recoverable in electric utility rates. These costs include each electric utilities' prudently incurred start-up costs associated with implementing the community solar program. Start-up costs include, but are not limited to, costs associated with billing system upgrades, but exclude any costs associated with the electric utility developing a project.

(10) All renewable energy credits that are associated with the generation of electricity by a community solar project are the property of the community solar project manager and may be retired or transferred by the community solar project manager or retired on behalf of the subscribers.

(11) Nothing in this section may be construed as intending to preclude persons from investing in or possessing an ownership interest in a community solar project or from applying for and receiving federal investment tax credits.

**Sec.**  RCW 80.28.375 and 2017 3rd sp.s. c 36 s 11 are each amended to read as follows:

(1) No community solar ((~~company may engage in business in this state except in accordance with the provisions of this chapter. Engaging in business as a community solar company includes advertising, soliciting, offering, or entering into an agreement to own a community solar project and provide community solar project services to electric utility~~)) project manager, community solar subscription manager, or their contracted agents, affiliates, or service providers may engage in business in this state except in accordance with the provisions of this chapter. Engaging in business includes advertising, soliciting, offering, or entering into an agreement to own a community solar project and provide community solar project services to customers.

(2) A community solar ((~~company~~)) project manager or community solar subscription manager must register with the commission before engaging in business in this state ((~~or applying for certification from the Washington State University extension energy program under RCW 82.16.165(1). Registration with the commission as a community solar company must occur on an annual basis~~)). The registration must be on a form prescribed by the commission and contain that information as the commission may by rule require, but must include at a minimum:

(a) The name and address of the community solar ((~~company~~)) project manager or community solar subscription manager;

(b) The name and address of the community solar ((~~company's~~)) project manager's registered agent, if any;

(c) ((~~The name, address, and title of each officer or director;~~

~~(d)~~)) The community solar ((~~company's most current balance sheet~~)) project manager's or community solar subscription manager's most current financial fitness, which should be filed confidentially;

((~~(e)~~)) (d) The community solar ((~~company's~~)) project manager's or community solar subscription manager's latest annual report, if any, which should be filed confidentially;

((~~(f)~~)) (e) A description of the services the community solar ((~~company~~)) project manager or community solar subscription manager offers or intends to offer((~~, including financing models~~)); and

((~~(g)~~)) (f) Disclosure of any pending litigation against it.

(3) As a precondition to registration, the commission may require the procurement of a performance bond or other mechanism sufficient to cover any advances or deposits the community solar ((~~company~~)) project manager or community solar subscription manager may collect from ((~~project participants~~)) subscribers or order that the advances or deposits be held in escrow or trust. Required performance bonds must be of a size commensurate with the scope of the projects offered and may not be set in such a manner as to preclude nonprofits, individuals, and small businesses from participating as community solar project managers or community solar subscription managers.

(4) The commission may deny registration to any community solar ((~~company~~)) project manager or community solar subscription manager that:

(a) Does not provide the information required by this section;

(b) Fails to provide a performance bond or other mechanism, if required;

(c) Does not possess adequate financial resources to provide the proposed service; or

(d) Does not possess adequate technical competency to provide the proposed service.

(5) The commission must take action to approve or issue a notice of hearing concerning any application for registration within ((~~thirty~~)) 30 days after receiving the application. The commission may approve an application with or without a hearing, should 30 days pass since an application has been filed and the commission has not acted it will be deemed approved. The commission may deny an application after a hearing.

(6) The commission may charge a community solar ((~~company~~)) project manager or community solar subscription manager an annual application fee to recover the cost of processing applications for registration under this section. The fee must not be set in such a manner as to preclude nonprofits, individuals, and small businesses from participating as community solar project managers or community solar subscription managers.

(7) The commission may adopt rules that describe the manner by which it will register a community solar ((~~company~~)) project manager or community solar subscription manager, ensure that the terms and conditions of community solar projects or community solar project services comply with the requirements of chapter 36, Laws of 2017 3rd sp. sess., establish the community solar ((~~company's~~)) project manager's or community solar subscription manager's responsibilities for responding to customer complaints and disputes, and adopt annual reporting requirements. In addition to the application fee authorized under subsection (6) of this section, the commission may adopt regulatory fees applicable to a community solar ((~~companies~~)) project manager or community solar subscription manager pursuant to RCW 80.04.080, 80.24.010, and 80.24.020. Such fees may not exceed the cost of ensuring compliance with this chapter.

(8) The commission may suspend or revoke a registration upon complaint by any interested party, or upon the commission's own motion after notice and opportunity for hearing, when it finds that a registered community solar ((~~company~~)) project manager or community solar subscription manager or its agent has violated this chapter or the rules of the commission, or that the community solar ((~~company~~)) project manager or community solar subscription manager or its agent has been found by a court or governmental agency to have violated the laws of a state or the United States.

(9) For the purpose of ensuring compliance with this chapter, the commission may issue penalties against community solar companies for violations of this chapter as provided for public service companies pursuant to chapter 80.04 RCW.

(10) Upon request of the commission, a community solar ((~~company~~)) project manager or community solar subscription manager registered under this section must provide information about its community solar projects or community solar project services.

(11) A violation of this section constitutes an unfair or deceptive act in trade or commerce in violation of chapter 19.86 RCW, the consumer protection act. Acts in violation of chapter 36, Laws of 2017 3rd sp. sess. are not reasonable in relation to the development and preservation of business, and constitute matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(12) For the purposes of RCW 19.86.170, actions or transactions of a community solar ((~~company~~)) project manager or community solar subscription manager may not be deemed otherwise permitted, prohibited, or regulated by the commission.

**Sec.**  RCW 82.16.182 and 2022 c 212 s 4 are each amended to read as follows:

(1) The definitions in this section apply throughout this section and RCW 82.16.183 unless the context clearly requires otherwise.

(a)((~~(i)~~)) "Administrator" means the utility, nonprofit, community solar project manager, community solar subscription manager, tribal housing authority ((~~as provided in (a)(ii) of this subsection~~)), or other local housing authority that organizes and administers a community solar project as provided in RCW 82.16.183 and 82.16.170.

((~~(ii) A tribal housing authority may only administer a community solar project on tribal lands or lands held in trust for a federally recognized tribe by the United States for subscribers who are tribal members.~~))

(b) "Certification" means the authorization issued by the Washington State University extension energy program establishing a community solar project administrator's eligibility to receive a low-income community solar incentive payment from the electric utility serving the site of the community solar project, on behalf of, and for the purpose of providing direct benefits to, its low-income subscribers, low-income service provider subscribers, and tribal and public agency subscribers.

(c)(i) "Community solar project" ((~~means a solar energy system that:~~

~~(A) Has a direct current nameplate capacity that is greater than 12 kilowatts but no greater than 199 kilowatts;~~

~~(B) Has, at minimum, either two subscribers or one low-income service provider subscriber; and~~

~~(C) Meets the applicable eligibility requirements in RCW 82.16.183~~)) has the same meaning as defined in RCW 80.28.370.

(ii) A community solar project may include a storage system with a solar energy system.

(d) "Consumer-owned utility" has the same meaning as in RCW 19.280.020.

(e) "Electric utility" or "utility" means a consumer-owned utility or investor-owned utility as those terms are defined in RCW 19.280.020.

(f) "Energy assistance" has the same meaning as provided in RCW 19.405.020.

(g) "Energy burden" has the same meaning as provided in RCW 19.405.020.

(h) "Governing body" has the same meaning as provided in RCW 19.280.020.

(i)(i) "Installed cost" includes only the renewable energy system components and fees that are integral and necessary for the generation and storage of electricity. Components and fees include:

(A) Solar modules and inverters;

(B) Battery systems;

(C) Balance of system, such as racking, wiring, switch gears, and meter bases;

(D) Nonhardware costs incurred up to the date of the final electrical inspection, such as fees associated with engineering, permitting, interconnection, and application;

(E) Labor; and

(F) Sales tax.

(ii) "Installed cost" does not include structures and fixtures that are not integral and necessary to the generation or storage of electricity, such as carports and roofing.

(j) "Interconnection customer" means the person, corporation, partnership, government agency, or other entity that proposes to interconnect, or has executed an interconnection agreement, with the electric utility.

(k) "Low-income" has the same meaning as provided in RCW 19.405.020.

(l) "Low-income service provider" includes, but is not limited to, a local community action agency or local community service agency designated by the department of commerce under chapter 43.63A RCW, local housing authority, tribal housing authority, low-income tribal housing program, affordable housing provider, food bank, or other nonprofit organization that provides services to low-income households as part of their core mission.

(m) "Multifamily residential building" means a building containing more than two sleeping units or dwelling units where occupants are primarily permanent in nature.

(n) "Person" means an individual, firm, partnership, corporation, company, association, agency, or any other legal entity.

(o) "Preferred sites" means 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.

(p) "Public agency" means any political subdivision of the state including, but not limited to, municipal and county governments, special purpose districts, and local housing authorities, but does not include state agencies.

(q)(i) Except as otherwise provided in (q)(ii) of this subsection, "qualifying subscriber" means a low-income subscriber, low-income service provider subscriber, tribal agency subscriber, or public agency subscriber.

(ii) For tribal agency subscribers and public agency subscribers, only the portion of their subscription to a community solar project that is demonstrated to benefit low-income beneficiaries, including low-income service providers and services provided to low-income citizens or households, is to be considered a qualifying subscriber.

(r) "Retail electric customer" has the same meaning as in RCW 80.60.010.

(s) "Subscriber" ((~~means a retail electric customer of an electric utility who owns or is the beneficiary of one or more units of a community solar project directly interconnected with that same utility~~)) has the same meaning as defined in RCW 80.28.370.

(t) "Subscription" ((~~means an agreement between a subscriber and the administrator of a community solar project~~)) has the same meaning as defined in RCW 80.28.370.

(u) "Community solar project manager" has the same meaning as defined in RCW 80.28.370.

(v) "Community solar subscription manager" has the same meaning as defined in RCW 80.28.370.

(2) This section expires June 30, 2038.

**Sec.**  RCW 82.16.183 and 2022 c 212 s 5 are each amended to read as follows:

(1) Beginning July 1, 2022, through June 30, 2033, an administrator of a community solar project meeting the eligibility requirements described in this section and RCW 82.16.170(3) may submit an application to the Washington State University extension energy program to receive a precertification for a community solar project. Projects with precertification applications approved by the Washington State University extension energy program have two years to complete their projects and apply for certification. Projects that have not completed certification within two years may apply to the Washington State University extension energy program for an extension of their precertification status for an additional 180 days if they can demonstrate significant progress during the time they were in precertification status. By certifying qualified projects pursuant to the requirements of this section and RCW 82.16.170(3), the Washington State University extension energy program authorizes the utility serving the site of a community solar project in the state of Washington to remit a one-time low-income community solar incentive payment to the community solar project administrator, who accepts the payment on behalf of, and for the purpose of providing direct benefits to, the project's qualifying subscribers.

(2) A one-time low-income community solar incentive payment remitted to a community solar project administrator for a project certified under this section equals the sum of the following:

(a) An amount, not to exceed $20,000 per community solar project, equal to the community solar project's administrative costs related to the administrative start-up of the project for qualifying subscribers; and

(b) An amount that does not exceed 100 percent of the proportional cost of the installed cost of the share of the community solar project that provides direct benefits to qualifying subscribers, taking into account any federal tax credits or other federal or nonfederal grants or incentives that the program is benefiting from.

(3) No new certification may be issued under this section for a community solar project that was certified under RCW 82.16.120 or 82.16.165, or for a community solar project served by a utility that has elected not to participate in the incentive program provided in this section.

(4) Community solar projects that are under precertification status under RCW 82.16.165 as of June 30, 2020, may not apply for precertification of that same project for the one-time low-income community solar incentive payment provided in this section.

(5)(a) In addition to the one-time low-income community solar incentive payment under subsection (2) of this section, a participating utility must also provide the following compensation for the generation of electricity from the certified project:

(i) For a community solar project that has an alternating current nameplate capacity no greater than 100 kilowatts, and that is connected behind the electric service meter, compensation must be determined in accordance with RCW 80.60.020 and provided to the retail electric customer receiving service at the situs of the meter.

(ii) For all other community solar projects ((~~for which the administrator is not a utility, compensation paid to the interconnection customer must be determined in a written agreement between the interconnection customer and the utility.~~

~~(iii) For all other community solar projects for which the administrator is a utility, compensation must be provided directly to subscribers in accordance with subsection (8)(a)(i) of this section~~)), compensation paid to the interconnection customer must be determined in accordance with section 3 of this act and provided to the subscribers.

((~~(iv)~~)) (iii)(A) When the administrator of a community solar project receives compensation for the generation of electricity from a participating utility, interconnection customer, or from the retail electric customer that is the host for the community solar project, the administrator must provide all of that compensation as a direct benefit to the project subscribers, except as described in ((~~(iv)~~)) (iii)(B) of this subsection.

(B) An administrator may deduct ongoing administrative and maintenance costs from compensation they provide to subscribers from power generation, provided those costs are identified in the subscription agreement or justified to the Washington State University extension energy program. The Washington State University extension energy program shall review any such administrative and maintenance costs justifications for reasonableness and approve, reject, or negotiate changes to the proposal. An administrator may request a change in the deduction for administrative and maintenance costs to the Washington State University extension energy program only if the subscription agreement includes language notifying the subscriber that administrative and maintenance fees are subject to change.

(b) For 10 years after certification, and by March 1st of each year following certification, the administrator must provide the Washington State University extension energy program with signed statements of the following for the preceding year:

(i) The energy production for the period for which compensation is to be provided;

(ii) Each subscriber's units of the project;

(iii) The amount disbursed to each subscriber for the period; and

(iv) The date and amount disbursed to each subscriber.

(6) A utility's participation in the incentive program provided in this section is voluntary.

(a) The utility may terminate its voluntary participation in the incentive program by providing notice in writing to the Washington State University extension energy program to cease accepting new applications for precertification for community solar projects that would be served by that utility. Such notice of termination of participation is effective after 15 days, at which point the Washington State University extension energy program may not accept new applications for precertification for community solar projects that would be served by that utility.

(b) Upon receiving a utility's notice of termination of participation in the incentive program, the Washington State University extension energy program must report on its website that community solar project customers of that utility are no longer eligible to receive new certifications under the incentive program.

(c) A utility that has terminated participation in the incentive program may resume participation upon filing a notice with the Washington State University extension energy program.

(7)(a) The Washington State University extension energy program may issue certifications authorizing incentive payments under this section in a total statewide amount not to exceed $100,000,000, and subject to the following biennial dollar limits:

(i) For fiscal year 2023, $300,000; and

(ii) For each biennium beginning on or after July 1, 2023, $25,000,000.

(b) The Washington State University extension energy program must attempt to equitably distribute incentive funds throughout the state. Considerations for equitable fund distribution, based on precertification applications received from administrators served by utilities voluntarily participating in the incentive program, may include measures to reserve or allocate available funds based on the proportion of public utility taxes collected, the proportion of the state's low-income customers served by each utility based on low-income home energy assistance program data at the department of commerce, measures to achieve an equitable geographic distribution of community solar installations and a diversity of administrative models for community solar projects, and the amount of energy burden reduction for qualifying subscribers relative to the project's cost. If an equitable distribution of funds is not feasible due to a lack of precertification applications, the Washington State University extension energy program may allocate funds based on (a) of this subsection on a first-come, first-served basis.

(c) The Washington State University extension energy program must ensure that at least $2,000,000 of the statewide total for the entire incentive program is used to support nonprofit organizations' innovative approaches to allocating benefits to subscribers, defining and valuing benefits to be provided to subscribers or other aspects of the subscriber, administrator, system host, and utility relationship.

(d) The Washington State University extension energy program must also ensure that at least $2,000,000 of the statewide total for the entire incentive program is available to tribal governments and their designated subdivisions and agencies.

(e) The Washington State University extension energy program shall regularly publish and update guidelines for how it manages the allocation of available funding, based on the evaluation of applications and the factors specified in (b) of this subsection.

(f) Beginning in fiscal year 2026, the Washington State University extension energy program may waive the requirements in (c) or (d) of this subsection if it fails to receive applications that meet the criteria of (c) or (d) of this subsection sufficient to result in the full allocation of incentives.

(8)(a) Prior to obtaining certification under this section, the administrator of a community solar project must apply for precertification against the funds available for incentive payments under subsection (7) of this section in order to be guaranteed an incentive payment under this section. The application for precertification must include, at a minimum:

(i) A demonstration of how the project will deliver continuing direct benefits to low-income subscribers. A direct benefit can include credit for the power generation for the community solar project or other mechanisms that lower the energy burden of a low-income subscriber; and

(ii) Any other information the Washington State University extension energy program deems necessary in determining eligibility for precertification.

(b) The administrator of a community solar project must complete an application for certification in accordance with the requirements of subsection (9) of this section within less than two years of being approved for precertification status. The administrator must submit a project update to the Washington State University extension energy program after one year in precertification status.

(9) To obtain certification for the one-time community solar incentive payment provided under this section, a project administrator must submit to the Washington State University extension energy program an application, including, at a minimum:

(a) A signed statement that the applicant has not previously received a notice of eligibility from the department under RCW 82.16.120 or the Washington State University extension energy program under RCW 82.16.165 entitling the applicant to receive annual incentive payments for electricity generated by the community solar project at the same meter location;

(b) A signed statement of the costs paid by the administrator related to administering the project for qualifying subscribers;

(c) A signed statement of the total project costs, including the proportional cost of the share of the community solar project that provides direct benefits to qualifying subscribers;

(d) A signed statement describing the amount of the upfront incentive and the timing, method, and distribution of estimated benefits to qualifying subscribers. The statement must describe any estimated energy burden reduction associated with the direct benefits;

(e) Available system operation data, such as global positioning system coordinates, tilt, estimated shading, and azimuth;

(f) Any other information the Washington State University extension energy program deems necessary in determining eligibility and incentive levels or administering the program;

(g)(i) Except as provided in (g)(ii) of this subsection (9), the date that the community solar project received its final electrical inspection from the applicable local jurisdiction, as well as a copy of the permit or, if the permit is available online, the permit number or other documentation deemed acceptable by the Washington State University extension energy program;

(ii) The Washington State University extension energy program may waive the requirement in (g)(i) of this subsection (9), accepting an application and granting provisional certification prior to proof of final electrical inspection. Provisional certification expires 180 days after issuance, unless the applicant submits proof of the final electrical inspection from the applicable local jurisdiction or the Washington State University extension energy program extends certification, for a term or terms of 30 days, due to extenuating circumstances;

(h) Confirmation of the number of qualifying subscribers;

(i) A copy of the executed agreement describing how benefits will be determined and distributed from the retail electric customer or interconnection customer to the administrator if the administrator and the retail electric customer or interconnection customer are not the same. The Washington State University extension energy program must review the executed agreement to determine that benefits are being fairly determined and that there is an adequate plan for distributing the benefits; and

(j) Any other information the Washington State University extension energy program deems necessary in determining eligibility and incentive levels or administering the program.

(10) No incentive payments may be authorized or accrued until the final electrical inspection and executed interconnection agreement are submitted to the Washington State University extension energy program.

(11)(a) The Washington State University extension energy program must review each project for which an application for certification is submitted in accordance with subsection (8) of this section for reasonable cost and financial structure, with a targeted installed cost for the solar energy system of $2 per watt direct current for systems over 200 kilowatts and $2.25 per watt direct current for systems equal to or under 200 kilowatts. For solar energy systems that include storage systems, the targeted installed cost of the storage system is $600 per kilowatt-hour of storage capacity.

(b) The Washington State University extension energy program may approve an application for a project that costs more or less than the targeted installed costs under (a) of this subsection based on a review of the project, documents submitted by the project applicant, and available data. Project cost evaluations may include costs associated with energy storage systems and electrical system improvements to permit grid-independent operation. Applicants may petition the Washington State University extension energy program to approve a higher cost per watt or per kilowatt-hour for unusual circumstances.

(c) The Washington State University extension energy program may review the cost per watt target under (a) of this subsection prior to each fiscal biennium and is authorized to determine a new cost per watt target.

(12)(a) Within 30 days of receipt of an application for certification, the Washington State University extension energy program must notify the applicant and, except when a utility is the applicant, the utility serving the site of the community solar project, by mail or electronically, whether certification has been granted. The certification notice must state the total dollar amount of the low-income community solar incentive payment for which the applicant is eligible under this section.

(b) Within 60 days of receipt of a notification under (a) of this subsection, the utility serving the site of the community solar project must remit the applicable one-time low-income community solar incentive payment to the project administrator, who accepts the payment on behalf of, and for the purpose of providing direct benefits to, the project's qualifying subscribers.

(13)(a) Certification follows the community solar project if the following conditions are met using procedures established by the Washington State University extension energy program:

(i) The community solar project is transferred to a new owner who notifies the Washington State University extension energy program of the transfer;

(ii) The new owner provides an executed interconnection agreement with the utility serving the site of the community solar project; and

(iii) The new owner agrees to provide equivalent ongoing benefits to qualifying subscribers as the current owner.

(b) In the event that a qualifying subscriber terminates their participation in a community solar project during the first 120 months after project certification, the system certification follows the project and participation must be transferred to a new qualifying subscriber.

(14) Beginning January 1, 2023, the Washington State University extension energy program must post on its website and update at least monthly a report, by utility, of:

(a) The number of certifications issued for community solar projects; and

(b) An estimate of the amount of credit that has not yet been allocated for low-income community solar incentive payments and that remains available for new community solar project certifications in the state.

(15) Persons receiving incentive payments under this section must keep and preserve, for a period of five years for the duration of the consumer contract, suitable records as may be necessary to determine the amount of incentive payments applied for and received.

(16) The nonpower attributes of the community solar project must be retired on behalf of the subscribers unless, in the case of a utility-owned community solar project, a contract between the subscriber that benefits the subscriber clearly states that the attributes will be retained and retired by the utility.

(17) All lists, technical specifications, determinations, and guidelines developed under this section must be made publicly available online by the Washington State University extension energy program.

(18) The Washington State University extension energy program may, through a public process, develop incentive program requirements, policies, and processes necessary for the administration or implementation of this section.

(19) Applications, certifications, requests for incentive payments under this section, and the information contained therein are not deemed tax information under RCW 82.32.330 and are subject to disclosure.

(20) No certification may be issued under this section by the Washington State University extension energy program for a community solar project after June 30, 2035.

(21) Community solar projects certified under this section must be sited on preferred sites to protect natural and working lands as determined by the Washington State University extension energy program.

(22) This section expires June 30, 2038.

**--- END ---**