

Community Solar Gardens

This Act generally defines community solar gardens as solar electric generation facilities with capacities of up to 2 megawatts that sell power to a larger regional utility. Non-profit organizations, for-profit companies, and retail utilities can own and operate community solar gardens under the Act. The bill establishes general requirements for retail utilities to buy power from community solar gardens and the means by which utilities can recover some of the costs of buying such power.

Submitted as:

Colorado

[HB 10-1342](#)

Status: Enacted into law in 2010.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “The Community Solar Gardens Act.”

2

3 Section 2. [*Definitions.*] As used in this Act:

4 (1) (a) “Community solar garden” means a solar electric generation facility as defined
5 under [insert citation] with a nameplate rating of [two megawatts or less] that is located in or
6 near a community served by a qualifying retail utility as defined under [insert citation] where the
7 beneficial use of the electricity generated by the facility belongs to the subscribers to the
8 community solar garden. There shall be at least [ten] subscribers. The owner of the community
9 solar garden may be the qualifying retail utility or any other for-profit or nonprofit entity or
10 organization, including a subscriber organization organized under this section which contracts to
11 sell the output from the community solar garden to the qualifying retail utility. A community
12 solar garden shall be deemed to be “located on the site of customer facilities”.

13 (b) A community solar garden shall constitute “retail distributed generation”
14 within the meaning of [insert citation].

15 (2) “Net metering credit” means a credit as defined under [insert citation].

16 (3) “Qualifying Retail Utility” means a utility as defined under [insert citation].

17 (4) “Renewable Energy Standards” means standards defined under [insert citation].

18 (5) “Subscriber” means a retail customer of a qualifying retail utility who owns a
19 subscription and who has identified [one or more] physical locations to which the subscription
20 shall be attributed. Such physical locations shall be within either the same municipality or the
21 same county as the community solar garden; except that, if the subscriber lives in a county with a
22 population of less than [twenty thousand], according to the most recent available census figures,
23 such physical locations may be in another county, also with a population of less than [twenty
24 thousand], within the service territory of the same qualifying retail utility and also adjacent to
25 that of the community solar garden. The subscriber may change from time to time the premises
26 to which the community solar garden electricity generation shall be attributed, so long as the
27 premises are within the geographical limits allowed for a subscriber.

28 (6) “Subscription” means a proportional interest in solar electric generation facilities
29 installed at a community solar garden, together with the renewable energy credits associated with
30 or attributable to such facilities under [insert citation]. Each subscription shall be sized to
31 represent at least [one] kilowatt of the community solar garden’s generating capacity and to

32 supply no more than [one hundred twenty percent] of the average annual consumption of
33 electricity by each subscriber at the premises to which the subscription is attributed, with a
34 deduction for the amount of any existing solar facilities at such premises. Subscriptions in a
35 community solar garden may be transferred or assigned to a subscriber organization or to any
36 person or entity who qualifies to be a subscriber under this section.

37
38 Section 3. [*Subscriber Organization, Qualifications, and Transferability of*
39 *Subscriptions.*]

40 (A) A community solar garden may be owned by a subscriber organization, whose sole
41 purpose shall be beneficially owning and operating a community solar garden. The subscriber
42 organization may be any for-profit or nonprofit entity permitted by state law. The community
43 solar garden may also be built, owned, and operated by a third party under contract with the
44 subscriber organization.

45 (B) On or before [insert date], the [state public utilities commission] shall commence a
46 rule-making proceeding to adopt rules as necessary to implement this Act, including but not
47 limited to rules to facilitate the financing of subscriber-owned community solar gardens. Such
48 rules shall include:

49 (1) Minimum capitalization;

50 (2) The share of a community solar garden's eligible solar electric generation
51 facilities that a subscriber organization may at any time own in its own name; and

52 (3) Authorizing subscriber organizations to enter into leases, sale-and-leaseback
53 transactions, operating agreements, and other ownership arrangements with third parties.

54 (C) If a subscriber ceases to be a customer at the premises on which the subscription is
55 based but, within a reasonable period as determined by the [commission], becomes a customer at
56 another premises in the service territory of the qualifying retail utility and within the geographic
57 area served by the community solar garden, the subscription shall continue in effect but the bill
58 credit and other features of the subscription shall be adjusted as necessary to reflect any
59 differences between the new and previous premises' customer classification and average annual
60 consumption of electricity.

61
62 Section 4. [*Community Solar Gardens Not Subject To Regulation.*] Neither the owners of
63 nor the subscribers to a community solar garden shall be considered public utilities subject to
64 regulation by the [state public utilities commission] solely as a result of their interest in the
65 community solar garden. Prices paid for subscriptions in community solar gardens shall not be
66 subject to regulation by the [state public utilities commission].

67
68 Section 5. [*Purchases of the Output from Community Solar Gardens.*]

69 (A) Each qualifying retail utility shall set forth in its plan for acquisition of renewable
70 resources a plan to purchase the electricity and renewable energy credits generated from [one or
71 more] community solar gardens over the period covered by the plan.

72 (B) For the first [three] compliance years commencing with [insert compliance year],
73 each qualifying retail utility shall issue [one or more] standard offers to purchase the output from
74 community solar gardens of [five hundred kilowatts] or less at prices that are comparable to the
75 prices offered by the qualifying retail utility under standard offers issued for on-site solar
76 generation. During these [three] compliance years, the qualifying retail utility shall acquire,
77 through these standard offers, [one-half] of the solar garden generation it plans to acquire, to the
78 extent the qualifying retail utility receives responses to its standard offers. Notwithstanding any
79 provision of this subparagraph to the contrary, renewable energy credits generated from solar

80 gardens shall not be used to achieve more than [twenty percent] of the retail distributed
81 generation standard in years [2011 through 2013].

82 (C) For the first [three] compliance years commencing with the [insert compliance year],
83 a qualifying retail utility shall not be obligated to purchase the output from more than [six]
84 megawatts of newly installed community solar garden generation.

85 (D) For each qualifying retail utility's compliance years commencing in [insert date] and
86 thereafter, the [state public utilities commission] shall determine the minimum and maximum
87 purchases of electrical output from newly installed community solar gardens of different output
88 capacity that the qualifying retail utility shall plan to acquire, without regard to the [six-
89 megawatt] ceiling of the first [three] compliance years. In addition, as necessary, the [state public
90 utilities commission] shall formulate and implement policies consistent with this section that
91 simultaneously encourage:

92 (1) The ownership by customers of subscriptions in community solar gardens and
93 of other forms of distributed generation, to the extent the [state public utilities commission] finds
94 there to be customer demand for such ownership;

95 (2) Ownership in community solar gardens by residential retail customers, and
96 agricultural producers, including low-income customers, to the extent the [state public utilities
97 commission] finds there to be demand for such ownership;

98 (3) The development of community solar gardens with attributes that the [state
99 public utilities commission] finds result in lower overall total costs for the qualifying retail
100 utility's customers;

101 (4) Successful financing and operation of community solar gardens owned by
102 subscriber organizations; and

103 (5) The achievement of the goals and objects to develop renewable energy in this
104 state as defined under [insert citation].

105 (E) The output from a community solar garden shall be sold only to the qualifying retail
106 utility serving the geographic area where the community solar garden is located. Once a
107 community solar garden is part of a qualifying retail utility's plan for acquisition of renewable
108 resources, as approved by the [state public utilities commission], the qualifying retail utility shall
109 purchase all of the electricity and renewable energy credits generated by the community solar
110 garden. The amount of electricity and renewable energy credits generated by each community
111 solar garden shall be determined by a production meter installed by the qualifying retail utility or
112 third-party system owner and paid for by the owner of the community solar garden.

113 (F) The purchase of the output of a community solar garden by a qualifying retail utility
114 shall take the form of a net metering credit against the qualifying retail utility's electric bill to
115 each community solar garden subscriber at the premises set forth in the subscriber's subscription.
116 The net metering credit shall be calculated by multiplying the subscriber's share of the electricity
117 production from the community solar garden by the qualifying retail utility's total aggregate
118 retail rate as charged to the subscriber, minus a reasonable charge as determined by the [state
119 public utilities commission] to cover the utility's costs of delivering to the subscriber's premises
120 the electricity generated by the community solar garden, integrating the solar generation with the
121 utility's system, and administering the community solar garden's contracts and net metering
122 credits. The [state public utilities commission] shall ensure this charge does not reflect costs that
123 are already recovered by the utility from the subscriber through other charges. If, and to the
124 extent that, a subscriber's net metering credit exceeds the subscriber's electric bill in any billing
125 period, the net metering credit shall be carried forward and applied against future bills. The
126 qualifying retail utility and the owner of the community solar garden shall agree on whether the
127 purchase of the renewable energy credits from subscribers will be accomplished through a credit
128 on each subscriber's electricity bill or by a payment to the owner of the community solar garden.

129 (G) The owner of the community solar garden shall provide real-time production data to
130 the qualifying retail utility to facilitate incorporation of the community solar garden into the
131 utility's operation of its electric system and to facilitate the provision of net metering credits.

132 (H) The owner of the community solar garden shall be responsible for providing to the
133 qualifying retail utility, on a monthly basis and within reasonable periods set by the qualifying
134 retail utility, the percentage shares that should be used to determine the net metering credit to
135 each subscriber. If the electricity output of the community solar garden is not fully subscribed,
136 the qualifying retail utility shall purchase the unsubscribed renewable energy and the renewable
137 energy credits at a rate equal to the qualifying retail utility's average hourly incremental cost of
138 electricity supply over the immediately preceding calendar year.

139 (I) Each qualifying retail utility shall set forth in its plan for acquisition of renewable
140 resources a proposal for including low-income customers as subscribers to a community solar
141 garden. The utility may give preference to community solar gardens that have low-income
142 subscribers.

143 (J) Qualifying retail utilities shall be eligible for the incentives and subject to the
144 ownership limitations set forth in [insert citation] for utility investments in community solar
145 gardens and may recover through rates a margin, in an amount determined by the [state public
146 utilities commission], on all energy and renewable energy credits purchased from community
147 solar gardens. Such incentive payments shall be excluded from the cost analysis required by
148 [insert citation].

149 (K) Nothing in this section shall be construed to waive or supersede the retail rate impact
150 limitations in [insert citation]. Utility expenditures for unsubscribed energy and renewable
151 energy credits generated by community solar gardens shall be included in the calculations of
152 retail rate impact required by [insert citation].

153 (L) This section shall not apply to cooperative electric associations or to municipally
154 owned utilities.

155

156 Section 6. [*Severability.*] [Insert severability clause.]

157

158 Section 7. [*Repealer.*] [Insert repealer clause.]

159

160 Section 8. [*Effective Date.*] [Insert effective date.]