HB639 - Smith
Restrictions on Use - Solar Collector Systems - Alteration
SUPPORT WITH AMENDMENTS (FWA)
House Environment and Transportation Committee
February 24, 2023

Sunrun submits this testimony in support of HB 639, which clarifies and provides certain standards for establishing whether a restriction or condition on the installation of a rooftop solar energy system is unreasonable. Under current law, there is a question of fact as to when a restriction or condition on the installation of rooftop solar on real property is unreasonable because it either "(i) significantly increases the cost of the solar collector system" or "(ii) Significantly decreases the efficiency of the solar collector system." Determining what constitutes an unreasonable restriction involves subjective judgment as to what is a "significant" cost increase or decrease in efficiency. Such ambiguity and subjectivity is an invitation to litigation, a cost that would make any residential solar installation uneconomic.

Sunrun supports solar access laws across the nation and appreciates the efforts of Delegate Smith to advance this critical improvement to existing law. Sunrun and other installers frequently face situations where a Homeowners' Association (HOA) may require aesthetic conditions that make a solar project uneconomic or that radically change the customer's expectation of system performance based on the customer's preferred design. Disputes over whether a condition represents a significant cost or decline in efficiency can result in lengthy delays, with homeowners forced to consider litigation to establish that a condition violates Section 2-119 of the Real Property Article. HB 649 clarifies that any restriction that causes the cost to exceed 5% of the original proposal will be deemed unreasonable. Similarly, if a restriction such as requiring a homeowner to shift panels to a less productive, shaded side of the roof–results in a loss of efficiency greater than 10% of the original design, the restriction will be deemed unreasonable. With these clear guidelines, Sunrun expects HB 649 to reduce the need for litigation and to encourage HOAs, homeowners, and solar installers to work together to find accommodations to satisfy all parties.

However, practical amendments are needed to make HB 649 effective by broadening the documentation that can be utilized to demonstrate an unreasonable restriction.

Requiring an independent solar panel design specialist–certified by a single organization–could present a fatal barrier to the law's operation. From Sunrun's experience in other states with similar certification requirements (e.g., Virginia), it can be difficult to find an "independent" solar panel design specialist with a specific certification. Many large solar providers may have some affiliation or business relationship with other solar installers in the state, clouding whether a particular design specialist is "independent." Moreover, many competitors find providing documentation to support a competitor to be a business conflict and may refuse to assist. A search of the North American Board of Certified Energy Practitioners certification directory shows only two certified PV Design Specialists in all of Maryland.[1]

[1] https://directories.nabcep.org/?_states=md&_certification_types=pvds

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Sunrun recommends amendments to strike the term “independent” from line 11 on page 3. To address the limitations of available specialists who can provide reliable documentation to support a showing that a restriction is unreasonable, Sunrun proposes inserting “or other organization that provides training to similar industry-accepted design standards” after the words “certified energy practitioners” on line 14 of page 3.

Sunrun appreciates the opportunity to submit this written testimony and supports the intent of HB 649 to clarify the meaning of unreasonable restrictions in Section 2-119. Sunrun supports a favorable report for HB 649, with the amendments suggested herein.