



# TACIR

The Tennessee Advisory Commission  
on Intergovernmental Relations



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## ***MEMORANDUM***

**TO:** Commission Members

**FROM:** Cliff Lippard *Cliff*  
Executive Director

**DATE:** 29 June 2023

**SUBJECT:** Public Chapter 1043, Acts of 2022 (Utility-Scale Solar Energy Development)—Draft Report for Review and Comment

The attached Commission report is submitted for your review and comment. It was prepared in response to Public Chapter 1043, Acts of 2022, which directs the Commission to study issues stemming from the development of utility-scale solar facilities in Tennessee, as well as concerns related to consumer protection in the residential solar market. The Commission is required to report its findings and recommendations no later than September 30, 2023.

The draft report finds many issues raised about utility-scale solar are not unique to that industry but are more broadly applicable to development in general. Solar facilities are subject to the same federal and state environmental requirements as other development, and Tennessee Department of Environment and Conservation (TDEC) staff say utility-scale solar projects generally have better environmental outcomes than other large construction projects.

Local governments also have the authority to regulate utility-scale solar through zoning, just as they can for other development. Whether to adopt zoning and apply it to solar is a local decision, and at least nine counties and one city already do, and one county and a city within it have created a unified development code, which includes solar regulations. Common elements regulated by these communities include required setbacks and perimeter buffers, maximum panel height, and maximum degree of the slope of the land. A model zoning ordinance for solar is available to Tennessee local governments—it was created by the University of Tennessee Municipal Technical

Advisory Service and County Technical Assistance Service with the Tennessee Chapter of the Solar Energy Industries Association, which is the trade organization that represents solar companies in the state. It is included in the draft report as appendix C.

Although loss of farmland is a concern, utility-scale solar is a comparatively small part of the problem. Even if all of the solar capacity the Tennessee Valley Authority (TVA) plans to acquire by 2035 for its entire seven-state service area were developed solely in Tennessee, the facilities would likely take only 1% of the state's farmland out of production. In comparison, farmland in Tennessee decreased by 9.3% from 1997 through 2017 as a result of all forms of development. Moreover, the state's decommissioning law helps ensure that land leased for utility-scale solar can be returned to its prior condition at the end of a facility's useful life. The law requires solar power facility agreements between landowner lessors and solar developer lessees to include a decommissioning plan for removing components and restoring the land, and it requires solar developers to provide landowners with financial assurance equal to the cost of decommissioning less the scrap value of the facility's components.

Based on these and other findings, the draft report makes three recommendations—two related to educating the public about best practices for utility-scale and residential solar and one related to consumer protection for the residential solar market:

- There is abundant information about solar development from many sources, but there is currently no one-stop shop for information on utility-scale solar that is specific to Tennessee. Other states, in particular Kentucky, maintain websites that aggregate information and resources regarding utility-scale solar development for local governments and the public. The TDEC Office of Energy Programs (OEP) has a website with information about renewable energy, and OEP staff agree that working with other agencies to expand the website to be more comprehensive would be beneficial. **The Commission recommends that the TDEC Office of Energy Programs continue to expand and maintain their existing website with additional guidance and resources on utility-scale solar for local governments, landowners, developers, and the public, similar to Kentucky. Representatives of that office say they are willing to do so.**
- Similar to utility-scale solar, there is abundant information about best practices to help consumers with residential solar, and stakeholders agree that more guidance would help consumers make better decisions and protect themselves from fraud. As with utility-scale solar, resources about residential solar are available in different places, for example from TVA, some local electric companies, and state agencies. Other states, in particular Georgia, maintain a central website with information regarding residential solar development for the

public. **The Commission recommends that the TDEC Office of Energy Programs continue to expand and maintain its webpage that provides guidance and resources on residential solar for the public. Representative of that office say they are willing to do so.**

Most of the fraud in the solar industry occurs in the residential market. Consumers who contract with a company to install solar on their residence are protected by Tennessee's consumer protection laws—the Consumer Protection Act and Home Solicitations Sales Act. The maximum civil fine for violations of the Tennessee Consumer Protection Act is \$1,000, which is on the low end of civil fine maximums compared to other states. A review of other states' laws finds their maximum penalties generally range from \$1,000 to \$50,000 per violation. **Recognizing that care would need to be taken to avoid undermining the intent of the General Assembly's past efforts at tort reform, the Commission recommends that the state consider raising the penalty for violations of the Consumer Protection Act if the good or service involved has a value greater than a monetary threshold set by the state.**