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BILL NO.: House Bill 658
**Public Service Commission – Sustainable
Energy Utilities**

COMMITTEE: Economic Matters

HEARING DATE: February 23, 2011

SPONSOR: Delegates Niemann and Holmes

POSITION: Informational

House Bill 658 amends the Public Utilities Article to permit the Public Service Commission to authorize and regulate “sustainable energy utilities.” The bill defines a sustainable energy utility as a person authorized to provide sustainable energy products. These products are defined as products that are installed on residential property and provide energy savings or generate energy from a renewable source. The bill spells out a detailed set of requirements for authorizing and regulating persons who seek such authorization, and more particularly, provide for the creation of contracts for these products that could qualify as liens on real property as a means to secure financing of long-term contracts for these products.

It appears that this bill is intended to address a problem faced by residential homeowners when considering the installation of energy efficiency

retrofits or clean distributed generation— the expense of the up-front cost of installation, and the limited financing available for such installations. While OPC appreciates the intent behind this bill, the proposal seems an unduly complicated and expensive one, and extends Commission oversight into areas of real property and financial regulation that go beyond its traditional mission.

Attempts to address this financing problem have increased in recent years. Tax credits and grants have been made available to lower the up-front expense for some customers, and we have seen a significant increase in the number of renewable energy installations as a result. Unfortunately, the attempts in over 24 states, including Maryland,¹ to address this problem through authorization of local Property Assessed Clean Energy (PACE) programs have been stymied by rulings by the Federal Housing Finance Agency (FHFA).² In response, the Maryland Clean Energy Center recently has begun to offer non-secured loans to eligible residential homeowners for energy efficiency upgrades, which have been financed through federal stimulus funds. Future EmPower Maryland programs may be able to expand the opportunities for residential homeowners to install energy efficient and clean distributed energy measures on their properties.

¹ Acts 2009, c. 743 (House Bill 1567).

² PACE programs allow local governments to leverage bonding and property taxing authority to finance the installation of these measures on homes. See <http://dsireusa.org/summarymaps/index.cfm?ee+i&RE=1> for a list of states. Most local PACE programs have been suspended as a result of FHFA's July 2010 statement that PACE property tax liens pose concerns to home mortgages. See <http://www.fhfa.gov/webfiles/15884/PACESTMT7610/pdf>.