

**STATE OF MARYLAND
OFFICE OF PEOPLE'S COUNSEL**

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BILL NO.: **House Bill 1128**
**Electricity – Community Energy – Generating
Facilities and Net Energy Metering**

COMMITTEE: **Economic Matters**

HEARING DATE: **March 7, 2013**

SPONSORS: **Delegates Stein, *et al.***

POSITION: **Support with Amendments**

House Bill 1128 would build on the current net energy metering law by requiring the Public Service Commission to approve a pilot program for “community energy-generating facilities.” The Office of People’s Counsel has supported the development of net metering, and supports Senate Bill 699 with the adoption of the attached proposed amendments.

The bill would add a provision to the Public Utilities Article (PUA) to direct the Public Service Commission (Commission) to approve a pilot program that would allow owners of renewable energy generating facilities, referred to as a “community energy-generating facility,” to allocate some or all of the output of the generating facility to other electric utility customers, referred to as “subscribers.” The allocated electricity would be subtracted from the subscriber’s electricity usage for purposes of billing by the utility. In effect, this would permit the aggregation of electricity customers to

“purchase” the output of such a facility, and reduce or offset the electricity supply purchased from their distribution utility or electricity suppliers. Community energy facilities would allow electricity customers who cannot install renewable facilities on their property to participate in the adoption of renewable energy generation.

Non-pilot community energy bills (House Bill 864/Senate Bill 595) were introduced during the 2012 legislative session, but did not pass. However, at the request of the Senate Finance Committee, the Commission did direct the RM 41 Net Energy Metering Work Group to consider a number of questions concerning the feasibility of community energy facilities. OPC actively participated in that work group from June through August, 2012. The work group produced a Report, which the Commission provided to the Senate Finance Committee at the end of last year. House Bill 1128 reflects many of the consensus recommendations contained in that report.

Of particular importance to OPC, the bill would require the Commission to establish a three year pilot program, with size and other limitations, and submit an assessment report to the General Assembly after completion. A significant component of that pilot would be an assessment of the cost and benefit implications of community energy facilities for *both* participating customers (“subscribers”) and customers who are not participating in net metering or community energy initiatives.

The pilot and this type of assessment would provide a real value for any future consideration of expansion of net metering in Maryland. Community energy facilities have the potential for encouraging such expansion. In testimony on House Bill 864 last

year, OPC identified a concern about future cost responsibility and potential cost shifting impacts related to the electric utilities' distribution systems. Quite simply, for a month in which they generate all (or more than) the electricity they use, net metering customers currently pay only the fixed customer charge towards the total distribution costs of the utility. The part that is not paid in that month is the consumption-based (volumetric) distribution charge, which represents the largest portion of the distribution costs. This is so, even though the net metering customer is connected to, and reliant upon, the utility distribution system.

Discussions about the costs and benefits of distributed energy, including net energy metering, have heightened in the past two years, particularly in New Jersey and California. While there is an acknowledgement that costs and benefits may flow between the participating customers and the customers who do not participate, there are no real studies that clearly identify and analyze the cost and benefits for participants and non-participants of net metering (including community energy), and how to properly allocate the net costs and benefits to the utility customers.

House Bill 1128 is responsive to the concerns expressed by OPC last year, and the pilot program is a way to test not only the technical aspects of a community energy program, but to begin an assessment and valuation of the costs and benefits, to ensure that they are properly allocated. OPC understands that the bill's intention is to require the Commission to establish an appropriate amount for customers who participate in the pilot program to pay for their distribution and transmission service, based on cost

causation principles. OPC supports this intention and has attached proposed amendments to the bill that would clarify the language of the bill to implement that intention.

With these amendments, OPC recommends a favorable report.

OPC PROPOSED AMENDMENTS TO HOUSE BILL 1128

AMENDMENT NO. 1

1. On page 3, in line 14, after “credit,” insert “**IN KILOWATT- HOURS**”.
2. On page 3, in line 17, after “(2),” insert “**(I)**”.
3. On page 3, in line 19, after “bill,” insert “**(II) THE CREDIT AMOUNT SHALL BE EQUAL TO THE SUBSCRIBER’S SHARE OF THE OUTPUT OF THE COMMUNITY ENERGY-GENERATING FACILITY**”.
4. On page 3, in lines 31-34, strike subsection (6) in its entirety.

AMENDMENT NO. 2

5. On page 4, in line 2, after “rate,” insert “**FOR SUBSCRIBERS**”.
6. On page 4, in lines 5-7, strike subsection (8) in its entirety.
7. On page 4, in lines 8 through 22,
8. On page 4, in line 23, after “fee,” insert “**TO BE PAID BY THE SUBSCRIBERS**”.

AMENDMENT NO. 3

9. On page 5, in line 1, strike “ELECTRICITY GENERATED” and substitute “**GENERATING CAPACITY OF ALL COMMUNITY ENERGY-GENERATING FACILITIES**”.
10. On page 5, after line 29, insert:

“(I) THE COMMISSION MAY COMPEL THE PRODUCTION OF THE RECORDS OF THE SUBSCRIBER ORGANIZATION BY SUBPOENA FOR EXAMINATION.”