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BILL NO.: House Bill 1256 - Electricity - Tariffs, Distributed Energy Resources, and Electric Distribution System Support Services (Distributed Renewable Integration and Vehicle Electrification (DRIVE) Act)

COMMITTEE: Economic Matters Committee

HEARING DATE: March 7, 2024

SPONSOR: Delegate Fraser-Hidalgo

POSITION: Favorable with amendments

The Office of People’s Counsel (“OPC”) supports House Bill 1256 with the amendments described below. With these amendments, HB 1256 has the potential to help the State achieve its energy and climate goals at least cost to utility customers.

As technology, economics, and climate policy drive utility customers away from reliance on fossil fuels and towards electrification, well-designed time-of-use (“TOU”) electricity pricing and the deployment of distributed energy resources (“DERs”) can both help to reduce the need for new electric infrastructure—and so minimize increases in electricity rates. A December, 2023 analysis by the Public Service Commission (“PSC”) bears this out. That analysis, which the General Assembly directed in the Climate Solutions Now Act, found that demand-side management (“DSM”) programs—including managed electric vehicle charging, behind-the-meter battery storage, and expanded time-varying rates—have the potential to reduce electricity load growth by 0.2 to 1.2% per year.¹ Reducing load growth reduces the likelihood of costly electric system upgrades

¹ Serigici, Ramakrishnan, et al., *An Assessment of Electrification Impacts on the Maryland Electric Grid*, prepared by the Brattle Group for the Maryland Public Service Commission with support from Applied Energy Group and Mondre Energy (Dec. 19, 2023), at p. 3, available at <https://www.psc.state.md.us/wp-content/uploads/MD-PSC-Electrification-Study-Report.pdf>.

that might otherwise be needed to meet increased demand—in turn, reducing the revenue electric companies will seek to recover from their customers.

With amendments, HB 1256 has the potential to reduce load growth and utility customer costs in at least two ways: first, by directing each electric company to offer at least one time-of-use rate, designed to encourage customers to adjust electricity usage to off-peak hours; and second, by directing the PSC and each electric company to develop a pilot program or temporary tariff to incentivize customers’ adoption of DERs.

OPC supports the bill’s intent to encourage customers to shift their energy usage to off-peak times through the implementation of time-of-use rates. As introduced, HB 1256 would require each electric company to transition each customer to a TOU rate before September 1, 2028, unless the customer opts out. While OPC agrees that widespread behavior change will eventually be required, certain groups of customers will have difficulty in successfully shifting their energy usage. Low- and moderate-income customers, along with the elderly and medically challenged customers, are especially likely to face challenges. For this reason, OPC strongly supports an amendment—which we understand to be forthcoming—to drop the current language establishing an opt-out model in favor of an opt-in model with enrollment targets. We understand that the amendment will also require electric companies to report on their efforts to drive enrollment in TOU rates, which will bolster current efforts at the PSC to study the feasibility and merits of transitioning all customers to TOU rates.

OPC also supports the bill’s intent to incentivize more customer adoption of DERs, such as residential solar and battery storage, and more customer participation in load management programs. Although it is unclear to us whether the additional incentives called for in the bill—pay-for-performance compensation or upfront incentives or rebates—are necessary given the other incentives currently available, HB 1256 includes important protections for non-participating customers against excessive costs, including (1) authorizing but not requiring the PSC to approve any pilot program or temporary tariff proposed by an electric company and (2) directing that costs be recovered by the electric company within the calendar year in which those costs were incurred to the extent feasible. We understand that a forthcoming amendment will limit the cumulative capacity of the DERs participating in a pilot program or temporary tariff to no more than two percent of the electric company’s historic coincident peak demand.

As introduced, HB 1256 authorizes an electric company to “pursue and use a performance incentive mechanism to cover the cost of using distributed energy resources or an aggregator of distributed resources under this subtitle.” OPC respectfully requests that the Committee adopt an amendment to clarify that any proposal for a performance incentive mechanism is subject to PSC review and approval:

NOTWITHSTANDING ANY PROVISION OF THIS SUBTITLE, AN ELECTRIC COMPANY MAY PROPOSE PURSUE AND USE AND THE COMMISSION MAY APPROVE IF IT FINDS THAT IT IS IN THE PUBLIC INTEREST, A PERFORMANCE INCENTIVE MECHANISM TO COVER THE COST OF USING DISTRIBUTED ENERGY RESOURCES OR AN AGGREGATOR OF DISTRIBUTED RESOURCES UNDER THIS SUBTITLE.

Recommendation: OPC requests a favorable Committee report on HB 1256 with the amendments described above.