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BILL NO.:	Senate Bill 613 Electricity – Community Solar Energy Generating Systems Program
COMMITTEE:	Education, Energy, and the Environment Committee
HEARING DATE:	February 28, 2023
SPONSOR:	Senators Brooks, Feldman, M. Washington, King, Kramer, Zucker, and Elfreth
POSITION:	Favorable with amendments

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The Office of People's Counsel supports SB 613, making permanent the Community Solar Energy Generating Systems Pilot Program. This bill will support the further development of community solar, benefitting not only the residential utility customers who subscribe to future projects, but also the State as a whole, as we work to achieve the ambitious greenhouse gas reduction goals set under the Climate Solutions Now Act.

In addition to making the pilot program permanent, SB 613 updates the program in several significant ways, including (i) requiring that most community solar energy generating systems serve at least 40% of their kilowatt–hour output to low- and moderate-income (LMI) subscribers, (ii) allowing customers to verify income eligibility through self-attestation, and (iii) authorizing consolidated billing for subscription charges. OPC suggests amendments to the bill on the self-attestation and consolidated billing provisions as described below.

1. The requirement that 40% of output serve LMI subscribers is beneficial, but allowing self-attestation to verify income eligibility undermines that goal.

OPC supports SB 613's requirement that new community solar energy generating systems serve "at least 40%" of their output to LMI subscribers unless the system is

wholly owned by the subscribers themselves. Unlike rooftop solar, which can require substantial up-front capital investments, community solar makes the benefits of renewable energy more readily available to LMI households by allowing utility customers who rent their homes or are otherwise unable to purchase or lease rooftop solar panels to power their households with solar energy through a subscription arrangement. The effort to ensure that community solar projects reach the LMI population is an important means of advancing clean energy in a manner making it accessible to everyone.

The option for customers to self-attest to their income eligibility, not under oath or penalty of perjury, risks undermining the benefits associated with the minimum LMI subscriber requirement. Although a customer may choose to provide income verification in the form of participation in other government assistance programs, pay stubs, income tax documents, proof of residence in an affordable housing facility, or proof of residence within a census tract that is an "overburdened community" or an "underserved community," those verification methods are largely illusory given the allowance for self-attestation.

The self-attestation provision may result in unreliable and inflated percentages of LMI participation and unintentionally undermine efforts to serve LMI customers. It is important to ensure that actual LMI customers are covered by the program, even if that means that the ambitious 40% goal needs to be lowered. For this reason, OPC recommends striking from the bill proposed subsection 7-306.2(f)(iv)(1), the provision allowing for "self-attestation that does not need to be under oath or penalty of perjury."

2. Community solar should make consolidated billing available for subscriber fees, subject to the same purchase of receivables protocols as retail suppliers.

SB 613 would require an electric utility to, at the request of a subscriber organization, include the monthly subscription charge on the monthly bill rendered by the electric utility and remit payment received for those charges to the subscriber organization. This consolidated billing process can provide customers with the convenience of only paying one bill each month and increase the ease with which the customer can understand how the community solar credits and subscription fees were applied on one bill. Even more importantly, permitting consolidated billing would allow customers who receive financial assistance through the Electric Universal Service Program (EUSP) to use their EUSP benefits towards subscription fees rather than just the commodity portion on their bills. Under the current billing structure, EUSP benefits can only be applied toward the utility bill, even if a portion of the bill is reduced or eliminated as a result of credits earned through community solar subscription. Enabling EUSP credits to be applied to the subscription fee itself will prevent customers from having to

pay those fees out of pocket, making subscription a more realistic option for low- and moderate-income customers.

As we have seen in the retail supplier context—where consolidated billing is already available—there are also downsides to consolidated billing because it currently incorporates the requirement that utilities purchase the accounts receivable of the retail supplier. The purchase of receivables means that debt for a community solar subscriber's subscription charges is passed on to utilities, such that (1) subscriber organizations would bear no liability and may be perversely incentivized to enroll customers, regardless of their ability to pay; and (2) nonpayment of a subscription fee can become grounds for termination of utility service. OPC is currently involved in efforts to address these concerns in the retail supply context. To ensure that the community solar programs incorporate fixes to these downsides of consolidated billing, OPC recommends that the proposed subsection 7-306.2(g)(1)(i) be amended to provide that consolidated billing is subject to the same purchase of receivables protocols as retail suppliers.

3. As participation in net metering participation grows, so too does the impact on non-participating customers.

Customers who participate in net metering—whether through community solar or installing their own rooftop solar arrays—reduce their contributions to the distribution system by receiving credits on their bills for both the commodity charge and a portion of the distribution charge. The reduced distribution system contribution occurs despite the net metering customers continued use of that system, creating a potential fairness issue for non-net metering customers since they must pay the distribution system costs that net-metering customers avoid. While the impact to customers is relatively small today, the more residential customers that participate, the greater the impact on non-net metering customers will become. SB 613 should have a limited impact on non-net metering customers because the bill does not alter the overall cap limiting the megawatts available for net energy metering in Maryland, and the State has only met roughly one third of the cap to date. Further, it is apparent that expanded distributed generation will be important for the State's effort to meet its climate goals and that more distributed generation may decrease overall spending needs for the distribution system. Further analysis of this issue would, however, be beneficial for the future, as participation in net metering generally, and community solar particularly, continues to grow as intended.

4. The General Assembly should consider the impact of decommissioning community solar generating systems.

In seeking to increase the number of community solar generating systems in the State, the General Assembly should also consider how to handle decommissioning these projects when they reach the end of their useful lives. In the case of a solar project that

requires a Certificate of Public Convenience and Necessity (CPCN), it is regular practice for the Commission to require the solar developer to provide a decommissioning plan and a mechanism for funding decommissioning. Although not at the same scale as projects developed under a CPCN, there is still a risk that some community solar projects may be abandoned, rather than properly decommissioned, when no longer useful. A decommissioning plan ensures that when the project reaches the end of its useful life, the land is properly restored, addressing issues such as the responsible party(ies), timeframes, estimated costs for decommissioning, dismantling, removal, and proper disposal of all components, including any components containing hazardous or toxic materials. Further, requiring a subscriber organization to obtain a surety bond or some other funding mechanism to cover the cost of decommissioning ensures that these costs are not borne by the State at the end of a project's useful life. OPC does not have a position on whether decommissioning requirements should be considered as part of this bill or in the future, only that they should be considered.

5. SB 613 should not be amended to allow investor-owned utilities to participate.

Under the community solar pilot program and SB 613 as written, municipal and cooperative utilities may participate in the program, but investor-owned utilities (IOUs) may not. OPC understands that the IOUs have proposed amendments to SB 613 that would allow them to enter the community solar market. Any such amendment should be rejected. There are important policy reasons for keeping IOUs—which hold State-granted monopolies over distribution—from participating in the community solar generation market. There is no reason that captive ratepayers should finance utility participation in the competitive market for community solar when there are non-utilities that can privately finance community solar investments. Further, thanks to their monopoly status, IOUs hold unearned advantages—in the form of name recognition and loyalty, access to customer data and information, etc.—that have great potential to undermine competition in the market for community solar. Undermining competition means higher prices and less innovation.

Recommendation: OPC requests a favorable Committee report for SB 613 with the amendments on self-attestation and purchase of receivables, as described above.