

# STATE OF MARYLAND

## OFFICE OF PEOPLE'S COUNSEL

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**BILL NO.:** **Senate Bill 786**  
**Community Renewable Energy Generating System—**  
**Pilot Program**

**COMMITTEE:** **Senate Finance**

**HEARING DATE:** **March 4, 2014**

**SPONSOR:** **Senator Ramirez et al.**

**POSITION:** **Support with Amendments**

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Senate Bill 786 would require the Public Service Commission to approve a pilot program for “community energy-generating facilities” to be owned and/or built by “any person” “including electric utilities, municipal utilities, cooperative utilities or electric suppliers. The Office of People’s Counsel (OPC) has generally supported the development of net energy metering in the past as well as proposals for community energy pilot programs, OPC can support this particular proposal for a *limited* pilot project under which the Public Service Commission (Commission) could 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 a “subscribers,” with certain amendments.

The pilot program would last for three years, subject to size and other limitations. As described in the Bill, the subscribers would not have generating facilities on their premises nor would they necessarily have meters associated with that generation. Instead, a subscriber's share of the allocated electricity from the community energy generating facility would be subtracted from the subscriber's electricity usage for purposes of billing by the utility. In effect, this program would permit the aggregation of electricity customers to "purchase" the output of such a facility. The bill credit would reduce or offset the cost of electricity supply (energy, capacity and transmission) purchased from their distribution utility or electricity suppliers, and 75% of the variable distribution rate. Senate Bill 786 has a particular focus on renters, low-income and moderate income customers and customers who cannot install renewable facilities on their property, to encourage their participation in the adoption of renewable energy generation.

OPC supports the development of community energy programs as a way to allow customers who experience barriers to install their own renewable systems to obtain benefits indirectly through a subscriber system, and to contribute to overall supply diversity. However, there are certain provisions of the Bill that raise important concerns for OPC,

**Report to the General Assembly.** The Bill would require the Maryland Energy Administration (MEA), only "in consultation" with the PSC, to submit an assessment report to the General Assembly in 2016. OPC believes the roles are reversed, and that the Commission, in consultation with MEA, and with input from OPC and other stakeholders, should provide the report. There is an increasing interest in establishing community energy programs, energy cooperatives, non-utility microgrids and distributed generation, all of which will have an impact on the operation and reliability of the existing utility distribution and transmission systems, and on the cost allocation and rates charged for that distribution and transmission system. The

Commission, as the regulator of the utilities and the electricity system, should be charged with overseeing the evaluation and report on such a pilot program. The problem with this delegation to MEA is amplified by the Bill's directive that MEA develop a tariff structure for these projects. Development of tariffs and pricing terms for matters involving utility service is, by statute, traditionally the province of the PSC, which can balance the interests not only of the utility and its customers, but interests between customer classes and within a customer class, between subscribers and non-subscribers. In considering views of the stakeholders who participate in Commission proceedings, the Commission can ensure that ratepayers, or non-participating ratepayers, are not providing unfair subsidization to other customers or private investors or developers.

MEA's mission is to promote the State's laws and public policy goals on energy, but it has no statutory charge to ensure that rates set as a result of or affected by these projects are "just and reasonable." The only way to ensure that all ratepayers are treated fairly in the process is to clarify that the responsibility rests with the PSC. In particular, the PSC has the expertise to determine whether these projects have the potential to unreasonably shift costs to non-participating customers. While OPC acknowledges that costs and benefits may flow between the participating customers and the customers who do not participate, there are no real studies of which OPC is aware 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. The pilots may help to provide the necessary data while providing a "real world" test of the technical aspects of community energy programs. These should be carried out with careful PSC oversight.

**The valuation of costs and benefits and establishment of an initial rate.** The Bill focuses only on the benefit implications of community energy facilities, with very little or no consideration given to possible costs or negative impacts for both participating customers (“subscribers”) and customers who are not participating in net metering or community energy initiatives. As OPC has testified with regard to the net metering bills and prior community energy bills, there is greater understanding of potential long-term impacts on either utilities or non-participating ratepayers of subsidies or cost-shifting through payments at the “full retail rate” (net metering). This issue is gaining attention in other states, such as California, Arizona, Minnesota and New Jersey. OPC believes that as Maryland pushes forward with renewable energy and distributed energy programs, pilot or otherwise, there is a need for a deliberative process, conducted by the Commission, to properly evaluate the benefits and the costs, individual and system-wide, with these types of programs, and assign costs and credits accordingly. This valuation process should be a requirement of the reporting process, and part of any rigorous assessment of a pilot program before such programs such as the community energy pilots are allowed to move beyond a pilot.

In light of the above, OPC recommends that the Bill be amended in the following manner:

- Place all evaluation, reporting requirements and ratemaking (tariff) development for these projects under the purview of the PSC, in consultation with MEA.
- In lieu of the statutory “community renewable electricity offset rate,” which only allows for a 25% contribution by a subscriber to the utility distribution costs, despite being fully connected to and using the distribution system, require the Commission to determine an appropriate rate for the pilot program.
- As part of the evaluation and tariff recommendation report, include provisions to account for costs that continue to be incurred as well as individual and system benefits.

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With these amendments, the Office of People's Counsel would recommend a favorable report.

**ATTACHMENT  
SB786 – AMENDMENTS**

**PROPOSED AMENDMENTS OF OFFICE OF PEOPLE’S COUNSEL**

1. At page 2, at lines 23, **STRIKE** “for:”, through lines 30, and **INSERT** “as, determined by the Commission,” At page 10, lines 4 and 5, **STRIKE** “The Maryland Energy Administration, in consultation with the Commission”
2. At page 10, lines 4 and 5, **INSERT** “The Commission, in consultation with the Maryland Energy Administration”
3. At page 10, line 13, **INSERT** “costs and” after “health”
4. At page 10, line 14, **INSERT** “increased or” before “avoided”
5. At page 10, line 17, **INSERT** “or accelerations”
6. At page 10, line 18, **INSERT** “or increases” after “avoided”
7. At page 10, line 21, **INSERT** “increased” after “reduced”