

Bill No.: _____
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Committee: _____

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By: **Senator Pinsky**

A BILL ENTITLED

1 AN ACT concerning

2 **Electricity – Community Energy–Generating Facilities and Net Energy**
3 **Metering**

4 FOR the purpose of establishing a net energy metering program for community
5 energy–generating facilities; specifying that a community energy–generating
6 facility, subscriber, or subscriber organization is not an electric company or an
7 electricity supplier; requiring electric companies to purchase certain
8 unsubscribed electricity; requiring the Public Service Commission to set a date
9 for the end of a certain billing cycle; giving certain electric companies ownership
10 of certain electricity exported by the community energy–generating facility to
11 the grid; stating that certain costs are the responsibility of the owner or
12 operator of the community energy–generating facility; authorizing subscriber
13 organizations to contract with third parties for certain functions; authorizing
14 certain for–profit and nonprofit entities to be subscription organizations;
15 specifying that owners, subscribers, and organizations that control community
16 energy–generating facilities are not public service companies under certain
17 circumstances; requiring the Commission to report each year to the General
18 Assembly on the status of certain community energy–generating facilities;
19 specifying that an electric company may not be responsible for resolving certain
20 disputes; specifying that an electric company may not be liable for certain
21 actions taken or agreements entered into by a subscription organization;
22 requiring that the Commission adopt certain regulations for community

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 energy-generating facilities; requiring the Commission to consider certain
2 matters when adopting certain regulations; defining certain terms; making
3 conforming changes; and generally relating to community energy-generation
4 and net energy metering.

5 BY repealing and reenacting, with amendments,
6 Article – Public Utilities
7 Section 1–101(h) and (j) and 7–306
8 Annotated Code of Maryland
9 (2010 Replacement Volume and 2011 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article – Public Utilities**

13 1–101.

14 (h) (1) “Electric company” means a person who physically transmits or
15 distributes electricity in the State to a retail electric customer.

16 (2) “Electric company” does not include:

17 (i) the following persons who supply electricity and electricity
18 supply services solely to occupants of a building for use by the occupants:

19 1. an owner/operator who holds ownership in and
20 manages the internal distribution system serving the building; or

21 2. a lessee/operator who holds a leasehold interest in
22 and manages the internal distribution system serving the building;

23 (ii) any person who generates on-site generated electricity; [or]

24 **(III) A COMMUNITY ENERGY-GENERATING FACILITY,**
25 **INCLUDING ANY SUBSCRIBERS OR SUBSCRIBER ORGANIZATIONS ASSOCIATED**
26 **WITH THE COMMUNITY ENERGY-GENERATING FACILITY, AS THOSE TERMS ARE**
27 **DEFINED IN § 7–306 OF THIS ARTICLE; OR**

1 **[(iii)] (IV)** a person who transmits or distributes electricity
2 within a site owned by the person or the person’s affiliate that is incidental to a
3 primarily landlord–tenant relationship.

4 (j) (1) “Electricity supplier” means a person:

5 (i) who sells:

6 1. electricity;

7 2. electricity supply services;

8 3. competitive billing services; or

9 4. competitive metering services; or

10 (ii) who purchases, brokers, arranges, or markets electricity or
11 electricity supply services for sale to a retail electric customer.

12 (2) “Electricity supplier” includes an electric company, an aggregator,
13 a broker, and a marketer of electricity.

14 (3) “Electricity supplier” does not include:

15 (i) the following persons who supply electricity and electricity
16 supply services solely to occupants of a building for use by the occupants:

17 1. an owner/operator who holds ownership in and
18 manages the internal distribution system serving the building; or

19 2. a lessee/operator who holds a leasehold interest in
20 and manages the internal distribution system serving the building; **[or]**

21 (ii) a person who generates on–site generated electricity; **OR**

22 **(III) A COMMUNITY ENERGY–GENERATING FACILITY,**
23 **INCLUDING ANY SUBSCRIBERS OR SUBSCRIBER ORGANIZATIONS ASSOCIATED**

1 **WITH THE COMMUNITY ENERGY-GENERATING FACILITY, AS THOSE TERMS ARE**
2 **DEFINED IN § 7-306 OF THIS ARTICLE.**

3 7-306.

4 (a) (1) In this section the following words have the meanings indicated.

5 (2) “Biomass” means “qualified biomass” as defined in § 7-701 of this
6 title.

7 (3) “Closed conduit hydro” means a hydroelectric generating facility
8 that:

9 (i) generates electricity within existing piping or limited
10 adjacent piping of a potable water supply system;

11 (ii) is owned or operated by a municipal corporation or public
12 water authority; and

13 (iii) is designed to produce less energy than is consumed to
14 operate the water supply system.

15 **(4) “COMMUNITY ENERGY-GENERATING FACILITY” MEANS A**
16 **RENEWABLE ENERGY FACILITY THAT:**

17 **(I) GENERATES ELECTRICITY FROM BIOMASS, MICRO**
18 **COMBINED HEAT AND POWER, SOLAR, FUEL CELL, WIND, OR CLOSED CONDUIT**
19 **HYDRO;**

20 **(II) CREDITS ITS GENERATED ELECTRICITY TO THE**
21 **SUBSCRIBERS TO THE FACILITY; AND**

22 **(III) MAY BE OWNED BY A PUBLIC SERVICE COMPANY OR ANY**
23 **OTHER PERSON, INCLUDING A SUBSCRIBER ORGANIZATION.**

24 **[(4)] (5)** “Eligible customer-generator” means a customer that owns
25 and operates, leases and operates, or contracts with a third party that owns and

1 operates a biomass, micro combined heat and power, solar, fuel cell, wind, or closed
2 conduit hydro electric generating facility that:

3 (i) is located on the customer’s premises or contiguous property;

4 (ii) is interconnected and operated in parallel with an electric
5 company’s transmission and distribution facilities; and

6 (iii) is intended primarily to offset all or part of the customer’s
7 own electricity requirements.

8 **[(5)] (6)** “Fuel cell” means an electric generating facility that:

9 (i) includes integrated power plant systems containing a stack,
10 tubular array, or other functionally similar configuration used to electrochemically
11 convert fuel to electric energy; and

12 (ii) may include:

13 1. an inverter and fuel processing system; and

14 2. other plant equipment to support the plant’s
15 operation or its energy conversion, including heat recovery equipment.

16 **[(6)] (7)** “Micro combined heat and power” means the simultaneous
17 or sequential production of useful thermal energy and electrical or mechanical power
18 not exceeding 30 kilowatts.

19 **[(7)] (8)** “Net energy metering” means measurement of the difference
20 between the electricity that is supplied by an electric company and the electricity that
21 is generated by an eligible customer–generator and fed back to the electric grid over
22 the eligible customer–generator’s billing period.

23 **[(8)] (9)** “Net excess generation” means the amount of the electricity
24 generated by an eligible customer–generator that is in excess of the electricity
25 consumed by the eligible customer–generator and that results in a negative
26 kilowatt–hour reading at the end of the eligible customer–generator’s billing cycle.

1 **(10) “SUBSCRIBER” MEANS A RETAIL CUSTOMER OF AN ELECTRIC**
2 **COMPANY WHO OWNS A SUBSCRIPTION AND HAS IDENTIFIED ONE OR MORE**
3 **INDIVIDUAL METERS OR ACCOUNTS TO WHICH THE SUBSCRIPTION SHALL BE**
4 **ATTRIBUTED.**

5 **(11) “SUBSCRIBER ORGANIZATION” MEANS AN ORGANIZATION**
6 **WHOSE SOLE PURPOSE IS TO BENEFICIALLY OWN OR OPERATE A COMMUNITY**
7 **ENERGY-GENERATING FACILITY FOR THE SUBSCRIBERS OF THE COMMUNITY**
8 **ENERGY-GENERATING FACILITY.**

9 **(12) “SUBSCRIPTION” MEANS AN INTEREST IN A COMMUNITY**
10 **ENERGY-GENERATING FACILITY.**

11 (b) The General Assembly finds and declares that a program to provide net
12 energy metering for eligible customer-generators **AND COMMUNITY**
13 **ENERGY-GENERATING FACILITIES** is a means to encourage private investment in
14 renewable energy resources, stimulate in-State economic growth, enhance continued
15 diversification of the State’s energy resource mix, and reduce costs of interconnection
16 and administration.

17 (c) An electric company serving an eligible customer-generator **OR**
18 **SUBSCRIBER** shall ensure that the meter installed for net energy metering is capable
19 of measuring the flow of electricity in two directions.

20 (d) The Commission shall require electric utilities to develop a standard
21 contract or tariff for net energy metering and make it available to eligible
22 customer-generators **AND COMMUNITY ENERGY-GENERATING FACILITIES** on a
23 first-come, first-served basis until the rated generating capacity:

24 **(1)** owned and operated by eligible customer-generators in the State
25 reaches 1,500 megawatts; **OR**

26 **(2) OWNED AND OPERATED BY COMMUNITY**
27 **ENERGY-GENERATING FACILITIES IN THE STATE REACHES AN AMOUNT THE**
28 **COMMISSION DETERMINES.**

29 (e) (1) A net energy metering contract or tariff shall be identical, in
30 energy rates, rate structure, and monthly charges, to the contract or tariff that the

1 customer would be assigned if the customer were not an eligible customer-generator
2 **OR SUBSCRIBER.**

3 (2) (i) A net energy metering contract or tariff may not include
4 charges that would raise the eligible customer-generator's **OR SUBSCRIBER'S**
5 minimum monthly charge above that of customers of the rate class to which the
6 eligible customer-generator **OR SUBSCRIBER** would otherwise be assigned.

7 (ii) Charges prohibited by this paragraph include new or
8 additional demand charges, standby charges, customer charges, and minimum
9 monthly charges.

10 (f) (1) The electric company shall calculate net energy metering in
11 accordance with this subsection.

12 (2) Net energy produced or consumed on a regular basis shall be
13 measured in accordance with standard metering practices.

14 (3) If electricity supplied by the grid exceeds electricity generated by
15 the eligible customer-generator **OR COMMUNITY ENERGY-GENERATING FACILITY**
16 during a month, the eligible customer-generator **OR SUBSCRIBER** shall be billed for
17 the net energy supplied in accordance with subsection (e) of this section.

18 (4) If electricity generated by the eligible customer-generator **OR**
19 **COMMUNITY ENERGY-GENERATING FACILITY** exceeds the electricity supplied by
20 the grid, the eligible customer-generator **OR SUBSCRIBER** shall be billed only
21 customer charges for that month in accordance with subsection (e) of this section.

22 **(5) IF ELECTRICITY GENERATED BY THE COMMUNITY**
23 **ENERGY-GENERATING FACILITY IS NOT FULLY ALLOCATED TO SUBSCRIBERS,**
24 **THE ELECTRIC COMPANY SHALL PURCHASE THE UNSUBSCRIBED ENERGY AT**
25 **THE WHOLESALE PRICE OF THE ELECTRICITY.**

26 **[(5)] (6)** (i) An eligible customer-generator under paragraph (4)
27 of this subsection may accrue net excess generation for a period:

28 1. not to exceed 12 months; and

1 2. that ends with the billing cycle that is complete
2 [immediately prior to the end of April of each year] **AT A DATE THE COMMISSION**
3 **DETERMINES.**

4 (ii) The electric company shall carry forward net excess
5 generation until:

6 1. the eligible customer-generator's consumption of
7 electricity from the grid eliminates the net excess generation; or

8 2. the accrual period under subparagraph (i) of this
9 paragraph expires.

10 (iii) 1. The dollar value of net excess generation shall be
11 equal to the generation or commodity portion of the rate that the eligible
12 customer-generator would have been charged by the electric company averaged over
13 the previous 12-month period ending with the billing cycle that is complete
14 [immediately prior to the end of April] **AT A DATE THE COMMISSION DETERMINES**
15 multiplied by the number of kilowatt-hours of net excess generation.

16 2. **FOR CUSTOMERS THAT HAVE NOT COMPLETED A**
17 **FULL 12-MONTH PERIOD BY THE DATE THE COMMISSION DETERMINES, EXCESS**
18 **GENERATION SHALL BE DETERMINED AT THE END OF THE NEXT 12-MONTH**
19 **PERIOD.**

20 [2.] 3. For customers served by an electricity supplier, the
21 dollar value of the net excess generation shall be equal to the generation or commodity
22 rate that the customer would have been charged by the electricity supplier multiplied
23 by the number of kilowatt-hours of net excess generation.

24 [(6)] (7) (i) [On] **EACH YEAR, ON** or before 30 days after the
25 billing cycle that is complete [immediately prior to the end of April of each year] **AT**
26 **THE DATE THE COMMISSION DETERMINES UNDER PARAGRAPH (6) OF THIS**
27 **SUBSECTION**, the electric company shall pay each eligible customer-generator **OR**
28 **SUBSCRIBER** for the dollar value of any accrued net excess generation remaining at
29 the end of the previous 12-month period ending with the billing cycle that is complete
30 [immediately prior to the end of April] **AT THE DATE THE COMMISSION**
31 **DETERMINES UNDER PARAGRAPH (6) OF THIS SUBSECTION.**

1 (ii) Within 15 days after the date the eligible
2 customer-generator closes the eligible customer-generator's account, the electric
3 company shall pay the eligible customer-generator for the dollar value of any accrued
4 net excess generation remaining at the time the eligible customer-generator closes the
5 account.

6 **[(7) (8) (i) Notwithstanding paragraphs [(5) and] (6) AND (7) of**
7 **this subsection, an eligible customer-generator served by an electric cooperative that**
8 **serves a population of less than 250,000 in its distribution territory may choose to be**
9 **paid for the dollar value of net excess generation remaining at the end of each month**
10 **instead of at the end of the accrual period specified under paragraph [(5)(i)] (6)(I) of**
11 **this subsection.**

12 (ii) If an eligible customer-generator chooses to be paid for the
13 dollar value of net excess generation remaining at the end of each month:

14 1. the customer-generator may accrue net excess
15 generation on a monthly basis;

16 2. the dollar value of the net excess generation shall be
17 equal to the generation or commodity portion of the rate that the eligible
18 customer-generator would have been charged by the electric company for the previous
19 month; and

20 3. on or before 30 days after the end of each month, the
21 electric cooperative shall pay the eligible customer-generator for the dollar value of
22 net excess generation remaining at the end of the previous month.

23 **(G) (1) ALL ELECTRICITY THAT THE COMMUNITY**
24 **ENERGY-GENERATING FACILITY EXPORTS TO THE GRID:**

25 **(I) BECOMES THE PROPERTY OF THE ELECTRIC COMPANY**
26 **TO WHICH THE FACILITY IS INTERCONNECTED; BUT**

27 **(II) MAY NOT BE COUNTED TOWARD THE ELECTRIC**
28 **COMPANY'S TOTAL RETAIL SALES FOR PURPOSES OF SUBTITLE 7 OF THIS TITLE.**

1 **(2) ALL COSTS ASSOCIATED WITH INTERCONNECTION ARE THE**
2 **RESPONSIBILITY OF THE OWNER OR OPERATOR OF THE COMMUNITY**
3 **ENERGY-GENERATING FACILITY.**

4 **[(g)] (H)** (1) The generating capacity of an electric generating system
5 used by an eligible customer-generator **OR COMMUNITY ENERGY-GENERATING**
6 **FACILITY** for net **ENERGY** metering may not exceed 2 megawatts.

7 (2) An electric generating system used by an eligible
8 customer-generator **OR COMMUNITY ENERGY-GENERATING FACILITY** for net
9 **ENERGY** metering shall meet all applicable safety and performance standards
10 established by the National Electrical Code, the Institute of Electrical and Electronics
11 Engineers, and Underwriters Laboratories.

12 (3) The Commission may adopt by regulation additional control and
13 testing requirements for eligible customer-generators **AND COMMUNITY**
14 **ENERGY-GENERATING FACILITIES** that the Commission determines are necessary
15 to protect public safety and system reliability.

16 (4) An electric company may not require an eligible
17 customer-generator **OR COMMUNITY ENERGY-GENERATING FACILITY** whose
18 electric generating system meets the standards of paragraphs (2) and (3) of this
19 subsection to:

- 20 (i) install additional controls;
- 21 (ii) perform or pay for additional tests; or
- 22 (iii) purchase additional liability insurance.

23 (5) An eligible customer-generator **OR SUBSCRIBER**, or the eligible
24 customer-generator's assignee **OR SUBSCRIBER'S ASSIGNEE**, shall own and have
25 title to all renewable energy attributes or renewable energy credits associated with
26 any electricity produced by its electric generating system.

27 **(I) (1) A SUBSCRIBER ORGANIZATION MAY CONTRACT WITH A THIRD**
28 **PARTY FOR THE THIRD PARTY TO BUILD, OWN, OR OPERATE A COMMUNITY**
29 **ENERGY-GENERATING FACILITY.**

1 **(2) A SUBSCRIBER ORGANIZATION MAY BE ANY FOR-PROFIT OR**
2 **NONPROFIT ENTITY ORGANIZED UNDER STATE LAW.**

3 **(J) THE OWNERS OF, SUBSCRIBERS TO, AND ANY SUBSCRIBER**
4 **ORGANIZATION CONTROLLING A COMMUNITY ENERGY-GENERATING FACILITY**
5 **MAY NOT BE CONSIDERED A PUBLIC SERVICE COMPANY SUBJECT TO**
6 **REGULATION BY THE COMMISSION SOLELY AS A RESULT OF THEIR INTEREST OR**
7 **PARTICIPATION IN THE COMMUNITY ENERGY-GENERATING FACILITY.**

8 **[(h)] (K)** On or before September 1 of each year, the Commission shall
9 report to the General Assembly, in accordance with § 2-1246 of the State Government
10 Article, on the status of the net **ENERGY** metering program under this section,
11 including:

12 (1) the amount of capacity of electric generating facilities owned and
13 operated by eligible customer-generators in the State by type of energy resource;

14 **(2) THE AMOUNT OF CAPACITY OF COMMUNITY**
15 **ENERGY-GENERATING FACILITIES OWNED AND OPERATED BY A SUBSCRIPTION**
16 **ORGANIZATION IN THE STATE BY TYPE OF ENERGY RESOURCE;**

17 **[(2)] (3)** based on the need to encourage a diversification of the
18 State's energy resource mix to ensure reliability, whether the rated generating
19 capacity **[limit] LIMITS** in subsection (d) of this section should be altered; and

20 **[(3)] (4)** other pertinent information.

21 **(L) (1) THE ELECTRIC COMPANY MAY NOT BE RESPONSIBLE FOR**
22 **RESOLVING A DISPUTE RELATED TO AN AGREEMENT BETWEEN A SUBSCRIBER,**
23 **THE OWNER OF A COMMUNITY ENERGY-GENERATING FACILITY, A**
24 **SUBSCRIPTION ORGANIZATION, OR ANY OTHER PARTY OTHER THAN THE**
25 **ELECTRIC COMPANY.**

26 **(2) THE ELECTRIC COMPANY MAY NOT BE LIABLE FOR ANY**
27 **ACTION TAKEN OR AGREEMENT ENTERED INTO BY THE SUBSCRIPTION**
28 **ORGANIZATION.**

1 **(3) THIS SUBSECTION MAY NOT BE CONSTRUED TO PREEMPT OR**
2 **LIMIT ANY OTHER RIGHTS THE SUBSCRIBER MAY HAVE REGARDING AN**
3 **ELECTRIC COMPANY’S PROVISION OF ELECTRIC SERVICE, INCLUDING THOSE**
4 **PROVIDED BY TARIFF, COMMISSION ORDER OR DECISION, OR STATUTE.**

5 **(M) (1) THE COMMISSION SHALL ADOPT REGULATIONS TO**
6 **IMPLEMENT THIS SECTION.**

7 **(2) WHEN ADOPTING REGULATIONS FOR COMMUNITY**
8 **ENERGY-GENERATING FACILITIES, THE COMMISSION SHALL CONSIDER:**

9 **(I) WHETHER A SUBSCRIBER IS ON A TARIFF THAT**
10 **CONTAINS DEMAND CHARGES;**

11 **(II) THE POTENTIAL LOCATION OF A COMMUNITY**
12 **ENERGY-GENERATING FACILITY IN RELATION TO THE SUBSCRIBER;**

13 **(III) THE BENEFITS ACCRUING TO THE ELECTRIC COMPANY**
14 **DUE TO THE LOCATION OF THE COMMUNITY ENERGY-GENERATING FACILITY ON**
15 **THE DISTRIBUTION GRID, INCLUDING AVOIDED TRANSMISSION AND**
16 **DISTRIBUTION SYSTEM UPGRADES, REDUCED TRANSMISSION AND**
17 **DISTRIBUTION LEVEL LINE LOSSES, AND ANCILLARY SERVICES; AND**

18 **(IV) ANY OTHER MATTERS THAT THE COMMISSION**
19 **CONSIDERS NECESSARY OR APPROPRIATE.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2012.