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BILL NO.:	**Senate Bill 380** **Electricity – Net Energy Metering**
COMMITTEE:	**Finance**
HEARING DATE:	**March 8, 2011**
SPONSOR:	**Senator Pinsky and the President (By Request - Administration)**
POSITION:	**Support with Amendment**

The Office of People's Counsel (OPC) supports Senate Bill 380, with one amendment. This bill will remedy certain unintended consequences of the passage of Senate Bill 355/House Bill 701 (Acts 2010, ch. 438) in 2010. The original bills were intended to modify the net metering law to eliminate an expiration of generation credits after 12 months, and to allow net metering customers to receive compensation for excess credits. The 2010 bill (as amended) used a compensation formula based on PJM prices for calculating a dollar credit for any electricity generated in excess of the customer's usage for a month and applying that credit to the amount the customer owes on the total bill. Senate Bill 380 modifies the compensation process to provide that payment for excess generation credits must be done at the retail rate.

Prior to the 2010 amendments, Section 7-306(f) (5) (ii) of the PU Article had stated that "the electric company shall carry forward a negative kilowatt-hour reading…" SB 355 amended that section to read that "[t]he electric company shall carry forward accrued generation credit…" Section 7-306(f)(5)(iii) was amended to state that "the amount of the generation credit shall be calculated at the prevailing market price of energy applicable to the electric company in the PJM Interconnection energy market, as that may change from time to time…" Finally, a new Section 7-306(f) (6) was added, stating that "[t]he generation credit shall appear on the eligible customer-generator's bill in a dollar amount." These amendments require that *dollars* are carried forward on the bill, not *kilowatt-hours*.

After the end of the 2010 General Assembly session, the Public Service Commission established a rulemaking docket (RM 41) to establish new regulations to carry out the changes to the net metering law. An issue over the treatment and calculation of the generation credits for net metering customers arose almost immediately. The Maryland Energy Administration (MEA) provided an analysis showing that the calculation of generation credits in dollars based on PJM wholesale prices and applying that dollar credits to the net metering customer's bill on a monthly basis, as required by Acts 2010, ch. 438, would provide *less* value to the net metering customer than the prior practice of rolling excess generation over to the next month as a kilowatt-hour credit. This clearly was not what supporters of the bill intended.

Senate Bill 380 basically "undoes" these unintended consequences. The bill allows a net metering customer to accrue "net excess generation" for a period of one calendar year or less. The electric companies will carry forward the negative kilowatt-hour reading until the one-year period is reached or the customer closes the account. On or before January 15 of each year, each electric company is required to pay the net metering customer the dollar value of the "net excess generation" remaining at the end of the previous calendar year. The dollar value must equal the sum of

> *the energy charge and the distribution charge portion* of the retail rate that the eligible customer-generator would have been charged averaged over the calendar year multiplied by the number of kilowatt-hours of net excess generation.

7-306(f) (5) (iii) (emphasis added). Senate Bill 380 thus requires compensation at the retail rate, not at the prevailing market price of energy in the PJM markets.

OPC does have a concern with the inclusion of the distribution charge in the compensation formula. This results in other ratepayers providing a subsidy to net metering customers. The distribution costs of the utility remain the same irrespective of net metering. These costs typically are divided between a fixed customer charge and a volumetric charge based on the number of kilowatt-hours used by the customer. A customer still uses the distribution system even if he ends up with net excess generation at the end of the year. In any given month, the customer pays the fixed charge, but will pay a lower (or no) volumetric charge as a result of his own generation. This is appropriate. However, there is no reason to provide additional compensation in the form of distribution charge payments *to* the net metering customer.

OPC recommends a favorable report with the attached amendment.

Amendment

OPC proposes the following amendment to the compensation formula in Section 7-306(f) (5) (iii):

1. On page 4, in line 11, strike **"THE SUM OF"**
2. On page 4, in lines 12-13, strike **"AND THE DISTRIBUTION CHARGE PORTION OF THE RETAIL RATE"**