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OFFICE OF PEOPLE'S COUNSEL**

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BILL NO.: **House Bill 163**
**Electricity – Combined Heat and power Systems -
Metering**

COMMITTEE: **Economic Matters**

HEARING DATE: **February 7, 2019**

SPONSORS: **Chair, Economic Matters Committee (By Request –
Departmental – Maryland Energy Administration)**

POSITION: **Favorable Report with Amendments**

The Maryland Energy Administration has requested the introduction of House Bill 163, which would establish a separate Net Energy Metering (“NEM”) law for combined heat and power (“CHP”) systems. This program would provide direct benefits to CHP owners. These benefits are in addition to MEA CHP grants and EmPOWER Maryland CHP programs for commercial and industrial customers. While the Office of People’s Counsel has concerns about House Bill 163, as proposed, those concerns could be alleviated by the adoption of amendments, which are attached to this testimony.

House Bill 163 would require the Public Service Commission (“Commission”) to establish a program that would allow the owners of CHP systems to use net metering for their facilities that use the CHP system. Currently, micro CHP systems up to 30

kilowatts (“kW”) in size are eligible for net metering under Public Utilities Article (“PUA”) §7-306(a) (7). This bill would enact a new section of the PUA that would allow net metering for CHP systems with a generating capacity between 30 kW and 20 megawatts (“MW”). Twenty megawatts far exceeds the size limit of the current NEM law.

The Office of People’s Counsel (OPC or People’s Counsel) is not necessarily opposed to allowing the owners of larger CHP units to use net metering for a facility with a CHP unit. While the bill refers to residential, commercial and industrial customers, the reality is that commercial and industrial facilities with coincident electric and thermal loads will install CHP systems, not residential customers.¹ The bill also has no limit on the amount of CHP net-metered capacity, and little limit on the continuation of NEM for participating customers, even if the program is terminated. Given the lack of information or data about potential cost impacts or cross-subsidization within commercial and industrial classes, as well as across classes, OPC recommends House Bill 163 receive a favorable report only if the attached amendments are adopted. These amendments include limitations on net metering for large CHP systems similar to the limitations currently imposed on other forms of net metering.

As the Fiscal Note states, “ net energy metering is the measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by an eligible customer generator, and fed back to the

¹Proposed PUA §7-306.3(D) (2). OPC’s consultant, Vermont Energy Investment Corporation, has informed OPC that while some technology exists for homes (e.g., gas-fired micro turbines and pellet fired boilers with sterling engine units), CHP is not a viable cost or usage reduction option for homes.

electric company” over a stated billing period. Net energy metering would provide an economic benefit to owners of existing CHP systems and owners of CHP systems put in service in the future by allowing them to carry over as a kilowatt hour (“kWh”) credit any net electricity production by the CHP system above the amount of electricity used at the facility. These credits would apply to the facility’s electricity usage in future months. As with net metering of generating systems under PUA §7-306, the effective value of the credits would be the full retail rate of electricity for the facility, including the generation, transmission, and distribution parts of the bill. If the facility generates more electricity than it uses, the owner pays only a customer charge, and not any distribution and transmission charges, for that billing period. Further, any excess production credit rolls over to the next month, reducing or eliminating distribution and customer charges. The bill would also require the customer’s local utility to buy excess generation credits at the end of a 12-month period at a rate equal to the “wholesale portion of the electricity rate.”² Currently, excess generation from a large CH&P facility would be sold to the wholesale market at the prevailing market price.

The concern over CHP net metering shifting costs from one group of customers (those that own a generating unit with net metering) to another set of customers (those that do not own a generating unit with net metering) arises because the customers with net metering will see a reduction in their distribution bill that may not correspond to actual reductions in the utility’s distribution costs. This is a concern that is present both for the net metering allowed under existing law and the net metering for large CHP

² Proposed PUA §7-306.3(D) (6).

systems that would be allowed under the bill. However, the existing net metering law only requires net metering for the first 1,500 MW of generating capacity to enter the program.³ (This is about 10% of the peak load for the state. This creates a limit on the reduction in distribution revenue that a utility can experience as a result of net metering and, therefore, a limit on the possible cost-shifting among customers that can result from net metering. The proposed CHP net metering is not part of that 1500 megawatt limit, and is not constrained at all. Given the maximum size of the eligible facilities and the lack of any program cap, this proposed program creates a heightened cost-shifting concern.

The General Assembly recently enacted a provision of the PUA that required the creation of a “Community Solar Generating System Pilot Program.”⁴ (). This program allows customers that do not have a generating system at their home or business to join a community solar aggregation and enjoy the benefits of net metering on their utility bill for part of the output of a solar generator located at another location. The General Assembly included key limitations on that program. The program is only open to new projects for three years.⁵ Also, the generating capacity associated with the community solar program must be “limit[ed]” by the Commission to allow for the appropriate amount of generating capacity in the program, and the General Assembly required that

³ PUA §7-306(d).

⁴ PUA 7-306.2.

⁵ PUA §7-306.2(d) (14).

the generating capacity in the community solar program “count towards the overall limitation of 1,500 megawatts for all net metering projects in §7-306(d).”⁶

In contrast, House Bill 163 would allow an unlimited amount of CHP capacity to use net metering and that generating capacity would not count toward the overall limitation of 1,500 MW for net metering. OPC recommends that restrictions similar to those in the existing net metering law be placed on the large CHP net metering program.

Further, under existing net metering programs, each generating system must be approved for net metering. Therefore, if a customer replaces a generating system that is part of a net metering arrangement, the replacement generating unit must requalify for treatment as part of a net metering tariff. In contrast, House Bill 163 would allow owners of net metering systems to replace CHP units in perpetuity and still qualify for net metering tariffs without requalifying for a net metering tariff.⁷ OPC recommends that this provision be removed from the bill.

Finally, OPC is also concerned that the language of the bill with respect to the rate that will be paid for excess generation credits is not as clear as the language in the existing net metering law. Therefore, OPC recommends that the bill be amended to use the language from the existing law.

⁶ PUA §7-306(g).

⁷ Proposed §7-306.3(F) (2) (I) (page 7, lines 11-12).

With these comments, OPC recommends that the Committee issue a FAVORABLE report on House Bill 163, if the amendments set forth in the Attachment are accepted.

**ATTACHMENT
OPC TESTIMONY ON HOUSE BILL 163
ECONOMIC MATTERS COMMITTEE
PROPOSED AMENDMENTS**

1. Amendment to §7-306.3(F)(2)(I) (page 7)

Purpose: To limit duration of mandatory net metering for CHP systems

STRIKE, Page 7, Line 11, beginning with **INCLUDING** and ending with Line 12 **SYSTEM**.

STRIKE, Page 7, Line 16, beginning with **OR** and ending with **REPLACEMENT**

2. Amendment to §7-306.3(D)(6) (page 5) and §7-306.3(G)(5)(III) (page 8)

Purpose: To clarify the rate paid by the utility for excess generation credits

STRIKE Page 5, line 20, **WHOLESALE, AND** SUBSTITUTE "GENERATION OR COMMODITY".

STRIKE Page 8, line 9, **WHOLESALE, AND** SUBSTITUTE "GENERATION OR COMMODITY".

STRIKE Page 8, line 16, **WHOLESALE, AND** SUBSTITUTE "GENERATION OR COMMODITY".

3. Amendment to §7-306.3 (page 9)

Purpose: To limit the amount of generating capacity that is eligible for mandatory net metering in the State

ADD, Page 9, Line 12, "(H) THE CUMULATIVE INSTALLED NAMEPLATE CAPACITY UNDER THE COMBINED HEAT AND POWER SYSTEM PROGRAM SHALL COUNT TOWARD THE OVERALL LIMITATION OF 1,500 MEGAWATTS FROM ALL NET METERING PROJECTS IN § 7-306(D) OF THIS SUBTITLE."