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BILL NO.:	House Bill 839 Investor-Owned Electric Companies - Clean Energy Homes Pilot Programs - Establishment (Maryland Resilient and Clean Energy Homes Act)
COMMITTEE:	Economic Matters
HEARING DATE:	March 2, 2023
SPONSOR:	Delegates Qi, Barve, Embry, Foley, Fraser-Hidalgo, Vogel, Watson, and Wu
POSITION:	Informational

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House Bill 839 would require investor-owned electric companies to file with the Public Service Commission, on or before January 1, 2024, an application for a pilot program to support residential customer adoption of beneficial electrification measures. Each pilot program would last for three years and must include (1) an electrification make-ready program; (2) a rebate program for on-site clean energy generators and on-site "clean energy systems"—defined as "the combination of an on-site clean energy generator and a battery storage device that has advanced capabilities to provide one or more electric grid support services;" (3) a clean energy incentive program for multifamily housing facilities; and (4) a load management and electric grid support services program. The bill further requires that within 90 days after receiving an application, the Commission must issue an order approving, modifying, or denying the application.

OPC supports incentivizing residential customers to take beneficial electrification measures—that is, to replace direct fossil fuel use with the use of electricity. Such measures can reduce customer costs, enable better grid management, and lower greenhouse gas emissions. They benefit participating customers by reducing energy bills, and they further the State's work toward achieving the ambitious climate goals established in the Climate Solutions Now Act. Given that low- and moderate-income customers face the largest barriers to electrification and bear the greatest risk of being left

behind on an increasingly costly gas system, OPC strongly supports efforts to ensure that the benefits of electrification reach these customers, through initiatives such as HB 839's clean energy incentive program for multifamily housing facilities.

HB 839, however, would work toward these goals at a high cost for utility customers, for the reasons outlined below.

1. The exception to the cap on utility spending should be eliminated because it poses a significant risk of major rate increases for utility customers.

All utility spending on incentives, grants, or rebates under the proposed programs will be recovered from utility customers. Customers foot the bill through the rates they pay their utility. Under proposed section 7-911(a), utility spending under these programs would be capped at the lesser of 1% of an electric company's approved revenue requirement or $15 million per year. This cost cap is the only provision in the bill that limits potential customer costs. Section 7-911(b) eliminates this sole limit on utility spending by allowing an electric company to petition the Commission to exceed the $15 million annual budget limitation—as a practical matter, eliminating any assurance that spending would be capped. To protect customers, the option for companies to exceed the cap (section 7-911(b)) must be eliminated.

2. Electric companies should be required to expense pilot program costs during the current year, rather than recover those costs through a regulatory asset.

Under proposed section 7-912, an electric company "may use a regulatory asset" to "recover all reasonable costs associated with programs required under this subtitle at the approved weighted average cost of capital." This provision would have the effect of expanding the utilities' monopoly franchise for delivery of electricity into the business of lending money to finance individual household equipment—with all ratepayers paying the cost of the financing. This would be costly for customers.

Specifically, HB 839 would allow utilities to capitalize program costs and earn a return for their investors—rather than recovering those costs as operating expenses during the current year. While capitalizing program costs spreads those costs over time—mitigating some of the cost impact—it is much more costly for customers in the long term. In fact, for many of these investments, there are lower-cost program options than having utilities finance rebates through customer rates. Moreover, we are concerned with

this expansion of the utilities' business role into financing residential customer equipment at the expense of utility customers.

Financing the proposed programs through rates would be regressive for two reasons. First, because all residential utility customers pay the same rates regardless of income, the costs of financing programs through rates imposes a more significant burden on lower-income households than more affluent households. Second, the experience with the EmPOWER utility energy efficiency programs is that lower-income households participate at lower rates than wealthier households and pay more to support the programs than they receive in benefits.

Rather, rebate programs for customer equipment should be limited in scope and they should be expensed rather than capitalized, as is the case in most states, so that the utility recovers in the current year all reasonable and prudently incurred costs associated with the programs.

3. Electric companies should not receive performance incentives for work that they should otherwise already be doing.

Proposed section 7-912(3) provides that an electric company "may propose a performance incentive in a multiyear rate plan to include recovery of up to 30% of shared savings if the use of distributed energy resources or load management under this subtitle defers or avoids distribution upgrades that the electric company would have otherwise constructed and included in its rate base." The statute doesn't provide a reason for these performance incentives, and we can think of none; the provision will only serve to increase customer costs. Utilities have obligations to perform according to the law and Commission regulations. The legislation can direct utilities to perform, or it can direct the Commission how it should exercise its supervisory powers over public utilities.

4. An energy resource that "produces" electricity is already eligible for compensation under the net metering statute.

HB 839 would require electric companies to provide compensation "for services provided by a customer's distributed energy resources individually or through third-party aggregation." "Distributed energy resource" is defined to mean "an energy resource located on a customer's premises that: (1) produces or stores electricity; or (2) modifies the timing or amount of a customer's electrical consumption." While reasonable to compensate customers for a resource that "stores" electricity or "modifies" the customer's consumption, a resource that "produces" electricity—such as rooftop solar

panels—is already eligible for compensation under the net metering statute and should not be compensated twice through utility rates.

The four points above are not our only concerns about HB 839. The bill also has more practical problems, including, among others, unusually short deadlines for Commission action on utility proposals under the bill. These deadlines would impede transparency and public input, and they significantly deviate from timelines for stakeholder input and Commission review of utility rebate programs that are administered through EmPOWER.

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