EARTHJUSTICE

February 21, 2023

Chair C.T. Wilson
Members of the Economic Matters Committee

Re: Earthjustice **support** of HB 908: Electricity - Community Solar Energy Generating Systems Program

Earthjustice[1] strongly supports the passage of HB 908. HB 908 would make Maryland's Community Solar Program permanent and provide that utility consolidated billing should be available to community solar suppliers in the same manner it is available to other energy suppliers. Earthjustice thanks Delegate Luke Clippinger for his steadfast and enduring leadership on this issue.

The Community Solar Program Must Be Made Permanent

The Community Solar Program should be made a permanent program. While a recent Commission report notes that currently there are 43 community solar projects with 59 MW of capacity in operation, that report fails to note that as of Oct 18, 2021, there have been 177 MW of *accepted* community solar projects.[2] This illustrates a significant pent-up demand for solar in Maryland. Moreover, making the program permanent would reduce the uncertainty regarding the financial feasibility of renewable energy projects that sometimes take years to plan, design, and install.

Community solar is a competitive business and companies invest in projects based on the greatest long-term potential. As noted in a recent Commission report, approximately 40 states are operating community solar programs.[3] Because community solar is a competitive business, solar developers are not going to wait in Maryland for the program to restart. These developers will move their business to the other states operating community solar programs. Marylanders will lose not only the benefits of community solar, benefits expressly recognized by the General

[1] Earthjustice is a non-profit public interest environmental law organization that represents other non-profits free of charge. Earthjustice uses the power of law and the strength of partnerships to advance clean energy, combat climate change, protect people's health and preserve magnificent places and wildlife.
[2] MD PSC, Report on the Status of Net Energy Metering In the State of Maryland, at 12-13 (Oct. 18, 2021) ("MD Net Energy Metering Report"), https://www.psc.state.md.us/wp-content/uploads/2021-Net-Metering-Report-FINAL.pdf. Through the fourth year of the Pilot, 243.8 MWs of capacity were offered under the net metering cap. Thus, 236 MW, or approximately 96.8% of the available capacity is in the process of being constructed. *Id*.
[3] Report on the Community Solar Energy Generating Systems (CSEGS) Pilot Program (July 1, 2022), Maillog No. 241344 ("Report") at 13. According to the Report, this information is accurate through December 2021.

Assembly, but all the current and future jobs that a functioning community solar program creates. Once gone, it would be difficult to attract these developers back to Maryland.

In order to attract these companies and the jobs they create, the community solar program must be permanent. Given that solar projects can take multiple years to develop, acting now will provide the essential long-term certainty to businesses, who rely on long-term policy certainty to justify continued, sustained investment for their work in Maryland. That certainty of a permanent program allows for more efficient, steady deployment of projects, in keeping with the state's goals, and avoids the boom and bust that can happen as businesses are forced to account for a looming deadline by slowing their activity. Failing to act during this legislative session could eventually have a negative effect on solar investment in the state.

There are a variety of benefits community solar provides to all ratepayers, not just those participating in the program. Community solar is a vital resource for achieving Maryland's energy and environmental policy objectives, including Maryland's Greenhouse Gas Reduction Act targets, the Renewable Energy Portfolio Standard and the Regional Greenhouse Gas Initiative.

For example, during the most recent legislative session, the General Assembly passed the Climate Solutions Now Act of 2022. This law increased the GHG emissions reduction goal to a 60 percent reduction by 2031, requiring even more significant cuts. The new Climate Solutions Now Act also requires the State to achieve net-zero statewide GHG emissions by 2045. These aggressive mandates require significant increases in Maryland's reliance on solar over a very short timeframe. The General Assembly has previously determined that achieving these reductions is a benefit to all Maryland residents. As such, the community solar program's contribution to reaching the statutory goals must be viewed as a benefit.

Community solar provides a similar benefit to Maryland's achievement of its Renewable Energy Portfolio Standard ("RPS") goals.[4] The objective of the RPS statute is to recognize and to develop the benefits associated with a diverse portfolio of renewable energy resources to serve Maryland. The State's RPS Program does this by recognizing the environmental and consumer benefits associated with renewable energy.[5] Increasing reliance upon renewable energy technologies to satisfy electric power requirements can result in long-term emission reductions, increased fuel diversity, and economic benefits to the State.[6]

The Tier 1 Solar set-aside requirement in the RPS statute increases from 5.5 percent in 2019 to 14.5 percent by 2030.[7] It is notable that in 2020 all of the RECs retired from geothermal

[4] MD. Code Ann., Pub. Util § 7-701 et seq.
[5] MD PSC, *Renewable Energy Portfolio Standard Report, With Data for Calendar Year 2020*, at 1 (Nov. 2021) ("RPS Report"), https://www.psc.state.md.us/wp-content/uploads/CY20-RPS-Annual-Report_Final.pdf.
[6] *Id.* (citing MD. Code Ann., Pub. Util. § 7-702 "which describes the legislative intent and legislative findings in support of the enactment of the Maryland Renewable Energy Portfolio Standard").
[7] The 2019 Clean Energy Jobs Act establishes a target of 14.5 per cent of the state's consumed energy coming from solar by 2028. S.B. 516, 2019 Reg. Sess., Ch. 757 (Md. 2019).

and solar sources originated in Maryland.[8] Thus, community solar provides the added benefit of moving Maryland toward energy independence.

Reduced demand for fossil-fueled generation can translate into a diminished need to construct new power plants or new gas lines. This diminished need reduces land disruption and eliminates their related additional air pollutants and runoff. Thus, Maryland's overall environmental quality is enhanced by the increase in community solar.

Lack of certainty surrounding whether the community solar program will continue could undermine efforts to achieve State and local climate change goals, impact valuable green economy jobs, and contribute to prolonged adverse health impacts due to delays in reducing carbon and greenhouse gas emissions in our energy supply. Six years is long enough for a proof of concept. The General Assembly should demonstrate its support for solar and all the benefits that solar brings by making the program permanent, accompanied by the changes recommended in this report to improve the program's equity and efficiency.

Utility Consolidated Billing is Vital to Ensure Low-Income Participation in the Community Solar Program

In enacting the community solar pilot program, the General Assembly expressly stated that it is in the public interest that the State enable the development and deployment of energy generation from community solar energy generating systems in order to allow low-income and moderate-income retail electric customers to own an interest in a community solar energy generating system, and encourage developers to promote participation by low-income and moderate-income retail electric customers.[9] Thus, the General Assembly recognized that the community solar program is central to Maryland's goal of enabling *all* Maryland residents to receive the benefits of clean and affordable distributed solar generation.

Since its implementation, the community solar pilot program has proven remarkably successful overall, despite numerous challenges. However, despite the General Assembly's clear directive that the benefits of the program should go to low-and-moderate income ("LMI") Marylanders as well as non-LMI Marylanders, the program's success in serving LMI subscribers has been limited.

Regrettably, Electric Universal Service Program ("EUSP") funding recipients are effectively excluded from participation in the Community Solar Program. The EUSP, enacted in the Electric Customer Choice Act of 1999, was designed by the General Assembly to assist low-income electric customers to retire utility bill arrearages, to make current bill payments, and to access home weatherization following the restructuring of Maryland's electric companies and electricity supply market.[10] Through this legislation, the General Assembly required the Commission to establish the program, make it available to low-income electric customers statewide, and provide oversight to the Office of Home Energy Programs ("OHEP"), within the Department of Human Services, which is responsible for administering the EUSP. OHEP also

[8] *Id.* at 14.
[9] Md. Code Ann., Pub. Util. § 7-306.2(b)(2)(i), (iii).
[10] *See* Md. Code Ann., Pub. Util. §7-512.1.

administers Maryland Energy Assistance Program ("MEAP"), which is federally funded through the Low-Income Home Energy Assistance Program ("LIHEAP"). For customers who heat with electricity, EUSP and MEAP work in tandem, resulting in increased EUSP benefits for electric heating customers because MEAP funds are used to cover heating costs.

Under the Community Solar pilot program regulations, community solar projects are required to bill their subscribers separately from the subscriber's utility. Under this "dual billing" mechanism, the community solar project bills the subscriber for their solar power, usually at a rate discounted from the utility's SOS rate, and the utility separately bills the subscriber for distribution and transmission and other fixed costs, as well as for any electricity they provide that is not provided by community solar; the subscriber receives a credit on their utility bill for the amount of electricity received from community solar.

The community solar billing doesn't work for many low-income families because it is invoiced on two separate bills, one from the utility and the other from the subscriber organization. Many low-income families can't enroll in solar projects because participation in a solar project will result in a loss of some of their EUSP benefits. EUSP energy assistance benefits are only paid to the utilities. With separate billing, families receiving energy assistance who join a community solar project lose part, and sometimes most, of their energy assistance grants. The utility uses the funding to fully pay the utility portion of the consumer's bill, but even though the customer still has grant money remaining that grant cannot be used to pay their community solar charges. Thus, receipt of two bills leaves EUSP funds meant for low-income households who subscribe to community solar stranded at the utility, unusable by the intended beneficiaries.

Participating in community solar costs the EUSP participant out-of-pocket money that they would not have to provide if they used a traditional third-party electricity supplier. Since most EUSP beneficiaries simply do not have the funds to pay the subscriber fees on their own, these customers are effectively excluded from the community solar pilot even though their EUSP grant was not fully expended.

Allowing community solar charges to be billed to subscribers on one utility consolidated bill will enable EUSP participants to reap the full benefits of their EUSP grant while participating in the community solar pilot. Importantly, utility consolidated billing is not new. Consolidated billing already is available to third-party electricity suppliers and approximately 400,000 Maryland accounts use consolidated billing today. This mechanism allows customers of third-party providers to pay a single bill; for any customers receiving EUSP benefits, the utility keeps the full benefit, along with any additional payment by the customers owed for the full bill, while the third-party provider receives compensation for their share of charges.

Moreover, while this system of having to pay two bills is a nuisance for many, it is prohibitive for some. Low-income households who do not have bank accounts or credit cards currently cannot participate in community solar because the small companies that handle the billing for community solar suppliers simply do not have the capacity to accept payments by check or cash. Utilities, by contrast, have the capacity to accept alternative forms of payment. If

subscriber organizations could offer utility consolidated billing for community solar, low-income households who wished to participate could pay for their community solar power directly through the utility, by whatever means worked best for them—including in cash at their local supermarket, pharmacy or the utilities own offices—just as they do when they choose other suppliers of their electricity

The General Assembly should also recognize that encouraging EUSP participants to participate in community solar projects will result in more affordable electricity bills and lower arrearages. This occurs because community solar projects offer income-eligible families discounts of up to 25% off their electricity bill.

Energy equity recognizes that disadvantaged communities have been historically marginalized and overburdened by pollution, underinvestment in clean energy infrastructure, and lack of access to energy-efficient housing and transportation. Achieving energy equity requires intentionally designing systems, technology, procedures, and policies that lead to the fair and just distribution of energy system benefits. The General Assembly's focus on low- and moderate-income participation in the legislation creating the community solar pilot program was designed to help remedy the energy inequities of the past. Removal of this financial barrier to low- and moderate-income residents' participation in community solar projects will enhance the solar developers ability to help achieve these objectives.

Conclusion

Ensuring the continuation of the Community Solar program by making this successful program permanent will result in climate and public health benefits, and benefits to residential electricity customers due to lower electricity rates. Requiring utility consolidated billing to be available to community solar subscriber organizations to the same extent that this billing mechanism is currently available to other energy suppliers will permit low-income residential customers to participate in the program

Earthjustice strongly urges a favorable report for HB 908.

Thank you in advance for your support. Should you have any questions, please contact me at smiller@earthjustice.org.

Respectfully submitted,

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