STATE OF MARYLAND

OFFICE OF THE CHAIRMAN

JASON M. STANEK

PUBLIC SERVICE COMMISSION

February 21, 2023

Chair C.T. Wilson
Economic Matters Committee
House Office Building, Room 231
Annapolis, Maryland 21401

RE: UNFAVORABLE – HB 908 – Electricity – Community Solar Energy Generating Systems Program

Dear Chair Wilson and Committee Members:

House Bill 908 (Cross-Filed with Senate Bill 613) amends PUA §7-306 and makes changes to the language regarding the administration of Community Solar Energy Generating Stations (CSEGS) in Maryland. The Public Service Commission oversees the status and general management of the Community Solar Pilot Program and I wish to provide the following information.

HB 908 seeks to make the Pilot Program (scheduled to end on December 31, 2024) a permanent program. This bill also makes extensive changes related to Community Solar in numerous subject areas including, but not limited to: Utility Consolidated Billing (UCB), program capacity limits, the expansion of co-location eligibility, and low- and moderate- income (LMI) verification. These changes to the operation of Community Solar in Maryland could have far-reaching impacts on ratepayers and residents.

The first major change adds language which allows CSEGS or Subscription Coordinators to use Utility Consolidated Billing on behalf of and without the consent of the customer. Under existing policies and regulations that are outlined within COMAR, any unpaid charges that appear on a utility bill will contribute to service disconnection balances, and could warrant disconnection. If CSEGS subscription fees are allowed to appear on a utility bill, then customers who do not pay their subscription fee will be subject to utility collection actions and service disconnection. To date, the Commission has never allowed charges unrelated to utility services to appear on the bill. Utility service terminations resulting from unpaid non-energy fees is unprecedented and could hurt Marylanders that wish to participate in Community Solar.

Utility Consolidated Billing is also currently used by electric retail suppliers within the state and requires both the use of a specific electronic transaction mechanism (EDI) and the use of a Purchase of Receivables mechanism (POR). While complicated, the EDI allows for the transfer of data from the supplier to the utility for the purpose of billing. The POR requires the utility to be responsible for collecting on debts that are owed to electric retail suppliers (or CSEGS) if

customers default on their payments. HB 908 does not address the logistics of establishing an EDI and POR mechanism to permit community solar charges to appear on a customer's utility bill. To effectively enable UCB to be used for community solar fees and charges, these mechanisms need to be developed through work group processes, rulemaking sessions, and extensive utility programming. Importantly, any utility programming and IT costs that are required to establish a UCB process for CSEGS will be paid for by all ratepayers, regardless of their participation in the Community Solar program. Requiring community solar charges to appear on utility bills will take significant time and be a resource-intensive and costly process.

Second, HB 08 would remove existing limitations and capacity restrictions that are currently required under the pilot program. The bill language effectively removes program categories, project capacity limits, yearly capacity limits, electric company capacity limits, and sunset dates. This effectively ensures that the only capacity limit on CSEGS will be the 3,000 MW net metering cap. This change will allow CSEGS to use a large amount of the overall net metering cap, which, in turn, could limit the ability of Marylanders to construct their own solar projects. Despite CSEGS providing an option to residents who cannot install their own net metering project, CSEGS provide less financial benefits than customer-owned net metering projects.

HB 908 additionally makes changes to language relating to the co-location of CSEGS and the expansion of co-location eligibility. The bill will allow for co-located projects to have a maximum size of 10 MW, so long as the project provides at least 75% of its aggregate capacity to LMI subscribers or agrivoltaics.[1] This bill also expands the types of locations where CSEGS can co-locate, thus making it easier for community solar projects to be eligible for co-location and therefore eligible for 10 MW. This change will lead to bigger projects being developed, which will result in fewer overall projects, and limit the ability of small, community-owned CSEGS to participate. The potential large size of these projects will also limit the land that is available to be developed for general net metering use, and thus reduce the net metering capacity that is available. Additionally, 10 MW or larger projects would need to apply for a Certificate of Public Convenience and Necessity (CPCN), which may elongate the approval process for CSEGS projects.

The final major change that this bill proposes allows for a customer to verify low or moderate income ("LMI") status using a variety of methods, including the use of the honor system, *i.e.*, "self-attestation". This would allow customers to self-attest to their LMI status without requiring any evidence, such as proof of enrollment in other government assistance programs. Self-attestation, as written, does not require a customer to be under oath, and does not outline any penalty or penalty of perjury. This change would allow customers to attest to being low income, when in fact they are not. Customers would have an incentive to attest because CSEGS may offer lower rates to LMI customers. This would effectively reduce participation and potential benefits that would otherwise go towards LMI customers. CSEGS also have incentive to enroll as many LMI customers as they can, because CSEGS projects will be required to reach the new 40% LMI goal and will strive to reach the 75% LMI goal in order to build a 10 MW

[1] Agrivoltaic is defined in HB 908 as "The simultaneous use of areas of land for both solar power generation and agriculture". The PSC notes that additional language is needed for this definition, and that there needs to be language outlining how a CSEGS would qualify as "agrivoltaic".

project (as outlined in the bill). These factors could give both the customer and the CSEGS project an incentive to falsely attest to LMI status and engage in deceptive practices, which would effectively limit the ability of low-income customers to participate in Community Solar. Notably, the Public Service Commission issued an order on February 14, 2020 stating that self-attestation is an effective way of verifying LMI status, **only** if the self-attestation is accompanied by additional income verification documentation.

There are additional changes that create issues within the proposed language of this bill; however this letter intends to highlight the most impactful changes included in HB 908. In addition to being costly to all ratepayers, the bill will have major impacts on Maryland residents' participation in CSEGS (low-income customers in particular) and the overall administration of Community Solar. The bill also provides guidelines for the PSC to engage in rulemakings and establish regulations within strict timelines, which is unattainable given the time-consuming nature of both of these processes. For the reasons stated above, I write in opposition to House Bill 908.

I appreciate the opportunity to provide this testimony. Please contact Lisa Smith, Director of Legislative Affairs, at (410) 336-6288 if you have any questions.

Sincerely,

Jason M. Stanek
Chairman