

HOUSE BILL 864

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CF SB 595

By: **Delegates Stein, Clippinger, Barkley, Cardin, Feldman, Healey, Hucker,
Jameson, Lafferty, Morhaim, and Ross**

Introduced and read first time: February 9, 2012

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Electricity – Community Energy–Generating Facilities and Net Energy**
3 **Metering**

4 FOR the purpose of establishing a net energy metering program for community
5 energy–generating facilities; specifying that a community energy–generating
6 facility, subscriber, or subscriber organization is not an electric company or an
7 electricity supplier; requiring electric companies to purchase certain
8 unsubscribed electricity; requiring the Public Service Commission to set a date
9 for the end of a certain billing cycle; giving certain electric companies ownership
10 of certain electricity exported by the community energy–generating facility to
11 the grid; stating that certain costs are the responsibility of the owner or
12 operator of the community energy–generating facility; authorizing subscriber
13 organizations to contract with third parties for certain functions; authorizing
14 certain for–profit and nonprofit entities to be subscription organizations;
15 specifying that owners, subscribers, and organizations that control community
16 energy–generating facilities are not public service companies under certain
17 circumstances; requiring the Commission to report each year to the General
18 Assembly on the status of certain community energy–generating facilities;
19 specifying that an electric company may not be responsible for resolving certain
20 disputes; specifying that an electric company may not be liable for certain
21 actions taken or agreements entered into by a subscription organization;
22 requiring that the Commission adopt certain regulations for community
23 energy–generating facilities; requiring the Commission to consider certain
24 matters when adopting certain regulations; defining certain terms; making
25 conforming changes; and generally relating to community energy–generation
26 and net energy metering.

27 BY repealing and reenacting, with amendments,
28 Article – Public Utilities
29 Section 1–101(h) and (j) and 7–306

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2010 Replacement Volume and 2011 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article – Public Utilities**

6 1–101.

7 (h) (1) “Electric company” means a person who physically transmits or
8 distributes electricity in the State to a retail electric customer.

9 (2) “Electric company” does not include:

10 (i) the following persons who supply electricity and electricity
11 supply services solely to occupants of a building for use by the occupants:

12 1. an owner/operator who holds ownership in and
13 manages the internal distribution system serving the building; or

14 2. a lessee/operator who holds a leasehold interest in
15 and manages the internal distribution system serving the building;

16 (ii) any person who generates on–site generated electricity; [or]

17 **(III) A COMMUNITY ENERGY–GENERATING FACILITY,**
18 **INCLUDING ANY SUBSCRIBERS OR SUBSCRIBER ORGANIZATIONS ASSOCIATED**
19 **WITH THE COMMUNITY ENERGY–GENERATING FACILITY, AS THOSE TERMS ARE**
20 **DEFINED IN § 7–306 OF THIS ARTICLE; OR**

21 [(iii)] **(IV)** a person who transmits or distributes electricity
22 within a site owned by the person or the person’s affiliate that is incidental to a
23 primarily landlord–tenant relationship.

24 (j) (1) “Electricity supplier” means a person:

25 (i) who sells:

26 1. electricity;

27 2. electricity supply services;

28 3. competitive billing services; or

29 4. competitive metering services; or

1 (ii) who purchases, brokers, arranges, or markets electricity or
2 electricity supply services for sale to a retail electric customer.

3 (2) “Electricity supplier” includes an electric company, an aggregator,
4 a broker, and a marketer of electricity.

5 (3) “Electricity supplier” does not include:

6 (i) the following persons who supply electricity and electricity
7 supply services solely to occupants of a building for use by the occupants:

8 1. an owner/operator who holds ownership in and
9 manages the internal distribution system serving the building; or

10 2. a lessee/operator who holds a leasehold interest in
11 and manages the internal distribution system serving the building; [or]

12 (ii) a person who generates on-site generated electricity; **OR**

13 **(III) A COMMUNITY ENERGY-GENERATING FACILITY,**
14 **INCLUDING ANY SUBSCRIBERS OR SUBSCRIBER ORGANIZATIONS ASSOCIATED**
15 **WITH THE COMMUNITY ENERGY-GENERATING FACILITY, AS THOSE TERMS ARE**
16 **DEFINED IN § 7-306 OF THIS ARTICLE.**

17 7-306.

18 (a) (1) In this section the following words have the meanings indicated.

19 (2) “Biomass” means “qualified biomass” as defined in § 7-701 of this
20 title.

21 (3) “Closed conduit hydro” means a hydroelectric generating facility
22 that:

23 (i) generates electricity within existing piping or limited
24 adjacent piping of a potable water supply system;

25 (ii) is owned or operated by a municipal corporation or public
26 water authority; and

27 (iii) is designed to produce less energy than is consumed to
28 operate the water supply system.

29 **(4) “COMMUNITY ENERGY-GENERATING FACILITY” MEANS A**
30 **RENEWABLE ENERGY FACILITY THAT:**

1 **(I) GENERATES ELECTRICITY FROM BIOMASS, MICRO**
2 **COMBINED HEAT AND POWER, SOLAR, FUEL CELL, WIND, OR CLOSED CONDUIT**
3 **HYDRO;**

4 **(II) CREDITS ITS GENERATED ELECTRICITY TO THE**
5 **SUBSCRIBERS TO THE FACILITY; AND**

6 **(III) MAY BE OWNED BY A PUBLIC SERVICE COMPANY OR ANY**
7 **OTHER PERSON, INCLUDING A SUBSCRIBER ORGANIZATION.**

8 **[(4)] (5)** “Eligible customer-generator” means a customer that owns
9 and operates, leases and operates, or contracts with a third party that owns and
10 operates a biomass, micro combined heat and power, solar, fuel cell, wind, or closed
11 conduit hydro electric generating facility that:

12 (i) is located on the customer’s premises or contiguous property;

13 (ii) is interconnected and operated in parallel with an electric
14 company’s transmission and distribution facilities; and

15 (iii) is intended primarily to offset all or part of the customer’s
16 own electricity requirements.

17 **[(5)] (6)** “Fuel cell” means an electric generating facility that:

18 (i) includes integrated power plant systems containing a stack,
19 tubular array, or other functionally similar configuration used to electrochemically
20 convert fuel to electric energy; and

21 (ii) may include:

22 1. an inverter and fuel processing system; and

23 2. other plant equipment to support the plant’s
24 operation or its energy conversion, including heat recovery equipment.

25 **[(6)] (7)** “Micro combined heat and power” means the simultaneous
26 or sequential production of useful thermal energy and electrical or mechanical power
27 not exceeding 30 kilowatts.

28 **[(7)] (8)** “Net energy metering” means measurement of the difference
29 between the electricity that is supplied by an electric company and the electricity that
30 is generated by an eligible customer-generator and fed back to the electric grid over
31 the eligible customer-generator’s billing period.

1 **[8] (9)** “Net excess generation” means the amount of the electricity
2 generated by an eligible customer-generator that is in excess of the electricity
3 consumed by the eligible customer-generator and that results in a negative
4 kilowatt-hour reading at the end of the eligible customer-generator’s billing cycle.

5 **(10) “SUBSCRIBER” MEANS A RETAIL CUSTOMER OF AN ELECTRIC**
6 **COMPANY WHO OWNS A SUBSCRIPTION AND HAS IDENTIFIED ONE OR MORE**
7 **INDIVIDUAL METERS OR ACCOUNTS TO WHICH THE SUBSCRIPTION SHALL BE**
8 **ATTRIBUTED.**

9 **(11) “SUBSCRIBER ORGANIZATION” MEANS AN ORGANIZATION**
10 **WHOSE SOLE PURPOSE IS TO BENEFICIALLY OWN OR OPERATE A COMMUNITY**
11 **ENERGY-GENERATING FACILITY FOR THE SUBSCRIBERS OF THE COMMUNITY**
12 **ENERGY-GENERATING FACILITY.**

13 **(12) “SUBSCRIPTION” MEANS AN INTEREST IN A COMMUNITY**
14 **ENERGY-GENERATING FACILITY.**

15 (b) The General Assembly finds and declares that a program to provide net
16 energy metering for eligible customer-generators **AND COMMUNITY**
17 **ENERGY-GENERATING FACILITIES** is a means to encourage private investment in
18 renewable energy resources, stimulate in-State economic growth, enhance continued
19 diversification of the State’s energy resource mix, and reduce costs of interconnection
20 and administration.

21 (c) An electric company serving an eligible customer-generator **OR**
22 **SUBSCRIBER** shall ensure that the meter installed for net energy metering is capable
23 of measuring the flow of electricity in two directions.

24 (d) The Commission shall require electric utilities to develop a standard
25 contract or tariff for net energy metering and make it available to eligible
26 customer-generators **AND COMMUNITY ENERGY-GENERATING FACILITIES** on a
27 first-come, first-served basis until the rated generating capacity:

28 **(1)** owned and operated by eligible customer-generators in the State
29 reaches 1,500 megawatts; **OR**

30 **(2) OWNED AND OPERATED BY COMMUNITY**
31 **ENERGY-GENERATING FACILITIES IN THE STATE REACHES AN AMOUNT THE**
32 **COMMISSION DETERMINES.**

33 (e) (1) A net energy metering contract or tariff shall be identical, in
34 energy rates, rate structure, and monthly charges, to the contract or tariff that the
35 customer would be assigned if the customer were not an eligible customer-generator
36 **OR SUBSCRIBER.**

1 (2) (i) A net energy metering contract or tariff may not include
2 charges that would raise the eligible customer-generator's **OR SUBSCRIBER'S**
3 minimum monthly charge above that of customers of the rate class to which the
4 eligible customer-generator **OR SUBSCRIBER** would otherwise be assigned.

5 (ii) Charges prohibited by this paragraph include new or
6 additional demand charges, standby charges, customer charges, and minimum
7 monthly charges.

8 (f) (1) The electric company shall calculate net energy metering in
9 accordance with this subsection.

10 (2) Net energy produced or consumed on a regular basis shall be
11 measured in accordance with standard metering practices.

12 (3) If electricity supplied by the grid exceeds electricity generated by
13 the eligible customer-generator **OR COMMUNITY ENERGY-GENERATING FACILITY**
14 during a month, the eligible customer-generator **OR SUBSCRIBER** shall be billed for
15 the net energy supplied in accordance with subsection (e) of this section.

16 (4) If electricity generated by the eligible customer-generator **OR**
17 **COMMUNITY ENERGY-GENERATING FACILITY** exceeds the electricity supplied by
18 the grid, the eligible customer-generator **OR SUBSCRIBER** shall be billed only
19 customer charges for that month in accordance with subsection (e) of this section.

20 **(5) IF ELECTRICITY GENERATED BY THE COMMUNITY**
21 **ENERGY-GENERATING FACILITY IS NOT FULLY ALLOCATED TO SUBSCRIBERS,**
22 **THE ELECTRIC COMPANY SHALL PURCHASE THE UNSUBSCRIBED ENERGY AT**
23 **THE WHOLESALE PRICE OF THE ELECTRICITY.**

24 **[(5)] (6)** (i) An eligible customer-generator under paragraph (4)
25 of this subsection may accrue net excess generation for a period:

26 1. not to exceed 12 months; and

27 2. that ends with the billing cycle that is complete
28 [immediately prior to the end of April of each year] **AT A DATE THE COMMISSION**
29 **DETERMINES.**

30 (ii) The electric company shall carry forward net excess
31 generation until:

32 1. the eligible customer-generator's consumption of
33 electricity from the grid eliminates the net excess generation; or

1 1. the customer-generator may accrue net excess
2 generation on a monthly basis;

3 2. the dollar value of the net excess generation shall be
4 equal to the generation or commodity portion of the rate that the eligible
5 customer-generator would have been charged by the electric company for the previous
6 month; and

7 3. on or before 30 days after the end of each month, the
8 electric cooperative shall pay the eligible customer-generator for the dollar value of
9 net excess generation remaining at the end of the previous month.

10 **(G) (1) ALL ELECTRICITY THAT THE COMMUNITY**
11 **ENERGY-GENERATING FACILITY EXPORTS TO THE GRID:**

12 **(I) BECOMES THE PROPERTY OF THE ELECTRIC COMPANY**
13 **TO WHICH THE FACILITY IS INTERCONNECTED; BUT**

14 **(II) MAY NOT BE COUNTED TOWARD THE ELECTRIC**
15 **COMPANY'S TOTAL RETAIL SALES FOR PURPOSES OF SUBTITLE 7 OF THIS TITLE.**

16 **(2) ALL COSTS ASSOCIATED WITH INTERCONNECTION ARE THE**
17 **RESPONSIBILITY OF THE OWNER OR OPERATOR OF THE COMMUNITY**
18 **ENERGY-GENERATING FACILITY.**

19 **[(g)] (H) (1)** The generating capacity of an electric generating system
20 used by an eligible customer-generator **OR COMMUNITY ENERGY-GENERATING**
21 **FACILITY** for net **ENERGY** metering may not exceed 2 megawatts.

22 (2) An electric generating system used by an eligible
23 customer-generator **OR COMMUNITY ENERGY-GENERATING FACILITY** for net
24 **ENERGY** metering shall meet all applicable safety and performance standards
25 established by the National Electrical Code, the Institute of Electrical and Electronics
26 Engineers, and Underwriters Laboratories.

27 (3) The Commission may adopt by regulation additional control and
28 testing requirements for eligible customer-generators **AND COMMUNITY**
29 **ENERGY-GENERATING FACILITIES** that the Commission determines are necessary
30 to protect public safety and system reliability.

31 (4) An electric company may not require an eligible
32 customer-generator **OR COMMUNITY ENERGY-GENERATING FACILITY** whose
33 electric generating system meets the standards of paragraphs (2) and (3) of this
34 subsection to:

- 1 (i) install additional controls;
- 2 (ii) perform or pay for additional tests; or
- 3 (iii) purchase additional liability insurance.

4 (5) An eligible customer-generator **OR SUBSCRIBER**, or the eligible
5 customer-generator's assignee **OR SUBSCRIBER'S ASSIGNEE**, shall own and have
6 title to all renewable energy attributes or renewable energy credits associated with
7 any electricity produced by its electric generating system.

8 **(I) (1) A SUBSCRIBER ORGANIZATION MAY CONTRACT WITH A THIRD**
9 **PARTY FOR THE THIRD PARTY TO BUILD, OWN, OR OPERATE A COMMUNITY**
10 **ENERGY-GENERATING FACILITY.**

11 **(2) A SUBSCRIBER ORGANIZATION MAY BE ANY FOR-PROFIT OR**
12 **NONPROFIT ENTITY ORGANIZED UNDER STATE LAW.**

13 **(J) THE OWNERS OF, SUBSCRIBERS TO, AND ANY SUBSCRIBER**
14 **ORGANIZATION CONTROLLING A COMMUNITY ENERGY-GENERATING FACILITY**
15 **MAY NOT BE CONSIDERED A PUBLIC SERVICE COMPANY SUBJECT TO**
16 **REGULATION BY THE COMMISSION SOLELY AS A RESULT OF THEIR INTEREST OR**
17 **PARTICIPATION IN THE COMMUNITY ENERGY-GENERATING FACILITY.**

18 **[(h)] (K)** On or before September 1 of each year, the Commission shall
19 report to the General Assembly, in accordance with § 2-1246 of the State Government
20 Article, on the status of the net **ENERGY** metering program under this section,
21 including:

22 (1) the amount of capacity of electric generating facilities owned and
23 operated by eligible customer-generators in the State by type of energy resource;

24 **(2) THE AMOUNT OF CAPACITY OF COMMUNITY**
25 **ENERGY-GENERATING FACILITIES OWNED AND OPERATED BY A SUBSCRIPTION**
26 **ORGANIZATION IN THE STATE BY TYPE OF ENERGY RESOURCE;**

27 **[(2)] (3)** based on the need to encourage a diversification of the
28 State's energy resource mix to ensure reliability, whether the rated generating
29 capacity **[limit] LIMITS** in subsection (d) of this section should be altered; and

30 **[(3)] (4)** other pertinent information.

31 **(L) (1) THE ELECTRIC COMPANY MAY NOT BE RESPONSIBLE FOR**
32 **RESOLVING A DISPUTE RELATED TO AN AGREEMENT BETWEEN A SUBSCRIBER,**
33 **THE OWNER OF A COMMUNITY ENERGY-GENERATING FACILITY, A**

1 SUBSCRIPTION ORGANIZATION, OR ANY OTHER PARTY OTHER THAN THE
2 ELECTRIC COMPANY.

3 (2) THE ELECTRIC COMPANY MAY NOT BE LIABLE FOR ANY
4 ACTION TAKEN OR AGREEMENT ENTERED INTO BY THE SUBSCRIPTION
5 ORGANIZATION.

6 (3) THIS SUBSECTION MAY NOT BE CONSTRUED TO PREEMPT OR
7 LIMIT ANY OTHER RIGHTS THE SUBSCRIBER MAY HAVE REGARDING AN
8 ELECTRIC COMPANY'S PROVISION OF ELECTRIC SERVICE, INCLUDING THOSE
9 PROVIDED BY TARIFF, COMMISSION ORDER OR DECISION, OR STATUTE.

10 (M) (1) THE COMMISSION SHALL ADOPT REGULATIONS TO
11 IMPLEMENT THIS SECTION.

12 (2) WHEN ADOPTING REGULATIONS FOR COMMUNITY
13 ENERGY-GENERATING FACILITIES, THE COMMISSION SHALL CONSIDER:

14 (I) WHETHER A SUBSCRIBER IS ON A TARIFF THAT
15 CONTAINS DEMAND CHARGES;

16 (II) THE POTENTIAL LOCATION OF A COMMUNITY
17 ENERGY-GENERATING FACILITY IN RELATION TO THE SUBSCRIBER;

18 (III) THE BENEFITS ACCRUING TO THE ELECTRIC COMPANY
19 DUE TO THE LOCATION OF THE COMMUNITY ENERGY-GENERATING FACILITY ON
20 THE DISTRIBUTION GRID, INCLUDING AVOIDED TRANSMISSION AND
21 DISTRIBUTION SYSTEM UPGRADES, REDUCED TRANSMISSION AND
22 DISTRIBUTION LEVEL LINE LOSSES, AND ANCILLARY SERVICES; AND

23 (IV) ANY OTHER MATTERS THAT THE COMMISSION
24 CONSIDERS NECESSARY OR APPROPRIATE.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2012.