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**BILL NO.:** House Bill 768 Montgomery County – Community Choice Energy – Pilot Program

**COMMITTEE:** Finance

**HEARING DATE:** March 23, 2021

**SPONSOR:** Montgomery County Delegation

**POSITION:** Support with Amendments

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The Maryland Office of People’s Counsel (OPC) enthusiastically endorses House Bill 768 with supportive amendments. HB 768 establishes a pilot community aggregation program called Community Choice Energy (CCE) that would operate in Montgomery County. The CCE concept has tremendous potential to further both the consumer and environmental interests of residential customers in Montgomery County (County) and the rest of Maryland. The aggregation of customers envisioned by the bill aligns with OPC’s goals of promoting the interests of residential customers through an industry structure that facilitates a diversity of energy products, services and providers, all produced cost-effectively.

OPC is offering several amendments to HB 768 to facilitate its effectiveness by reducing uncertainty and delay.

**Community Choice Energy Benefits Residential Customers.**

By aggregating customers at the local level, HB 768 will help spur innovation, creating consumer and environmental benefits. The energy infrastructure of the future will include innovative distributed technologies and services such as local and rooftop solar, energy efficiency, microgrids, energy storage, and demand aggregators. These innovations are – by their very nature – local. Local customer aggregation supports local

accountability and empowers residential customers while creating possibilities for new services, jobs, and customer savings.

HB 768 promotes better performance through competition. Community aggregation enables local governmental entities to compete for the provision of energy products and services for their citizens. Community aggregation also can establish benchmarks that the Public Service Commission can use to more effectively regulate the performance of Maryland utilities. Stated otherwise, successful community aggregation will place competitive pressure on Maryland energy companies to operate cost-effectively and innovate.

HB 768 has the basic mechanisms for successful community aggregation. Relative to the status quo, it is more likely to tap into the benefits of retail competition for small consumers. By requiring customers to opt out, it avoids the challenges of customer inertia and creates collective buying power. And because local governments are elected, residential customers can hold decision makers directly accountable. The County also can readily establish and support targeted programs for low- and moderate-income customers within its jurisdiction.

Finally and importantly, HB 768 acknowledges the potential for the shifting of costs from customers participating in community aggregation to non-participating customers. The bill gives the Public Service Commission the authority it needs to guard against cost-shifting from CCE participants to non-participants.

### **Amendments Will Promote the Community Choice Energy Pilot Program’s Success.**

The Office of People’s Counsel has identified several modifications to HB 768 to ensure that the CCE program succeeds without delay or unnecessary litigation.

The suggested amendments further the purposes of HB 768. For example, OPC understands the intent is to have the CCE program be the default provider of electricity supply for residential customers in the County. We support this intent and suggest language that makes more explicit what happens when a County resident seeks to establish new electric service by contacting the electric company to start distribution service. That contact for distribution service could be interpreted to be a “contact” for the utility’s standard offer service when, in fact, the contact is for purposes of acquiring distribution service. Indeed, today the electric company assigns to standard offer service any customer who contacts it for distribution service. OPC proposes a simple amendment to expressly state that a request for the utility’s distribution service is not a “contact” to select standard offer service. The modification would not preclude a customer from affirmatively

selecting standard offer service for electricity supply.

Other amendments make similar improvements to HB 768 by, among other things: (1) ensuring the Public Service Commission has discretion in its determination of how to mitigate the potential effects of community aggregation on non-participants; (2) providing the County greater certainty regarding the timing of the electric company's exchange of customer data; (3) clarifying that the County notices providing residents information about their supply options include information about retail suppliers as well as standard offer service; and (4) permitting the County to provide the required notices in electronic form.

A full list of OPC's proposed amendments with specific language is included as an addendum to this testimony.

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HB 768's CCE program is a critical step forward in Maryland's progress toward building an infrastructure that is consistent with residential customer interest in a cost-effective and environmentally friendly energy future. The Office of People's Counsel urges the Economic Matters Committee to issue a favorable report.

**Supportive Amendments to House Bill 768**  
**Addendum to Testimony of Office of People’s Counsel**

1. On page 7, line 25, add “projected” before “rate setting and costs,” so that it reads “The projected rate setting and costs to participants, including...” The insertion of “projected” here recognizes that at the time the aggregation plan is developed, the costs will be projected costs that could change by the time the CCE program becomes effective.
2. On page 7, line 27, remove “purchasing” before “plan”. This change recognizes that the CCE program may provide energy-related services – such as energy efficiency, demand response, or other services – in addition to purchasing electricity.
3. On page 11, line 3, add “for the purpose of” before “select” and “for electricity supply” after “standard offer service.” Subparagraph (ii) therefore should state in its entirety: “Contacted an electric company for the purpose of selecting standard offer service for electricity supply”. The addition clarifies that the CCE program is the default supplier for new customers absent affirmative action by the customer to select a retail supplier or standard offer service and that a new customer’s contact with the utility for distribution service is not also a selection of standard offer service.
4. On page 12, line 33, insert before the period: “plus any increment required by the Public Service Commission, or by any organization authorized by law, to achieve reliability standards.” This insertion recognizes that the CCE will need to procure electricity supply sufficient to procure electricity supply estimated to meet participant needs plus any required reliability obligations.
5. On page 7, line 9; and page 9, line 6, insert “or electronic” before “notice” so that these provisions state “written or electronic notice”. The allowance for electronic notice will give the CCE program flexibility going forward to communicate with residents and business electronically.
6. On page 9, line 19, before the semi-colon, insert “and the offers of any retail electric supplier selling in the County.” This insertion recognizes that County customers are not limited to selecting standard offer service instead of the community choice aggregator; they may also select a retail supplier. The County may comply with this requirement simply by providing in its notice a link to the Public Service Commission’s retail supplier website ([www.mdelectricchoice.com/](http://www.mdelectricchoice.com/)).

7. On page 13, line 13, after “the” insert “need to mitigate any substantial” and strike “mitigation of”. The addition of the term “substantial” provides the Public Service Commission discretion in determining the extent to which volumetric risk must be abated and reduces litigation risk to the County.
8. On page 13, line 14, after “may” insert the following: “, at the time of its approval of the plan submitted under subsection (e)(3)(iii),”. The addition of this timing language clarifies when the Public Service Commission should make its determination of volumetric risk and reduces potential delays in implementation.
9. On page 14, line 5, insert before “The” the following: “No later than the date of its approval of the plan submitted under subsection (e)(3)(iii),” and replace “review” with “establish”. The deadline will provide greater certainty for the exchange of customer data; replacing “review” with “establish” ensures a timely process by clarifying that the Commission can proceed in establishing the terms of the data exchange with or without an initial utility filing.