

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 561
Economic Matters

(Delegate Charkoudian, *et al.*)

Finance

Electric Industry - Community Choice Energy - Pilot Program

This bill establishes the Community Choice Aggregation Pilot Program and authorizes Montgomery County to form a “community choice aggregator,” beginning October 1, 2022, under specified conditions. The Public Service Commission (PSC) must adopt related regulations by July 1, 2022, including those related to risk mitigation for standard offer service (SOS) customers. The pilot program must begin on the date the county gives notice to PSC of its intent to form a community choice aggregator, or January 1, 2023, whichever is earlier; the program ends seven years after beginning, but no earlier than December 31, 2030. There is a related reporting requirement for PSC. The bill further specifies the intent of the General Assembly that, before any legislation may take effect that would expand the pilot program to other jurisdictions, the legislation be submitted by referendum to the voters of those jurisdictions.

Fiscal Summary

State Effect: PSC can handle the bill’s requirements with existing budgeted resources. The bill does not otherwise materially affect State finances or operations.

Local Effect: Montgomery County revenues and expenditures increase beginning in FY 2023 to the extent that the county chooses to form a community choice aggregator.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Community choice aggregator” means a county that serves as an electric aggregator for all residential electric customers that meet specified requirements for the

purpose of (1) negotiating the purchase of electric generation services or (2) providing electricity from a facility owned by the aggregator. Eligible residential customers are those that:

- are located within the county, including customers located within municipalities in the county;
- have not (1) selected an electricity supplier other than the SOS supplier or (2) refused to participate in the aggregation activities; and
- are not located in the service territory of a municipal electric utility or electric cooperative.

Montgomery County may form a community choice aggregator under the bill, subject to specified notification, planning, and other requirements, including PSC review and approval. The bill may not be construed to prevent a residential or small commercial electric customer in the county from choosing (1) to enter into a contract with an electricity supplier other than the community choice aggregator or (2) default SOS.

A residential or small commercial electric customer is deemed to have given permission to the county to act on the customer's behalf as a community choice aggregator:

- when the county receives a returned notice from the customer explicitly granting that permission; or
- in the case of a customer receiving SOS, within 30 days after the notice is given under specified circumstances.

A community choice aggregator may own an electric generating facility or electric storage facility if the facility is designed to provide energy primarily for use by the participants of the community choice aggregator.

Community Choice Aggregators Incorporated into Net Metering and Community Solar Pilot Program

Community choice aggregators are incorporated into existing net metering and community solar pilot program provisions as they related to electricity suppliers. Eligible customer-generators under the net metering law are authorized to participate in community choice aggregation activities.

Electric Company Continues to Provide Billing Services

An electric company must provide billing services for a community choice aggregator, subject to specified conditions and terms and conditions determined by PSC.

Limitation on Fees, Taxes, or Other Charges

A community choice aggregator may not assess any new fee, tax, or other charge in the aggregation charges or rates that is not related to the cost of (1) providing electricity supply and electricity supply service; (2) promoting the use of renewable energy; and (3) providing and promoting energy efficiency measures.

PSC Standards and Review

Based on a determination of the mitigation of volumetric risk, PSC may establish by order or regulation a schedule by which a community choice aggregator may transfer load from SOS to retail or wholesale contracts under an aggregation plan. The schedule may not be longer than two years. PSC must consider the impacts to the price and stability of the procurement of SOS when considering the schedule. Relatedly, PSC may allocate the portion of delinquent electricity supply account receivables attributable to aggregator customers throughout an electric company's service territory under specified circumstances related to avoiding adverse impacts on the cost of SOS.

PSC must review applicable fees, request formats, and the format of data provided to facilitate the intent of the bill. PSC must establish procedures for an electric customer who is receiving electricity supply from a community choice aggregator to receive a bill assistance credit or any other specified bill assistance to which the customer may be entitled.

PSC must establish standards and procedures by regulation to protect the consumer rights of residential customers within the territory of a community choice aggregator that receive electricity supply through the aggregator. The regulations must prohibit discrimination against a customer or on the basis of the location of the customer.

Current Law: A county or municipality may only act as an aggregator if PSC determines that there is not sufficient competition within the boundaries of the local jurisdiction. "Aggregator" means an entity or an individual that acts on behalf of a customer to purchase electricity or gas. It does not include (1) an entity or individual that purchases electricity or gas for its own use or for the use of its subsidiaries or affiliates; (2) a municipal electric utility or a municipal gas utility serving only in its distribution territory; or (3) a combination of governmental units that purchases electricity or gas for use by the governmental unit.

Background: The Electric Customer Choice and Competition Act of 1999 facilitated the restructuring of the electric utility industry in Maryland. The resulting system of customer choice allows the customer to purchase electricity from a competitive supplier or to continue receiving electricity under SOS. Default SOS electric service is provided by a

customer's *electric company* (e.g., Baltimore Gas and Electric Company or Pepco). Competitive electric supply is provided by competitive *electricity suppliers*. In either case, the electric company delivers the electricity and recovers the costs for delivery through distribution rates.

Local Fiscal Effect: The bill authorizes Montgomery County to form a community choice aggregator beginning October 1, 2022, which, under the bill, is allowed to own generation assets and/or enter into contracts with electricity suppliers on behalf of persons within its jurisdiction. Therefore, Montgomery County revenues and expenditures increase beginning in fiscal 2023 to the extent that the county chooses to form a community choice aggregator.

Small Business Effect: The bill does not require that Montgomery County form a community choice aggregator; however, to the extent that the county, with its population of more than 1.0 million does, small electricity suppliers may experience reduced demand for their services. However, the bill allows a community choice aggregator to purchase electricity from an electricity supplier – a potentially large customer. Therefore, the effect on any particular electricity supplier cannot be determined, but could be meaningful.

Additional Information

Prior Introductions: SB 660 of 2019, a similar bill, received a hearing from the Senate Finance Committee, but no further action was taken. Its cross file, HB 730, received a hearing from the House Economic Matters Committee but was referred to interim study.

Designated Cross File: SB 315 (Senator Beidle, *et al.*) - Finance.

Information Source(s): Public Service Commission; Office of People's Counsel; Arundel, Charles, and Montgomery counties; Maryland Association of Counties; Maryland Municipal League; City of Havre de Grace; Department of Legislative Services

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