

COMMENTS OF DIRECT ENERGY SERVICES LLC ON SENATE BILL 315
AN ACT CONCERNING ELECTRIC INDUSTRY – COMMUNITY CHOICE ENERGY

Chairman Kelley and Finance Committee members, Direct Energy Services, LLC is pleased to present these comments in support of Senate Bill 315, An Act Concerning Electric Industry – Community Choice Energy and thanks the Committee for hearing testimony on this important legislation. Direct Energy is one of the largest retail suppliers of electricity and natural gas in North America, where we have about 4 million customer relationships and more than 4,000 employees. Direct Energy has a large and longstanding presence in Maryland. We have more than 50,000 residential, 7,000 small business, and 3,500 commercial and industrial customer relationships. Direct Energy also has three offices in Maryland with a total of more than 100 employees.

Direct Energy has considerable experience in serving municipal aggregations and community choice energy programs. We currently serve a total of 49 communities in Massachusetts, New York and New Jersey, comprising more than 300,000 customers. These customers are all served at retail, meaning that Direct Energy is listed as the retail supplier of record for each of these customers in the systems of the distribution utilities serving those communities. We also provide wholesale power to several community choice aggregations, or CCAs, in California. However, the community choice program set forth in Senate Bill 315 is modeled similarly to the programs in Massachusetts, New York, and New Jersey so my remarks will focus more on that approach.

In our experience, community choice energy programs accomplish several important energy goals. First and foremost, they allow local communities to exert an enhanced level of control over the type of energy choices available to their citizens, allowing those choices to better reflect the collective wishes of the citizenry. For example, in a community choice program Direct Energy is serving in New York's Hudson Valley, the participating communities chose to have 100 percent renewable power as their default option for electricity supply. Currently, the New York state renewable energy standard

requires electric suppliers to provide renewable content of less than one percent, meaning that members of the Hudson Valley Community Power aggregation are getting an additional 99 percent renewable content above and beyond what is required by the state. They are achieving that goal in part by having Direct Energy, as the winner of the RFP to serve the aggregation, contract with a local hydropower facility for renewable energy credits. In this manner, community choice programs can allow citizens to choose electricity supply options that meet their interests where those options may not be available at scale from other sources.

Community choice programs serve other important energy goals as well, among them the following:

- **Community Choice programs establish a non-utility default provider of electricity.** This goal is usually very important to competitive retailers, who see having the monopoly distribution utility serve as the default provider of electricity (as is currently the case in Maryland) as an inherent conflict that destabilizes and distorts the competitive market. As called for in Senate Bill 315, and as is the case in community choice programs in Massachusetts, New York, and New Jersey, a competitive entity takes on the role of default provider, eliminating the conflict that attends having the utility serve that function.
- **Prices paid within a Community Choice program reflect the full cost to serve the customers in the program.** A longstanding concern competitive retailers have regarding the structure of various default utility services in restructured states (including standard offer service in Maryland) is that a material level of costs to provide that retail service remain embedded in delivery rates and are, thus, paid both by customers who remain on default service and those who switch to a competitive retailer. A community choice program addresses that issue. Because a competitive retailer provides service through the community choice program, the price for that service by definition includes all of the costs

to provide it. Competitive retailers who will be bidding for the right to serve a community choice program do not have a regulated rate base to shift costs to in order to keep their costs to serve the community choice program lower than they would otherwise be. Thus, other retailers who might be competing for customers already participating in the community choice program are competing on a level playing field in terms of the costs that are included in the aggregation program's "price to compare."

- **Community Choice program supply contracts do not involve a move from fixed price to variable.** One risk of competitive supply that is frequently mentioned by those with concerns about retail competition is that customers may move from a fixed price term to month-to-month variable service, which might involve price increases. Direct Energy believes these concerns are frequently over-stated. Nonetheless, to the extent a member of the Committee is concerned about this issue, community choice programs address it. Community choice programs go out for new bids when the existing term concludes; they do not move to month-to-month variable pricing.

Direct Energy acknowledges that not all stakeholders support the community choice approach to allow customers to take advantage of competitive supply. Some stakeholders have concerns that are fairly related to their position in the market and we would be happy to work with those parties and the bill's sponsors to address those concerns. One criticism we would like to address directly in these comments is the possibility that the migration caused by a community choice program could have a negative impact on standard offer prices for those in communities within a utility service territory that are not served by a community choice program. Direct Energy believes this concern is over-stated. In Massachusetts we have seen a high level of migration due to municipal aggregation programs yet little evidence that basic service rates have been negatively affected.

We understand that the market dynamics may be different in Maryland, where Senate Bill 315 would allow a county-wide community energy program that would migrate a material percentage of standard offer customers in a service territory to competitive supply at one time. There are ways to manage this risk effectively. For example, in Massachusetts, the City of Boston is moving forward with a municipal aggregation program, which is likely to go out for bids yet this quarter, with service beginning on January 1, 2021. The City of Boston aggregation represents about 80 percent of the residential load remaining on basic service in the Eversource east service territory, which would be an impact at least as great as the departure of any single county in Maryland to a community choice program. The City worked with the Department of Public Utilities and other stakeholders to address the migration risk associated with the aggregation program by delaying the start date so that wholesale bidders who may bid to serve basic service load in 2021 and beyond will know with far greater certainty the amount of load that will remain on basic service for the term of the wholesale contract they will be bidding on. This will reduce or eliminate any risk premium associated the implementation of the community choice program that wholesale suppliers might include in their bids.

Moreover, migration away from standard offer service to competitive supply has always been a risk associated with providing wholesale supply to standard offer service, and one that wholesale bidders are well aware of. In Direct Energy's view, giving undue deference to the interests of wholesale standard offer bidders reflects a generally unhealthy tendency to view standard offer service as a service not of last resort but first. Maryland residents have a right to choose a competitive option for their electric supply. No one should object if those residents decide to exercise that right, whether individually or collectively through a community choice program.

Finally, it is possible that the distribution utilities will express concerns about community choice programs. Direct Energy would be pleased to address any of those specific concerns in collaboration with the bill sponsors and other stakeholders. We would urge the Committee to take those concerns

with a grain of salt given that the utilities have a strong financial interest in maintaining low levels of migration to competitive supply because they are allowed a return on standard offer service. In fact, that return is quite lucrative for them. In the recent BGE rate case, which considered the appropriate level of administrative adjustment for standard offer service, BGE was ordered to allocate \$13,569,649 to the SOS Administrative Adjustment and to normalize the fee across all rate classes at 1.09 mills per kWh (\$0.00109 per kWh). BGE will collect \$8,281,680 in return per year in total from all customers (assuming the same level of migration as was assumed in the rate case). From the residential customers, they will collect .72 mills per kWh (\$0.00072 per kWh) for a total of \$6,963,543. If one assumes that all of the allocation to standard offer service is equity (a generous assumption), then the Return on Equity for delivering SOS is 61 percent ($\$8,281,680 / \$13,569,649 = .6103$, or 61 percent). About 84 percent of that return is attributable to the residential customers who would make up the great majority of the customers in a community choice program. This is not meant to dismiss out of hand any concerns raised by a utility. It is only meant to point out the clear financial interest utilities have in maintaining the current level of standard offer load, which might be materially reduced by the implementation of an effective community choice program.

Direct Energy appreciates the opportunity to provide comments on this important matter. We urge the members of the Committee to vote in favor of Senate Bill 315. Thank you.