

**ITEMS FOR CONSIDERATION**

**IN PREPARATION OF THE FAIRFAX COUNTY LEGISLATIVE PROGRAM  
2017 VIRGINIA GENERAL ASSEMBLY**

**September 30, 2016**

**INDEX**

**ITEMS FOR INITIAL CONSIDERATION**

Environment—Energy Efficiency	2
Environment—Renewable Energy	4
Human Services—Accessibility Requirements for Transportation Network Companies	6

## **ENVIRONMENT—ENERGY EFFICIENCY**

### **PROPOSAL:**

Support legislation that encourages investor-owned and cooperative electric utilities to prioritize energy efficiency, because cost-effective energy efficiency is in the public interest, and should be encouraged as the first resource before new generation is built.

### **SOURCE:**

Environmental Quality Advisory Council (EQAC)  
September 14, 2016

*EQAC submitted a previous iteration of this proposal that was subsequently rescinded at their September 14, 2016, meeting.*

### **BACKGROUND:**

Energy efficiency programs aim to decrease the consumption of energy, and have the potential to save ratepayers money, improve energy security, and help achieve climate goals. Although Virginia has a goal to reduce electricity consumption by ten percent (from 2006 levels) by 2022, the Commonwealth does not require utilities to meet energy efficiency goals. Virginia does require electric utilities to submit integrated resource plans which document how the utility intends to meet the forecasted demand for electric generation in an adequate and sufficiently reliable manner; as part of this plan, utilities are required to analyze the feasibility of investing in energy efficiency and demand-side management services, and can choose to propose energy efficiency programs as a tool to acquire the projected need for resources.

While some energy efficiency programs have been approved by the Virginia State Corporation Commission (SCC), they have typically been proposals from the utilities themselves. It is important to note that investor-owned electric utilities and cooperative electric utilities can petition the SCC for approval to adjust their rates to cover the costs of designing, implementing, and operating energy efficiency programs, if the program is determined to be in the public interest.

The 2016 General Assembly (GA) considered several bills related to energy efficiency. HB 1053 (Kilgore) and SB 395 (Alexander) were enacted, directing the SCC to evaluate the establishment of protocols to measure, verify, validate, and report the impacts of energy efficiency measures implemented by investor-owned electric utilities providing retail-electric utility service in the Commonwealth, and establish a methodology to estimate the energy and cost savings of such measures. However, other bills were continued to 2017 by the House Committee on Commerce and Labor, including: HB 576 (Sullivan, Murphy) which would have required energy utilities to implement energy efficiency programs, and HB 575 (Sullivan, Simon, Watts) and HB 352 (Ware), which would have amended the benefit cost tests used to determine whether energy efficiency programs are in the public interest. Similar legislation may be considered by the 2017 GA.

RECOMMENDATION:

Retain language that supports incentives and opportunities for the expansion of renewable energy and energy efficiency initiatives that is included in the Global Climate Change/Environmental Sustainability Initiatives position in the 2017 draft legislative program. Also, direct staff to bring relevant legislation introduced during the 2017 General Assembly to Legislative Committee for the Board's consideration.

## **ENVIRONMENT—RENEWABLE ENERGY**

### **PROPOSAL:**

Support legislation to encourage development of distributed renewable energy by removing some of the legal impediments, including but not limited to: (1) clarifying that renewable energy companies that sell to power purchase agreements (PPAs) are not public utilities; and (2) expanding the concept of “agricultural net-metering” to include community net metering programs.

### **SOURCE:**

Environmental Quality Advisory Council (EQAC)  
August 10, 2016

### **BACKGROUND:**

Fairfax County’s Environmental Agenda describes environmental stewardship as both a key responsibility and a critical legacy, and essential elements include the efficient and prudent use of energy resources, the promotion of energy conservation, and support for alternative energy sources. Renewable energy projects can be expensive, creating a financial barrier that has garnered attention in many General Assembly (GA) sessions, as various legislative solutions have been considered in recent years.

One possible solution is the use of third-party power purchase agreements (PPAs), which make such projects more affordable by enabling customers to obtain use of the necessary equipment without up-front capital expenditures. Under a PPA, a renewable energy company retains ownership of the renewable energy installation and sells the electricity produced to the customer at a price that is negotiated, and typically cheaper, than the cost of traditional energy. If the renewable energy company is a for-profit entity, it may be able to take advantage of a federal tax credit for investment and accelerated depreciation, potentially passing the benefit along to non-profits (which could allow non-profits like universities, municipalities, and churches to achieve lower energy prices that otherwise would be difficult to attain).

Following objections from Dominion Virginia Power indicating that PPAs violate its monopoly on the sale of electricity within its territory, legislation passed by the 2013 GA established a limited pilot program for PPAs, allowing customers in areas served by Dominion to install solar or wind using PPAs. However, except in very limited circumstances, renewable energy companies may be subject to regulation as a public utility company, and the regulatory issues, in combination with restrictions on the amount of energy that PPAs can generate and where it can be used by the customer, make it difficult for renewable energy companies to benefit from participation in a PPA. This has also been an issue for the County, as staff have explored the possibility of using a PPA to install solar panels on the I-95 sanitary landfill. Statewide, current utilization of the PPA pilot program is well below the 50MW cap on generation, at 967.4 kW; 49.033 MW remain available.

Another possible method of increasing the generation of renewable energy relates to net energy metering programs. Under such a program, a utility measures the difference

between electricity supplied to the customer and electricity fed back from the customer to the electrical grid. If the customer has generated more power than he or she has consumed, the utility compensates the customer for the excess power at a rate approved by the State Corporation Commission (unless the parties agree to a higher rate). Net metering is currently permitted for certain “eligible customer-generators” and “eligible agricultural customer-generators,” but subject to two caps. The first is a cap on the amount of energy that can be generated: 1MW for non-residential customer-generators, 20kW for residential customer-generators, and .5MW for eligible agricultural customer-generators. The second is an overall statewide cap of one percent of each electric distribution company’s adjusted Virginia peak-load forecast for the previous year (the 2015 GA raised the cap on net metering for eligible non-residential customer-generators from .5MW to 1MW). Under Virginia Code §56.594, eligible agricultural customer-generators can attribute energy from a single renewable energy installation to more than one meter, provided the meters serve the same customer and the properties involved are contiguous (e.g., solar panels on a barn can also serve a farmhouse on the same property), whereas eligible residential and non-residential customer-generators can only use the electricity they generate on the same site where the renewable energy system is located.

Community net metering, or a group of residential, commercial, industrial, and other customers who establish an “eligible community customer” to act collectively to generate renewable energy for their own use, is currently not allowed in Virginia. The 2013 GA considered legislation that would have authorized both community and agricultural net metering, but ultimately enacted a substitute bill that only permits agricultural net metering. In the 2014 GA, the County worked with interested parties on a regional initiative that would have authorized localities to generate renewable energy on their property and use this energy generation to offset energy consumption at other locally-owned sites. That bill was left in House Commerce and Labor after opposition was voiced by Dominion; however, the issue of net-metering was sent to the State Corporation Commission for study, and as previously mentioned, the 2015 GA raised the cap for eligible non-residential customer-generators from .5MW to 1MW. Legislation considered by the 2016 GA (HB 1286), would have clarified that renewable energy companies are not public utilities and also would have authorized community net metering, among other provisions; this legislation was continued to 2017 in House Commerce and Labor and sent to a Special Sub-Committee on Energy to be studied during the off-session.

Given recent interest in expanding the use of renewable energy in Virginia, and in light of the current GA study, it seems likely that legislation related to PPAs and community net metering will be considered by the 2017 GA.

#### RECOMMENDATION:

Retain language in Legislative Program (in the Global Climate Change/Environmental Sustainability Initiatives position) that supports opportunities for consumers to purchase or generate renewable energy, including expanding the availability of net metering programs. Also retain language in that position that supports increased flexibility in the restrictions governing third-party power purchase agreements (PPAs) for renewable energy. Finally, direct staff to bring relevant bills to the Legislative Committee for consideration during the 2017 GA session.

**HUMAN SERVICES—ACCESSIBILITY REQUIREMENTS FOR TRANSPORTATION  
NETWORK COMPANIES**

PROPOSAL:

Add a position to the Human Services Issue Paper in support of requiring Transportation Network Companies (TNCs) to provide wheelchair-accessible service.

SOURCE:

Fairfax Area Disability Services Board and  
Fairfax Area Long Term Care Coordinating Council  
July 2016

BACKGROUND:

Transportation Network Companies (TNCs) dispatch ride requests through smartphone apps to individuals who use their personal vehicles to transport customers. The two companies currently authorized to provide this service in Virginia are Uber and Lyft.

The regulatory structure for TNCs was established by the 2015 General Assembly (SB 1025/HB 1662), and provides a process for the licensing of TNCs and the registration of TNC drivers by the Department of Motor Vehicles (DMV). Although the legislation does not require TNCs or TNC drivers to provide wheelchair-accessible services, it does require that TNCs provide passengers an opportunity to indicate whether such services are required. If the TNC cannot arrange for wheelchair-accessible service with a TNC driver, then it must direct the passengers to an alternative provider of wheelchair-accessible services (such as taxicab or paratransit companies), if available.

The 2015 TNC legislation also requires that the DMV periodically consult with local governments to determine whether TNCs have had an effect on the availability of wheelchair-accessible transportation services. If evidence suggests an effect, the DMV must work collaboratively with appropriate stakeholders to develop recommendations to be submitted to the Chairmen of the House and Senate Committees on Transportation. Thus far, Fairfax County Department of Cable and Consumer Services and Department of Transportation staff have not been contacted by DMV to assess these impacts in Fairfax County.

According to the DMV, more than 12,000 TNC drivers were registered in the County as of June 30, 2016. TNC activity appears to be impacting the locally-regulated taxicab industry in general, but data necessary to analyze the effects in detail will not be available until April 2017. However, the taxicab industry is meeting the County Code requirement that four percent of the taxicab fleet, or 26 vehicles, be wheelchair-accessible; as of September 20, 2016, 32 of the 43 wheelchair-accessible taxicab certificates were filled, which is more than the number of such filled certificates in 2014, prior to the passage of the TNC legislation (though certificates are not necessarily an accurate proxy for the number of taxicabs available for service). It is important to note that some taxicab companies are now providing incentives to encourage drivers to provide wheelchair-accessible services.

Whether or not taxicabs are adequately meeting the demand for wheelchair-accessible service in Fairfax County, TNCs present an opportunity to increase the availability and flexibility of transportation services, potentially addressing transportation barriers for

County residents. TNCs also can be more affordable than taxis, depending on a number of factors. Yet, passengers who need wheelchair-accessible services often are limited to taxis and unable to reap the benefits of TNCs.

Local efforts are underway to explore the use of TNCs to supplement traditional transportation services. Fairfax County staff are exploring the feasibility and legal implications of partnering with TNCs to supplement County services and, if such a partnership were established, wheelchair-accessibility would need to be addressed. Another example is the Washington Metropolitan Area Transit Authority Abilities-Ride pilot program in Maryland through which TNCs or taxicab companies that utilize TNC technology will provide an alternative to MetroAccess and at least one TNC vendor will offer wheelchair-accessible services (this program is scheduled to begin in Spring 2017). A different program used in Arlington County involved a public-private partnership with a vendor that required drivers to modify their vehicles to be wheelchair-accessible; the expenses for drivers to do so was a significant obstacle in program implementation. Other program models could encourage TNCs to partner with existing paratransit providers or make wheelchair-accessible rental vehicles available to drivers.

Although County staff have observed an increasing demand from people with disabilities for equal access to TNC services, the DMV has not received any formal complaints from the public regarding wheelchair accessibility to date, according to the DMV's FY 2016 Fourth Quarter report. But, the DMV has been notified by the Virginia Association of Centers for Independent Living (VACIL), a statewide organization that provided input on the 2015 TNC legislation, that VACIL is researching TNC compliance with the aforementioned legislative requirements regarding wheelchair-accessible services. The results of this research, along with growing demand for equal access to TNCs from individuals with disabilities, may result in the introduction of legislation in the 2017 General Assembly to address this issue.

#### **RECOMMENDATION:**

Direct staff to bring relevant bills to the Legislative Committee for consideration. Also, direct staff to add the language below to the Accessibility position in the Legislative Program and Human Services Issue Paper. Finally, direct staff to work with interested stakeholders to educate consumers about how to provide feedback to the DMV regarding TNC accessibility issues.

#### **Accessibility**

**Support ensuring the inclusion of people with disabilities throughout the Commonwealth by increasing accessibility to public places, housing, and transportation services.**

Nearly 75,000 Fairfax County residents have a disability, which includes people with hearing, vision, cognitive, ambulatory, self-care, and/or independent living difficulties. While significant progress has been made toward ensuring the equality and inclusion of people with disabilities since the passage of the Americans with Disabilities Act (ADA) more than 25 years ago, continued advancement is needed. Fairfax County supports access for people with disabilities and older adults in public and private facilities; in particular, by increasing accessibility through incentives, voluntary standards for accessible housing and educational outreach to businesses, building officials, medical providers, advocacy groups, and state and local governments.

## INITIAL CONSIDERATION

September 30, 2016

The lack of affordable, accessible, integrated housing is a major barrier facing older adults and people with disabilities throughout the Commonwealth. Innovative options to help ensure that older adults and people with disabilities can stay in their homes include increasing the accessible housing stock in newly constructed multi-family housing (encompassing apartment buildings, condos, and assisted living housing among others); encouraging builders to offer “visitable” or Universally Designed options to prospective customers and applicants for new single family homes, as an alternative to conventional design; raising the maximum annual allotment of the Livable Homes Tax Credit; and, establishing a comparable grant to help pay for much-needed home modifications. Incentives and initiatives for accessible housing and home modifications should benefit both homeowners and renters. Improved accessibility in public buildings, housing, transportation (including transportation network companies), medical facilities and employment benefits all Virginians, by allowing people with disabilities to remain active, contributing members of their communities, while retaining their independence and proximity to family and friends. *(Updates and reaffirms previous position.)*