GO/T&E ITEM 1
May 1, 2013
Worksession

MEMORANDUM

TO: Government Operations and Fiscal Policy Committee/
Transportation, Infrastructure, Energy, and Environment Committee

FROM: Michael Faden, Senior Legislative Attorney
Leslie Rubin, Legislative Analyst, Office of Legislative Oversight

SUBJECT: **Worksession:** Resolutions to amend fuel-energy tax rates

The Council introduced two resolutions to amend fuel-energy tax rates on April 9, 2013, sponsored by the Council President (as a placeholder for future Council action) and Councilmember Andrews. Both proposals would revise the fuel-energy tax rates to reduce the projected revenue received from the 2010 increase in the tax rates by 5% in the Council President's resolution (with an estimated revenue loss of $5.8 million) or by 10% in Councilmember Andrews' resolution (with an estimated revenue loss of $11.6 million).

In his FY14 Recommended Operating Budget, the County Executive recommended continuing the fuel-energy tax rates set last year for FY13. The Executive's budget estimates $222.3 million in fuel-energy tax revenue in FY14.

A public hearing on these resolutions was held on April 30, at which the only speakers were representatives of the County, Bethesda-Chevy Chase, and Silver Spring Chambers of Commerce (see testimony, ©7-11). The Chambers of Commerce recommended further reducing the tax rates as Councilmember Andrews proposed, if not sunsetting the entire 2010 increase.

Fuel-energy Tax Rates – Recent History

The fuel-energy tax is imposed on suppliers of electricity, fuel oil, gas, steam, or liquefied petroleum gas. It is based on the quantity of energy supplied, not on changes in the price of the energy product. (For details, see County Code §52-14.) The tax is paid by the supplier, who will generally pass it on to its customers; for regulated electricity and natural gas suppliers, the state Public Service Commission approves this pass-through. Separate rates are set by Council resolution for residential/agricultural and commercial "categories of final consumption", as §52-14 allows.

In his FY11 Recommended Operating Budget, the County Executive proposed an increase to the fuel-energy tax rates to help raise revenue in the County's fiscal crisis. The Executive eventually proposed raising the tax rates 100% beginning May 1, 2010 (before the start of FY11) and letting the increase sunset at the end of FY12. Finance Department staff projected that raising rates 100% would raise an additional $133 million in tax revenue in FY11.

Ultimately, the Council in 2010 increased the fuel-energy tax rates for FY11 by a lower amount than the Executive recommended – raising 85% of the Executive's recommended revenue from the tax increase – an additional $110 million. The FY11 rate increase followed rate increases in 2008, 2005, 2004, and 2003.

In FY13, the County Executive recommended not carrying out his proposal to sunset the FY11 tax rate increases and instead keeping the current rates indefinitely. The Council instead reduced the tax rates for residential suppliers by about 6% and for non-residential suppliers by 4%, reducing overall tax revenue by about $11.4 million.

Issues/Options

1) How much revenue should the fuel-energy tax produce in FY14? In his FY14 Recommended Operating Budget, the County Executive proposed no change to the fuel-energy tax rates set by the Council last year. The Executive's budget projected $222.3 million in fuel-energy tax revenue in FY14, a 5% decrease from the FY13 budgeted revenue of $233.8 million.

Both resolutions before the Council would lower the revenue received from the 2010 rate increases by reducing the tax rates. The Council President's placeholder proposal would reduce the revenue from the FY11 tax increase by 5% (reducing the overall revenue from this tax by 2.6%). Councilmember Andrews' proposal would reduce the revenue from the FY11 tax increase by 10% (reducing the overall revenue from this tax by 5.2%).

In his recommended adjustments to the FY14 operating budget, sent to the Council on April 25, the Executive opposed reducing the fuel energy tax rates, cautioning that "In a time of significant fiscal uncertainly, it is not prudent to curtail a stream of revenue that is broad based and relatively stable."

2) How should the energy tax revenue be allocated? In FY10, 27% of total revenue from the fuel-energy tax came from residential suppliers and 63% came from commercial suppliers. After the Executive proposed increasing the tax rates, the Council in 2010 reallocated the tax burden between residential and commercial suppliers, increasing the residential share from 27% to 37% of total revenue. This resulted in a 155% rate increase for residential suppliers and a 60% rate increase for non-residential suppliers.

When the Council lowered the tax rates for FY13, the Council split the reduced revenue evenly between residential and commercial suppliers. Compared to the previous rates, the FY13 changes reduced residential rates by 6% and commercial rates by 4%.

Councilmembers, businesses, and several local Chambers of Commerce expressed concerns about the larger percentage of fuel-energy tax revenue generated from commercial sources and its impact on local businesses and the County's economic development goals.

The table below summarizes the revenue allocations from the Executive's Recommended Budget, the two current proposals, and the Chambers of Commerce proposal to repeal the 2010 increases. The two options shown below would allocate all of the revenue loss from the Council proposals either to reduce residential rates or to reduce non-residential rates. These examples highlight how a revenue reallocation could shift some of the tax burden between residential sources and non-residential sources.

- **Option #1** would allocate all of the revenue savings to residential sources.
- **Option #2** would allocate all of the revenue savings to non-residential sources.

Options to reduce Fuel-Energy Tax rates
($ in millions)

	Executive's Recommended Budget	Current Proposals		Option #1 Reduce only Residential Rates		Option #2 Reduce only Non-Residential Rates	
Council President's Placeholder Proposal – Reduce Revenue by $5.8 million							
	% of Revenue Residential – 35% Non-Res. – 65%	% of Revenue Residential – 34% Non-Res. – 66%		% of Revenue Residential – 33% Non-Res. – 67%		% of Revenue Residential – 36% Non-Res. – 64%	
Revenue Source	**Revenue**	**Revenue**	**% Change**	**Revenue**	**% Change**	**Revenue**	**% Change**
Residential	$77.0	$74.1	-3.8%	$71.2	-7.5%	$77.0	0%
Non-Residential	$145.3	$142.4	-2.0%	$145.3	0%	$139.5	-4.0%
Total	**$222.3**	**$216.5**	**-2.6%**	**$216.5**	**-2.6%**	**$216.5**	**-2.6%**
Councilmember Andrews' Proposal – Reduce Revenue by $11.6 million							
	% of Revenue Residential – 35% Non-Res. – 65%	% of Revenue Residential – 34% Non-Res. – 66%		% of Revenue Residential – 31% Non-Res. – 69%		% of Revenue Residential – 37% Non-Res. – 63%	
	Revenue	**Revenue**	**% Change**	**Revenue**	**% Change**	**Revenue**	**% Change**
Residential	$77.0	$71.2	-7.5%	$65.4	-15.0%	$77.0	0%
Non-Residential	$145.3	$139.5	-4.0%	$145.3	0%	$133.7	-8.0%
Total	**$222.3**	**$210.7**	**-5.2%**	**$210.7**	**-5.2%**	**$210.7**	**-5.2%**
Sunset Option – Reduce Revenue by $96.3 million							
	% of Revenue Residential – 35% Non-Res. – 65%	% of Revenue Residential – 23% Non-Res. – 77%					
	Revenue	**Revenue**	**% Change**				
Residential	$77.0	$28.9	-62.5%				
Non-Residential	$145.3	$97.2	-33.1%				
Total	**$222.3**	**$126.0**	**-43.3%**				

Source: Finance staff data with OLO calculations

This packet contains:

F:\LAW\TOPICS\Taxes\Fuel-Energy\FY14 Rates\Committee Memo V2.Doc

Resolution No. ____________
Introduced: April 9, 2013
Adopted: ____________

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Andrews

SUBJECT: Fuel/energy Tax - Rates

Background

1. Section 52-14 of the County Code levies a tax on persons transmitting, distributing, manufacturing, producing, or supplying electricity, gas, steam, coal, fuel, oil, or liquefied petroleum gas in the County.

2. Section 52-14 also provides that the County Council may amend the fuel/energy tax rates by resolution, after a public hearing advertised as required by Section 52-17. A public hearing was held on this resolution on April 30, 2013.

3. The Council finds that it is fair and equitable to continue different rates for fuels and energy transmitted, distributed, manufactured, produced, or supplied for residential and agricultural purposes and for non-residential purposes.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

1. On and after July 1, 2013, the fuel/energy tax rates levied under Section 52-14 of the County Code are specified on Schedule A, attached to this resolution.

2. This Resolution supersedes Resolution 17-455.

This is a correct copy of Council action.

____

Linda M. Lauer, Clerk of the Council Date

Council President's Proposal

SCHEDULE A (effective July 1, 2013)

(a) For fuel-energy transmitted, distributed, manufactured, produced, or supplied for residential and agricultural purposes:

FUEL-ENERGY	TAX RATE
Electricity (per kilowatt hr)	0.01208
Natural Gas (per therm)	0.10396
Steam (per therm)	0.13618
Coal (per ton)	30.83497
Fuel oil (per gallon)	
No. 1	0.14899
No. 2	0.15456
No. 3	0.15456
No. 4	0.15819
No. 5	0.16125
No. 6	0.16487
Liquefied petroleum gas (per pound)	0.02247

(b) For fuel-energy transmitted, distributed, manufactured, produced, or supplied for non-residential purposes:

FUEL-ENERGY	TAX RATE
Electricity (per kilowatt hr)	0.02082
Natural Gas (per therm)	0.17921
Steam (per therm)	0.23474
Coal (per ton)	53.14835
Fuel oil (per gallon)	
No. 1	0.25681
No. 2	0.26642
No. 3	0.26642
No. 4	0.27266
No. 5	0.27793
No. 6	0.28418
Liquefied petroleum gas (per pound)	0.03872

Councilmember Andrews' Proposal

SCHEDULE A (effective July 1, 2013)

(a) For fuel-energy transmitted, distributed, manufactured, produced, or supplied for residential and agricultural purposes:

FUEL-ENERGY	TAX RATE
Electricity (per kilowatt hr)	0.01161
Natural Gas (per therm)	0.09990
Steam (per therm)	0.13086
Coal (per ton)	29.63147
Fuel oil (per gallon)	
No. 1	0.14318
No. 2	0.14853
No. 3	0.14853
No. 4	0.15201
No. 5	0.15495
No. 6	0.15843
Liquefied petroleum gas (per pound)	0.02160

(b) For fuel-energy transmitted, distributed, manufactured, produced, or supplied for non-residential purposes:

FUEL-ENERGY	TAX RATE
Electricity (per kilowatt hr)	0.02039
Natural Gas (per therm)	0.17557
Steam (per therm)	0.22997
Coal (per ton)	52.06853
Fuel oil (per gallon)	
No. 1	0.25159
No. 2	0.26100
No. 3	0.26100
No. 4	0.26712
No. 5	0.27229
No. 6	0.27840
Liquefied petroleum gas (per pound)	0.03794

FUEL / ENERGY TAX ESTIMATES
MONTGOMERY COUNTY, MARYLAND

	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19
Current Law								
Collect	$226,148,664							
% change	-3.1%							

Forecast	FORECAST						
December '12 Update	$224,730,000	$228,030,000	$231,810,000	$235,280,000	$237,220,000	$238,070,000	$240,790,000
FY14 Budget (3/13)	**$219,060,000**	**$222,300,000**	**$225,970,000**	**$229,550,000**	**$232,030,000**	**$233,430,000**	**$234,750,000**
Difference	($5,670,000)	($5,730,000)	($5,840,000)	($5,730,000)	($5,190,000)	($4,640,000)	($6,040,000)
Growth Factor	-3.1%	1.5%	1.7%	1.6%	1.1%	0.6%	0.6%
% change							
December '12 Update	-0.6%	1.5%	1.7%	1.5%	0.8%	0.4%	1.1%
FY14 Budget (3/13)	**-3.1%**	**1.5%**	**1.7%**	**1.6%**	**1.1%**	**0.6%**	**0.6%**
Growth Factors :							
- Households (Calendar Year)	1.1%	1.1%	1.1%	1.1%	1.1%	1.1%	1.1%
- Businesses (1)	0.9%	1.7%	2.0%	1.8%	1.1%	0.3%	0.3%
Total	2.0%	2.8%	3.0%	2.9%	2.2%	1.4%	1.4%
Weighted Average							
Growth Factor :	1.0%	1.5%	1.7%	1.6%	1.1%	0.6%	0.6%
- Add factor (weather and consumption)	0.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Agricultural Adjustment	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Rate change	-4.6%						
Total	-3.1%	1.5%	1.7%	1.6%	1.1%	0.6%	0.6%

	FY12 est.	**FY13 est.**	**FY14 est.**	**FY15 est.**	**FY16 est.**	**FY17 est.**	**FY18 est.**	**FY18 est.**
Energy Tax from Residential	$83,756,972	$75,892,830	$77,015,320	$78,286,783	$79,527,066	$80,386,256	$80,871,283	$81,328,594
Number of households	360,960	368,840	372,840	377,000	381,090	385,220	389,400	389,400
Average Tax per Household	$232	$206	$207	$208	$209	$209	$208	$209
Energy Tax from Non-Residential	$142,391,692	$143,167,170	$145,284,680	$147,683,217	$150,022,934	$151,643,744	$152,558,717	$153,421,406

Montgomery County Department of Finance: February 2013

OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

April 25, 2013

TO: Nancy Navarro, President, County Council

FROM: Isiah Leggett, County Executive

SUBJECT: Recommended Adjustments to the FY2014 Operating and Capital Budgets

Attached for your consideration and review are a number of recommended adjustments to both the FY14 Recommended Operating Budget and the FY14 Capital Budget. These adjustments recognize recent developments such as State legislative actions and more current information. Because I anticipated that there could be potential expenditure needs, I maintained an adequate set aside in my March 15 recommended budget to fund these contingencies.

As you consider these recommendations and my earlier capital and operating budget recommendations, I would like to reemphasize the difficult and uncertain fiscal situation in which the County remains. The following factors are considerations:

- The effects of sequestration have begun to be felt with a number of Federal departments and agencies sending notices of furloughs to their employees. Even if the turmoil of Congressional inaction were resolved tomorrow, the uncertainty and financial risk of sequestration will continue to ripple through our local economy for months to come. Furthermore, the new reality at the Federal level appears to be constant drama related to the budget – if not sequestration, then brinksmanship regarding the national debt ceiling. The debates at the Federal level, and the uncertainty they have created may be with us for the foreseeable future.

- We also have concerns regarding the potential effects of the Wynne court case on our income tax revenues. If the State loses the court appeals in this case, we potentially will be confronted with tens of millions annually in lost revenue.

- The County's actuary recently finalized the retiree health benefits valuation, which is the basis for the 8-year schedule of agency retiree health insurance pre-funding (or, OPEB) contribution amounts. The finalized information indicates that my recommended FY14 Operating Budget for the scheduled seventh-year payment to the retiree health benefits trust fund is less than the calculated 7/8 amount by about $18 million. To put it simply, reducing the recommended OPEB amount further only compounds the shortfall and increases the amount that would need to be contributed in FY15 to reach full funding by the agreed upon timeframe.

- The capital budget is also dependent on significantly higher operating budget support than in recent years. Currently, the capital budget for FY15-18 assumes an annual Pay As You Go (PAYGO) contribution of $55.5 million annually – $26 million more annually than the 10 percent policy level. This is in addition to the almost $60 million in tax-supported current revenue assumed for FY15. Schools, College, Parks, and County government projects have been programmed assuming this funding would be available.

Given all of the information above, I am especially concerned that the Council has introduced two separate resolutions signaling a willingness to further reduce the energy tax rate that could result in up to $11 million in lost revenue. In a time of significant fiscal uncertainty, it is not prudent to curtail a stream of revenue that is broad based and relatively stable. Even an $11 million loss in revenue inhibits the County's flexibility to fund a number of our mutual priorities.

FY13 Operating Budget

Included in my proposed adjustments is funding to support the transition for one year only of 1,100 clients of the Department of Health and Human Services in the State resource coordination program for developmental disabilities. The State has restructured this program from a grant-funded program to a fee-for-service reimbursement program. HHS will transfer 2,200 of its clients to private service providers on July 1, 2013 as assumed in the March 15 budget; the budget adjustment will allow HHS to retain 1,100 of the most intensive cases during FY13, with the expectation that the County will exit the program entirely by FY15. This adjustment also recognizes additional State revenue that significantly offsets the FY14 costs of continuing this program.

My proposed budget adjustments also recognize the State legislative action to exempt Lockheed Martin from the County's Hotel/Motel Tax. This results in a reduction of $430,000 in Hotel/Motel tax revenue in FY14, and a corresponding reduction to the Conference and Visitors Bureau of $30,100 based on its 7 percent allocation of revenues.

I have also included a budget adjustment for the Department of Environmental Protection to implement the changes the Council enacted in Bill 34-12 and the resulting modifications to Executive Regulation 17-12. Attached to this memorandum is a revised Water Quality Protection Charge rate resolution consistent with these adjustments.

2

The Voice of Montgomery County Business

ORI REISS, CHAIRMAN

CHRISTOPHER CARPENITO, CHAIR-ELECT

TOM MCELROY, IMMEDIATE PAST CHAIR

GEORGETTE "GIGI" GODWIN, PRESIDENT & CEO

MONTGOMERY COUNTY COUNCIL

HEARING ON THE FY14 FUEL/ENERGY TAX RATES

APRIL 30, 2013

TESTIMONY BY GIGI GODWIN

MONTGOMERY COUNTY CHAMBER OF COMMERCE

Good Afternoon.

My name is Gigi Godwin and I am the President & CEO of the Montgomery County Chamber of Commerce. The Chamber supports a full sunset of the 2010 energy tax increase because the additional tax puts our County at a competitive disadvantage for jobs in an innovation driven economy.

The County does itself a disservice in its economic development efforts by continuing the 2010 energy tax increase. The 2010 increase was expected to sunset last year but instead was reduced only moderately. While we commend both Council President Navarro and Councilmember Andrews for introducing resolutions to reduce the tax by 5 and 10 percent respectively, the County Council should honor its commitment to sunset this additional tax fully.

The increase in the energy tax is an obstacle to advancing an innovation driven economy because:

- This specific tax runs contrary to this County's strategy of attracting today's innovators and tomorrow's jobs who are in the biotech, cyber-security, pharmaceuticals, health IT, and mobile application businesses, which use a lot of energy.

- The energy tax is significantly higher than that in any of our neighboring jurisdictions and is uncapped, which undermines the County's efforts to attract new companies and retain our existing employers.

- The energy tax also impacts the decisions of Federal agencies located in the County. Many of the small businesses who locate in the County do business with these Federal agencies. The tax adds another challenge to retaining federal agencies also because of the State's GSA leasing cap.

We appreciate the County's budget challenges and we understand that this tax was intended to be a short term solution. But, we believe that by keeping it, over the long term will have the unintended consequence of undermining the County's economic health.

For these reasons, the Chamber supports a full sunset of the 2010 energy tax increase. A non-competitive energy tax runs counter Montgomery County's economic development strategy to retain and attract high-technology and biotechnology companies. In the alternative at the very least, the Chamber urges the Council to reduce the tax and cap the tax rate as is the practice in many other jurisdictions.

Thank you.

THE GREATER BETHESDA-CHEVY CHASE CHAMBER OF COMMERCE

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7910 Woodmont Avenue, Suite 1204
Bethesda, MD 20814
T: (301) 652-4900
F: (301) 657-1973
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**THE GREATER BETHESDA-CHEVY CHASE CHAMBER OF COMMERCE
TESTIMONY ON FUEL/ENERGY TAX RATES
BEFORE THE MONTGOMERY COUNTY COUNCIL – April 30, 2013**

Good afternoon. I am Andy Stern, Chair of The Greater Bethesda-Chevy Chase Chamber of Commerce, representing over 550 member businesses and nonprofit organizations in Montgomery County.

Last year and again this year during County operating budget public hearings, we expressed our dismay that the County Council reneged on its promise to decrease the energy tax. During the FY11 budget discussions, the Council resolution explicitly stated that the rates would decrease again on July 1, 2012. Although you reduced the tax minimally last year, you still did not sunset it. And now we find again that the County Executive's proposed FY14 operating budget proposes to retain the tax at its current level, in part to help pay for substantial increases in County employee salaries.

Personally, I find it outrageous that the Executive has proposed such huge increases in salaries for County Employees. Many of our small businesses find themselves in the same position that I am in. The continuing economic recession – made worse by constant uncertainty in the markets (ie: Sequestration) – has created a situation where our sales volume has not returned to pre-recession levels, resulting in lower compensation for employees of businesses across the county. No one in business does what has been proposed in this budget, which is to make up for compensation lost in the recession. And to do so on the backs of the already overburdened business community by keeping this energy tax in place is bad fiscal policy.

The County Executive's April 25th memo to Council President Navarro states "[i]n a time of significant fiscal uncertainty, it is not prudent to curtail a stream of revenue that is broad based and relatively stable". But what about the promise that was made to businesses nearly three years ago that the tax increase would sunset? What about the fiscal uncertainty created by the County for our business community whose one near certainty during the economic recession was that the fuel/energy tax would decrease and sunset as had been promised to them?

Back in FY11, we expressed that the fuel/energy tax increase is bad fiscal policy, and it remains so today. When our Department of Economic Development has a primary goal of retaining and attracting federal agencies, what message are we sending to the federal agencies that currently lease over seven million square feet and own over two million square feet in Montgomery County? When other neighboring jurisdictions are targeting our federal installations to move out of the County, maintaining our fuel/energy taxes at such a high rate is inviting them to leave.

The Chamber has continually stressed to you over the past several years, that there are two primary ways to increase revenue: one is to increase taxes and fees on businesses already existing in the County, which creates a continuing burden making it harder and harder to stay in the County. The other option is to grow the tax base by attracting more businesses and taxpayers to the County. In order to grow the tax base, we have to do just that: be attractive to business. Keeping the energy tax goes against that goal.

For these reasons, the Chamber supports Councilmember Andrews' proposal to decrease the fuel/energy tax rate by 10%. We thank you for the opportunity to present these comments, and we look forwarding to continuing our discussions with you as we all work to support our existing businesses in the County and to improve the economic viability and competitiveness of our County.

3

GREATER SILVER SPRING CHAMBER OF COMMERCE

Testimony of
The Greater Silver Spring Chamber of Commerce
Public Hearing – Fuel Energy Tax Rates
Montgomery County Council
Tuesday, April 30, 2013

Council President Navarro, members of the Council, good afternoon. For the record, my name is Jane Redicker and I am the President of the Greater Silver Spring Chamber of Commerce. I speak here today on behalf of almost 400 businesses – small and large, but mostly small – and several non-profit organizations, that are members of our Chamber and provide a significant number of jobs in Montgomery County.

I am here today to ask you to reject the County Executive's efforts to "institutionalize" the huge energy tax increase put in place in 2010, an increase, I don't need to remind you, that was supposed to sunset after two years. I am here to commend the Council for taking steps last year to reduce the rate. And, I am here to ask you to continue in that direction by supporting proposals to reduce the energy tax rate on both businesses and residents again this year. In truth, our members would prefer that you do what should have been done last year – to sunset the tax increase. But, it seems that what was once planned as a short term fix has now become one of the largest sources of revenue for the County. So, we are realistic. We ask you to at least reduce the energy tax rate again this year, holding onto the hope for an eventual sunset.

As you know, our member business owners have faced some difficult economic challenges these past few years and while they are heartened by reports that the economy is beginning to recover, many have not seen any evidence of recovery. Some are struggling just to survive – content, and even pleased, to see flat "growth" over last year. Many have continued to cut costs and tighten their belts as they look for the signs of a more pronounced recovery. They are concerned that customers are still reluctant to spend, fearing layoffs and the impact of the sequestration.

In his correspondence to Council, the County Executive has acknowledged that, "the uncertainty and financial risk of sequestration will continue to ripple through our local economy for months to come," and "may be with us for the foreseeable future." He reemphasizes "the difficult and uncertain fiscal situation in which the County remains." We want to reemphasize to Council the difficult and uncertain situation in which our member businesses still find themselves. Now is not the time to grow the County budget.

The problem is, the impact of this tax still falls disproportionately on business – on non-residential customers. And it is exacerbated by a proposed increase in the general property tax and the new "rain tax" that will be collected beginning this summer. That's why, in our request that you reduce the tax, we ask you to reject Option 1 in the staff packet, which would reduce the rates only for residential customers. Instead, we ask you to support Councilmember Andrews' proposal, or consider Option 2, proposed by Council staff and move for even greater balance in the commercial and non-commercial rates.

We thank you for the opportunity to provide the business perspective on the County's budget considerations.

8601 Georgia Avenue, Suite 203, Silver Spring, Maryland 20910
Phone: 301-565-3777 • Fax: 301-565-3377 • info@gsscc.org • www.silverspringchamber.com

1800 TYSONS BOULEVARD, SUITE 350
MCLEAN, VA 22102
PHONE 703.636.8150
FAX 703.636.8152
WWW.BYTEGRID.COM

072227

April 11, 2013

<u>Via Email and Regular Mail</u>
The Honorable Nancy Navarro
President
Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, 6th Floor
Rockville, MD 20850

Re: <u>FY 2014 Montgomery County Budget - Energy Tax</u>

Dear Council President Navarro:

I am writing on behalf of my company, ByteGrid Silver Spring LLC ("ByteGrid"), to seek your support in abating or otherwise significantly lowering Montgomery County's Energy Use Tax for multi-tenant data centers. These centers are critical components of commercial infrastructure as they house IT servers, storage and security equipment necessary to access the Internet and the growth market to the "cloud". We are a real estate company specializing exclusively in owning, operating and developing multi-tenant data center properties and our flagship property is located in Silver Spring, MD at the site of the former Citibank data center.

ByteGrid invested in Montgomery County in May of 2011 because we saw an incredible business opportunity to enhance and promote County businesses that would benefit from the Internet and digital infrastructure we would provide. The timing was right due to the then-looming energy tax sunset, which as a starting point would have reduced the tax by approximately 50% of where it needs to be in order to be competitive with other Northern VA counties. Since that time the sunset provision has been eliminated and ByteGrid pays an energy tax of 1,000 times more for the same tax in Loudoun County for a similar-sized building. The tax in Loudoun County is capped at $72/month. Lest you think this is an anomaly, the tax in Fairfax County is capped at $1,000/month. Because data centers are by nature large consumers of energy, this tax hits our business (and our tenants) proportionately harder than any other business in the County. Today, our operating income is reduced by 15% as a result of this Tax.

The County already is sorely deficient in the critical infrastructure resource that multi-tenant data centers provide for the private and public sector's success in today's digital economy. Today, according to industry analysts, 95% of the Washington, DC metro area's data center capacity is located in Northern VA counties (estimated to be 8 million square feet) with 2% located in Montgomery County and the remaining 3% the balance of the state of Maryland. And this 2% is only after we commissioned our multi-tenant facility in Silver Spring.

To paint an even bleaker picture, the punitive nature of the Energy Use Tax is motivating more and more Montgomery County businesses to move their IT infrastructure entirely out of the County or exclude the County from future consideration in any data center or corporate related investment or business relocation. We understand this was a major factor in Citibank's decision to migrate its data center operations out of the County as well as other enterprises who have recently made the same decision to migrate or focus their growth in other counties (e.g., Discovery, Marriott, Gannett, etc.) This climate is also negatively impacting the County's ability to attract other related businesses that depend on local Internet infrastructure resources. Losing this critical business piece to competing counties is resulting in Montgomery County losing significant tax revenue (e.g., personal property tax) to Northern Virginia. In fact, the Energy Tax on this sector is effectively exporting tax revenue from Montgomery County businesses to Northern Virginia.

ByteGrid still believes in the business opportunity that initially brought us to the County and the unique role data centers can play enhancing the County's competitiveness in the digital economy. Due to the lifespan and cost of data center equipment, data centers are poised to be tremendous and consistent generators of personal property taxes and we are confident that the revenue realized by the County from the increase in these taxes will far exceed any loss in the Energy Use Tax revenue associated with an abatement or exemption related to multi-tenant data centers. The County would be wise to capitalize on this competitive advantage by adopting a more competitive energy tax policy for multi-tenant data centers. Further, the impact that a thriving data center business in Montgomery County will have in supporting and incubating other related businesses provide exponential rewards.

As key leaders in Montgomery County, we look to you for assistance and collective support in abating the onerous energy tax on multi-tenant data centers. Thank you for the opportunity to share these comments with you.

Sincerely,

Ken Parent
Chief Executive Officer

cc: County Executive Ike Leggett
Montgomery County Council