

**STATE OF MARYLAND
OFFICE OF PEOPLE'S COUNSEL**

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BILL NO.: **House Bill 1080**
Electricity Suppliers-Residential Supply
Contracts-Consumer Protections

COMMITTEE: **Economic Matters**

HEARING DATE: **March 9, 2011**

SPONSOR: **Delegates Carr *et al.***

POSITION: **Support with Amendments**

House Bill 1080 prohibits residential supply contracts for electricity from containing an automatic renewal clause unless the customer is given the opportunity to reject the automatic renewal provision before entering into the contract. The Bill would permit a customer to cancel the renewal of the contract at any time up to 30 days before the day when the automatic renewal is scheduled to take effect. If a residential supply contract requires the customer to pay an early termination fee or penalty on cancellation of the contract, the termination fee or penalty must decrease by an equal amount each month so that the customer owes no termination fee at the end of the contract. The Bill also prohibits an electricity supplier from refusing to provide service to a person because the person previously canceled a residential supply contract. The Office of People's Counsel (OPC) supports the Bill with certain amendments.

The Office of People's Counsel has maintained a monthly review of supplier contract offers to residential customers since May 2007. All, or almost all, of these contracts contain automatic renewal clauses and early termination clauses (See attached chart of contract terms). The clauses are typically listed in the small print of contract terms on the second page, and are not disclosed clearly and conspicuously. OPC has been contacted by customers who assert that they were not aware of automatic renewal or cancellation fee terms of their supplier contracts, and ended up with contract roll-overs. The automatic renewal of contracts, without customer awareness, was also identified as a factor in the high gas bill complaints filed with the Commission during the 2008-2009 winter period.

In monitoring the early termination fees, OPC has observed that most fees are fixed, and fall in the \$150 to \$250 range. However, some supplier contracts have fees that decline through the contract term. In the case of 2 to 3 year contracts, OPC has seen cancellation fees in the \$700 range imposed on customers who cancel the contract in the early months of a three year contract.

While OPC believes that the opportunity to reject the renewal provision is important, OPC believes that the Bill can be strengthened by adding language that makes clear that the notice of automatic renewal must be clear and conspicuous. Furthermore, the customer should have to affix his initials next to the notice so that the contract itself becomes evidence of the customer's intention regarding automatic renewal. Attached to this testimony is a proposed amendment to clarify this issue.

The same principle applies to notice of termination or cancellation fees. OPC believes the Bill can be strengthened by amendments making clear that the customer must be given clear and conspicuous notice of the imposition of termination fees or cancellation penalties. Furthermore, the customer's acknowledgement should be memorialized by affixing his initials on the contract adjacent to the notice of the possibility of fees or penalties.

This Bill is intended to provide greater awareness by consumers of these contract provisions. OPC appreciates and supports that intention, but believes that additional disclosure requirements would enhance these protections. The end result would be to ensure that consumers understand essential contract terms such as automatic renewal and cancellation fees before the contract is signed. To that end, OPC recommends the attached amendments to the bill that would require the contracts to contain clear and conspicuous disclosures of these terms. Suppliers would need to obtain consumer initials to draw attention to these terms.

With these amendments, OPC supports House Bill 1080.

UTILITY SUPPLIER' OFFERS

Electric Suppliers	Contract	Length of Contract	Fees	Fee to Cancel*	March 2011
BGE SERVICE AREA					
BGE/Standard Offer Service	N/A	N/A	Non-Summer Electric Supply Rate 10/1/10-5/31/11		.1023 kWh
			Summer Electric Supply Rate 6/1/11-9/30/11		.0996 kWh
			Weighted Average 10/1/2010 to 9/30/11		.1004 kWh
	Excludes a "Rider 8" Credit				
BGE HOME (Constellation Electric)	Electric	12 Months	N/A	\$150.00	.0939 kWh
	Electric	24 Months	N/A	\$150.00	.0934 kWh
	Electric	36 Months	N/A	\$150 or \$10/month	.0999 kWh
	100% Wind	12 Months	N/A	\$150.00	.1039 kWh
	100% Wind	24 Months	N/A	\$150.00	.1034 kWh
Spark Energy	Electric	12 Month	N/A	\$100.00	No MD Offer
Direct Energy	Variable monthly	May 2011	N/A	N/A	Call for quote
Energy Plus	Variable monthly	Month to Month	N/A	N/A	Call for quote
Gateway Energy Services	Electric	6 Month	N/A	\$12.50/month	.0970 kWh
	Electric	12 Months	N/A	\$12.50/month	.0970 kWh
	Electric	24 Months	N/A	\$12.50/month	.1120 kWh
	Electric	Month to Month	N/A	None	Call for quote
Viridian Energy	Variable monthly 20% Renewable	Month to Month	N/A	N/A	.0970 kWh
	Variable monthly 100% Wind	Month to Month	N/A	N/A	.1129 kWh
MX Energy	Electric	12 Months	N/A	\$150.00	.0990 kWh
	Electric	Month to Month	N/A	N/A	.0999 kWh
Commerce Energy, Inc.	Sure Choice Variable	Month to Month	N/A	N/A	.0995 kWh
Washington Gas Energy Services	5% Wind	12 Months	N/A	\$150.00*	.0920 kWh
	50% Wind	12 Months	N/A	\$200.00*	.1000 kWh
	50% Wind	24 Months	N/A	\$200.00*	.1070 kWh
	100% Wind	12 Months	N/A	\$200.00*	.1080 kWh
	100% Wind	24 Months	N/A	\$200.00*	.1190 kWh
Oasis Energy	Variable Electric	24 Months	\$4.95 month	\$50 or \$5	Call for

¹ **Supplier** is defined as a company licensed to do business in Maryland (State Comptroller Office), Licensed by the PSC, meet PJM credit requirements (\$2 million bond) to buy and sell electricity, has agreements with electric distribution companies, can take "title" to electric, directly enters into contracts with consumer for the sale of electricity; directly handle disputes of advertising, solicitations, & contract terms with consumers to the PSC or Office of Attorney General.

				per month	quote
Horizon Power & Light, LLC	Electric	12 Month	\$4.75 Month	\$150.00	Call for quote
Electric Suppliers	Contract	Length of Contract	Fees	Fee to Cancel*	March 2011

**BGE SERVICE AREA
continued**

BGE/Standard Offer Service	N/A	N/A	Non-Summer Electric Supply Rate 10/1/10-5/31/11		.1003 kWh
			Summer Electric Supply Rate 6/1/11-9/30/11		.0996 kWh
			Weighted Average 10/1/2010 to 9/30/11		.1004 kWh
Excludes a "Rider 8" Credit					
Ambit Northeast LLC	Electric	Month to Month	N/A	N/A	Call for quote
North American Power & Gas, LLC	Electric	Month to Month	N/A	N/A	.0959 kWh
Dominion Retail, Inc	Electric	To 5/31/2011	N/A	N/A	.0920 kWh
	Electric	6/1/11-9/30/11	N/A	N/A	.0896 kWh
Castlebridge Energy	Electric	12 Months	Late fee 1.5%	N/A	.0895 kWh
	Electric	24 Months	Late fee 1.5%	N/A	.0895 kWh
NextEra Energy Services, LLC	Electric	12 Months	\$4.79 month	\$25 per months	.0919 kWh
	Electric	24 Months	\$4.79 month	\$25 per months	.0919 kWh
	100% Wind	12 Months	\$4.79 month	\$25 per months	.0969 kWh
	100% Wind	24 Months	\$4.79 month	\$25 per months	.0969 kWh

* Pay the greater of a minimum flat fee OR amount calculated for contract months remaining

SEE LAST PAGES FOR COMPANY CONTACT INFORMATION

Electric Suppliers	Contract	Length of Contract	Fees	Fee to Cancel	March 2011
ALLEGHENY SERVICE AREA					
Allegheny/Standard Offer Service	N/A	N/A	Non-Summer Electric Supply Rate 10/1/10-5/31/11		.0821 kWh
Allegheny/Standard Offer Service	N/A	N/A	Summer Electric Supply Rate 6/1/11-9/30/11		.0685 kWh
			Weighted Average 10/1/2010 to 5/31/11		.0821 kWh
Washington Gas Energy Services	5% Wind	12 Months	N/A	\$150.00*	.0720 kWh
	50% Wind	12 Months	N/A	\$200.00*	.0800 kWh

	50% Wind	24 Months	N/A	\$200.00*	.0860 kWh
	100% Wind	12 Months	N/A	\$200.00*	.0870 kWh
	100% Wind	24 Months	N/A	\$200.00*	.0980 kWh
BGE HOME (Constellation Electric)	Electric	12 Months	N/A	\$150.00	.0749 kWh
	Electric	24 Months	N/A	\$150.00	.0744 kWh
Direct Energy	Electric	May 2011	N/A	N/A	Call for quote

*** Pay the greater of a minimum flat fee OR amount calculated for contract months remaining**

Electric Suppliers	Contract	Length of Contract	Fees	Fee to Cancel*	March 2011
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DELMARVA SERVICE AREA

Delmarva Power Standard Offer Service	N/A	N/A	Non-Summer Electric Supply Rate 10/1/10-5/31/11		.0952 kWh
			Summer Electric Supply Rate 6/1/11-9/30/11		.0930 kWh
			Weighted Average 10/1/2010 to 9/30/2011		To Be Determined
Horizon Power & Light, LLC	Electric	12 Month	\$4.75 Month	\$150.00	Call for quote
Washington Gas Energy Services	5% Wind	12 Months	N/A	\$150.00*	.0880 kWh
	50% Wind	12 Months	N/A	\$200.00*	.0960 kWh
	50% Wind	24 Months	N/A	\$200.00*	.1060 kWh
	100% Wind	12 Months	N/A	\$200.00*	.1040 kWh
	100% Wind	24 Months	N/A	\$200.00*	.1180 kWh
Energy Plus	Variable monthly	Month to Month	N/A	N/A	Call for quote
Direct Energy	Variable monthly	9 Months	N/A	N/A	Call for quote
BGE HOME (Constellation Electric)	Electric	12 Months	N/A	\$150.00	.0893 kWh
	Electric	24 Months	N/A	\$150.00	.0883 kWh
NextEra Energy Services, LLC	Electric	12 Months	\$4.79 month	\$25 per months	.0885 kWh
	Electric	24 Months	\$4.79 month	\$25 per months	.0909 kWh
	100% Wind	12 Months	\$4.79 month	\$25 per months	.0935 kWh
	100% Wind	24 Months	\$4.79 month	\$25 per months	.0959 kWh

*** Pay the greater of a minimum flat fee OR amount calculated for contract months remaining**

CHOPTANK AND SMECO SERVICE AREAS DO

NOT HAVE SUPPLIERS MAKING OFFERS

See next page for PEPCO Service Area

SEE LAST PAGES FOR COMPANY CONTACT INFORMATION

Electric Suppliers	Contract	Length of Contract	Fees	Fee to Cancel	March 2011
PEPCO SERVICE AREA					
PEPCO Standard Offer Service	N/A	N/A	Non-Summer Electric Supply Rate 10/1/10-5/31/2011		.1035 kWh
			Summer Electric Supply Rate 6/1/11-9/30/2011		.0982 kWh
			Weighted Average 10/1/2010 to 9/30/2011		To Be Determined
BGE HOME (Constellation Electric)	Electric	12 Months	N/A	\$150.00	.0919 kWh
	Electric	24 Months	N/A	\$150.00	.0914 kWh
	100% Wind	12 Months	N/A	\$150.00	.1019 kWh
	100% Wind	24 Months	N/A	\$150.00	.1014 kWh
Energy Plus	Variable monthly	Month to Month	N/A	N/A	Call for quote
Spark Energy	Contact Company for Pricing and Terms/Pricing not on line				
Washington Gas Energy Services	5% Wind	12 Months	N/A	\$150.00*	.0910 kWh
	50% Wind	12 Months	N/A	\$200.00*	.1000 kWh
	50% Wind	24 Months	N/A	\$200.00*	.1060 kWh
	100% Wind	12 Months	N/A	\$200.00*	.1100 kWh
	100% Wind	24 Months	N/A	\$200.00*	.1180 kWh
Direct Energy	Variable Monthly	May 2011	N/A	N/A	Call for quote
NextEra Energy Services, LLC	Electric	12 Months	\$4.79 month	\$25 per months	.0965 kWh
	Electric	24 Months	\$4.79 month	\$25 per months	.0967 kWh
	100% Wind	12 Months	\$4.79 month	\$25 per months	.1020 kWh

	100% Wind	24 Months	\$4.79 month	\$25 per months	.1020 kWh
Horizon	Electric	12 Month	\$4.75 Month	\$150.00	Call for quote
North American Power & Gas, LLC	Electric	Month to Month	N/A	N/A	.0959 kWh
Viridian Energy	Variable monthly 20% Renewable	Month to Month	N/A	N/A	.0979 kWh
	Variable monthly 100% Wind	Month to Month	N/A	N/A	.1129 kWh

*** Pay the greater of a minimum flat fee OR \$20.00 per month for remaining contract months**

OPC provides this information as a guide only. We have tried to gather complete information, but cannot guarantee its accuracy. The names of the active suppliers are listed on the website of the Maryland Public Service Commission at <http://webapp.psc.state.md.us> (“Licensed Suppliers” link) and may change at any time

THESE OFFERS AND PRICES MAY CHANGE AT ANY TIME Always contact the electricity supplier directly to obtain the current price offers and be certain to understand all contract terms and conditions before signing.

SEE NEXT PAGE FOR COMPANY CONTACT INFORMATION

Addresses and Contact information for Suppliers currently making offers to customers

BY: Office of People's Counsel

(Amendments to be offered in the Economic Matters Committee)

Amendments to House Bill 1080

All amendments are to new section 7-507(F)

AMENDMENT NO.1

On page 4, line 14, strike "Was" and add after the word "given" add:

**“(I) CLEAR AND CONSPICUOUS NOTICE OF THE TERMS OF ANY
AUTOMATIC RENEWAL CLAUSE; AND**

**(II) THE OPPORTUNITY TO ACCEPT OR REJECT THE AUTOMATIC RENEWAL
PROVISION BEFORE EXECUTING THE CONTRACT.**

**(a) ACCEPTANCE OR REJECTION OF THE TERMS OF THE AUTOMATIC
RENEWAL PROVISION SHALL BE EVIDENCED BY THE WRITTEN INITIALS
OF THE CUSTOMER IN THE AREA OF THE CONTRCAT IMMEDIATELY
ADJACENT TO THE NOTICE OF THE AUTOMATIC RENEWAL CLAUSE.**

Strike the remainder of lines 14-16.

Amendment NO. 2

After line 19 add:

**(3) A residential supply contract shall not contain an early termination fee or penalty on
cancellation of the contract unless the customer is given clear and conspicuous notice of its
existence and terms before the contract is executed.**

**(a) The customer must acknowledge notice of the early termination fee or penalty on
cancellation of the contract by written initials of the customer in the area of the contract
immediately adjacent to the notice of the early termination fee or penalty.**