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BILL NO.:	**House Bill 878** **Renewable Energy—Electric and Gas Bills (100% Clean Renewable Energy Equity Act of 2018)**
COMMITTEE:	**Economic Matters**
HEARING DATE:	**March 5, 2018**
SPONSORS:	**Delegate Robinson et *al.***
POSITION:	**Oppose**

House Bill 878 seeks to achieve a number of goals for clean energy. The Bill makes several significant changes to the current renewable energy portfolio standard (RPS). First, it increases the minimum required percentage of energy that must be derived from Tier 1 renewable sources from 25% by 2020 to 100% by 2035. Second, the Bill eliminates waste to energy and refuse derived energy (including black liquor) from the list of eligible Tier 1 resources. Third, it requires electricity suppliers, including electric utilities, to comply with the RPS standard by directly purchasing renewable energy in the wholesale market through long–term power purchase contracts, and not through Renewable Energy Credits (RECs). Fourth, it creates a new Office of Offshore Wind Procurement in the Department of Natural Resources to oversee the procurement of offshore wind energy from new projects. Fifth, the Bill makes permanent the existing Community Solar Pilot Program, without waiting for the results of the mandated study of the pilot program.[1] Sixth, it creates a "Maryland Block Program" to provide rebates for large utility scale solar generating systems, community solar generating systems, and residential solar energy generating systems (while providing some direct assistance to low and moderate income community solar subscribers). Additionally, the Bill calls for a study to examine the "transformation" of utility distribution companies to a "platform provider" of services, to determine changes required to achieve a 100% renewable energy electricity system that is affordable, reliable and resilient and to recommend legislation to further those goals.

OPC respectfully opposes House Bill 878. Among other things, the Bill makes substantial changes to the electricity procurement and supply requirements for all Maryland customers in a very short span of time. This proposal is made without the benefit of any comprehensive analysis, open to review and assessment by stakeholders and customers, and the RPS Study report required by the legislature. The Bill has a potentially significant effects on customers' bills, with such a dramatic alteration of the RPS percentages, the shift to long-term purchase power contract requirements instead of RECs, the lack of a hearing process and public input into the selection of offshore wind contracts, and the inclusion of a requirement for "long term" power purchase contracts for offshore wind which upends entirely the current market for ORECs.

With the limited information available, the Fiscal Note indicates that the Bill likely will increase electricity prices and create a significant effect on State expenditures.[2] OPC has not had sufficient time to have a consultant perform an analysis to determine a reasonable estimate of the price and bill impacts of the significant changes to how electric supply would be procured and

[1] The Public Service Commission and numerous stakeholders, including OPC, have invested substantial time and resources to develop the structure and regulations for the pilot program.
[2] Fiscal Note, pp. 1 and 7.

provided to customers. However, at a minimum, OPC has no reason to disagree with DLS' conclusion in this regard. An analysis by the Institute for Energy and Environmental Research (IEER)[3] on the technical and economic feasibility of a 100% renewable electricity supply for Maryland acknowledges that there will be at least a $1.30 per month increase for an average electric customer.[4] Early in the "transition," there could be a monthly residential bill impact of nearly $5.00.[5] OPC believes that this analysis is rather conservative given the assumptions regarding long-term agreements versus RECs, the uncertainty as to the availability of the narrowed categories of Tier 1 resources, and the removal of the caps on compliance feeds.

The requirement that electric companies enter into long-term contracts with offshore wind projects also is problematic. First, as noted above, "long-term" is not defined. Second, it appears that the Commission is required to approve the contract without regard to price, other than the possibly arbitrary specification of maximum price per megawatt hour determined by the director of the new offshore wind office. As OPC has noted in other contexts, long term contracting changes the product that the utilities and suppliers must provide for customers and introduces another element of uncertainty into the retail supply market. In other words, this type of contracting may have an unintended price effect on other sources of supply in the market. Those costs of supply, whether to meet the renewable portfolio standards (RPS) or the costs to procure power for standard offer service, are recovered through rates charged to customers. The introduction of another

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[3] IEER notes that the analysis is "a project of IEER, with the support of the Town Creek Foundation." https://ieer.org/projects/renewable-maryland/

[4] https://ieer.org/resource/economic-issues/100-renewable-electricity-supply-maryland/ specifically https://ieer.org/wp/wp-content/uploads/2018/02/100percent-Act-cost-fiscal-impact-jobs-Maryland-2018-02report(revd22feb).pdf at p.9. IEER recommends rounding up to $1.50 "to account for uncertainties."

[5] https://ieer.org/wp/wp-content/uploads/2018/02/100percent-Act-cost-fiscal-impact-jobs-Maryland-2018-02report(revd22feb).pdf at p.8, Figure 9.

element of uncertainty as a result of this Bill may be reflected in the market as increased risk, which eventually gets reflected as increased prices. There is no way to determine at this time whether these long-term contracts will prove beneficial to customers.

Furthermore, as written, it appears that contracting for this supply rests solely with electric companies (i.e., distribution companies such as BGE, PEPCO, DPL and PE), implying that these companies may have to contract for a portion of an electricity supplier's RPS/ OWEC requirements. As a practical matter, there would be much to work through between electric companies and suppliers to accomplish this task. Additionally, this requirement introduces unnecessary confusion and complexity into the procurement process and blurs the distinction between electric companies and energy suppliers that arose with the deregulation bill in 1999.

There is no contingency process if the offshore wind facility under the contract does not go into service or goes out of service before the end of the contract. The Bill provides only that the Commission must determine the project has the capacity to produce a certain amount of energy, not that it is actually produced. While it could be argued that payment under the contract is implied only if the resource is actually produced, the Bill does not actually state that limitation.

Finally, to the extent an argument can be made that the use of a long- term purchased power contract for offshore wind resources is more cost effective than other ways of procuring that resource, such an argument needs to be carefully studied by the Public Service Commission. The proponents of a change to the procurement process should demonstrate the strength of their assumptions and demonstrate that no harm will befall customers because of a change to the existing OREC purchasing model.

Customers face significant other economic impacts from the Bill. To the extent suppliers cannot meet the RPS requirements due to unavailability of renewable energy resources or default by a wholesale supplier under a Commission approved supply contract, suppliers may recover compliance fees directly from customers in the form of a generation surcharge. Unlike the current law which sets out the cost of ACPs by year, this Bill has the potential to greatly increase ACPs, as the compliance fee would be equivalent to the amount it would have cost the supplier to purchase the shortfall. This provision would leave either retail suppliers or customers tremendously exposed to the risk of higher costs because of market failure, supplier difficulties or default.

House Bill 878 does include an "energy burden" limitation on energy bills for low-income customers, which must be implemented through Commission regulations. OPC has long been a proponent of bill affordability programs that address energy burdens of low-income households. Presumably, this provision is intended to limit any cost impacts of the Bill for low-income households. OPC notes, however, that less than one-third of income eligible households participate in energy assistance programs, and are therefore certified as "low-income." Furthermore, there are a significant number of households considered "moderate" income, who would be subjected to the bill impacts that likely would result from this Bill. These households would have no such protection.

Finally, the Bill calls for a study to examine the "transformation" of utility distribution companies to a "platform provider" of distributed energy resources services, to determine changes required to achieve a 100% renewable energy electricity system that is reliable and resilient and to recommend legislation to further those goals. First, OPC notes that there is an ongoing study of the renewable portfolio standard underway pursuant to PUA §7-714. A 2017 law requires the Department of Natural Resources Power Plant Research Program (PPRP) to submit an interim report by December 1, 2018 and a final report by December 1, 2019 to the General Assembly. It would be prudent to await the outcome of that study before embarking on the dramatic changes proposed here. OPC observes that other states such as New York have engaged for years in costly long term studies of their electricity markets with an aim to convert regulated utilities into distribution system platform providers. Rather than perform a study of the same subjects, it would be reasonable to wait for the lessons gained from their experience, which can be integrated into Maryland's market.

For all the reasons above, the Office of People's Counsel respectfully requests an UNFAVORABLE report.

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