

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

**Paula M. Carmody, People's Counsel**

6 St. Paul Street, Suite 2102

Baltimore, Maryland 21202

410-767-8150; 800-207-4055

[www.opc.state.md.us](http://www.opc.state.md.us)

**BILL NO: Senate Bill 459 – Electric and Gas Consumers**

**COMMITTEE: Senate Finance**

**HEARING DATE: March 15, 2011**

**SPONSORS: Senator Pipkin**

**POSITION: Informational**

---

Senate Bill 459 would require the Public Service Commission to make its primary objective to obtain the “lowest rate” for consumers when determining a “just and reasonable” rate under Section 4-102 of the Public Utilities Article. Likewise, the Bill would require that the Commission must adopt as its primary purpose the achievement of “best price” for consumers when deciding upon consumer protection orders or regulations for gas suppliers.

It appears to OPC that the Bill is intended to clarify that the primary obligation of the Public Service Commission is to ensure that regulated electric and gas companies provide distribution and supply service at the “lowest rate” consistent with the “just and reasonable rate” requirement. To avoid any inconsistency in the requirements of PUC law, OPC would recommend that the language of the Bill be modified to state that

these proposed changes to the Commission's rate making authority are in addition to, and not inconsistent with the requirement that the Commission ensure that standard offer service for residential and small commercial customers is procured in a way that results in the best price in light of market conditions and protects the customers from excessive price increases. See PUC Art. Sec. 7-510(c) (4) (ii) 1. OPC's proposed amendment applies only to proposed Section 4-102(c) (2):

**WHEN SETTING A JUST AND REASONABLE RATE UNDER THIS TITLE, THE PRIMARY OBJECTIVE OF THE COMMISSION IS TO OBTAIN THE LOWEST RATE FOR CONSUMERS THAT IS CONSISTENT WITH §4-101 OF THIS SUBTITLE. NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO INTERFERE WITH THE COMMISSION'S OBLIGATIONS UNDER §7-510(C) (4) (ii) 1.**

OPC also observes that regulated gas companies continue to provide gas supply service to most residential gas customers in Maryland. These gas companies purchase gas for these consumers under approved gas purchasing programs that are subject to review and approval by the Public Service Commission. These programs involve the purchase of storage gas in non-winter months, as well as hedging programs, as a means of ensuring sufficient gas supply stabilizing or "smoothing out" the gas prices for gas used during the heating season. The Commission should not be precluded from

considering, and if deemed reasonable and appropriate, approving these approaches to gas supply purchases.

Finally, the Bill also would add a new Section 7-601.1 to the Natural Gas Supplier Licensing and Consumer Protection Act of 2000, PUC Article, § 7-601 *et seq.*, and amend Section 7-604. The General Assembly had enacted this law after passage of the Electric Choice and Competition Act of 1999, to provide consistency in the licensing and consumer protection rules for competitive suppliers of both electric and gas supply. Since this subtitle relates only to competitive gas suppliers, whose price offers are not regulated by the Public Service Commission, it does not appear that the Commission has the authority to determine the “best price” to be offered by gas suppliers (as opposed to regulated gas companies).