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BILL NO.:	**Senate Bill 237** **Maryland Offshore Wind Energy Act of 2012**
COMMITTEE:	**Finance**
HEARING DATE:	**February 14, 2012**
SPONSORS:	**The President (By Request – Administration) and Senators Ferguson et al.**
POSITION:	**Support With Amendments**

Senate Bill 237 supports the development of offshore wind generation through the purchase of "offshore wind renewable energy credits "(ORECs) by electricity suppliers in the State. Essentially, the bill provides for an offshore wind "carve-out" under the State's current renewable portfolio standard (RPS). As proposed, electricity suppliers would be required to purchase a certain amount of ORECs from offshore wind projects that have been deemed qualified by the Public Service Commission (PSC). As with all RPS requirements, the carve-out would apply to all retail electricity sales in the State by electricity suppliers. The electricity suppliers would be required to acquire no more than 2.5 % of of Tier 1 renewable resources derived from offshore wind energy, as set by the Commission, beginning in 2017.

The bill establishes a process for submission of offshore wind project proposals to the Commission, and includes a list of application requirements, including a cost-benefit analysis and the proposed OREC pricing schedule. Additionally, the bill requires the Commission to use specific criteria to evaluate and compare the proposals, including the lowest cost impact on ratepayers under the proposed OREC pricing schedule, impact on reliability long-term and on electricity prices within the State, and "anticipated" climate and health benefits and environmental impacts. The Commission may not approve a project unless the cost-benefit analysis demonstrates "positive net benefits to the State." Furthermore, the projected net rate impact on an average residential customer must "not exceed $2 per in 2012 dollars, over the duration of the proposed OREC pricing schedule."

The bill is structured to address ratepayer interests in long-term reliability and price stability, as well as energy public policy goals already established by the Maryland legislature, in the evaluation and approval of offshore wind projects. The bill also includes other public policy objectives to be addressed by offshore wind projects, including jobs, economic development and health benefits. In meeting these goals through the purchase of ORECs, there is general acknowledgement that there will be a near-term cost to electricity customers, including residential customers, in the State. On balance, and consistent with OPC's prior analyses of long-term costs and benefits from inclusion of renewable resources in the State's resource portfolio, OPC supports the bill, subject to recommended amendments and clarifications discussed below.

In response to concerns raised about last year's offshore wind energy bill (SB 861), this Bill explicitly constrains the cost impact on ratepayers may be mitigated by imposing a statutory rate impact cap for residential and other customers. The bill also addresses OPC's stated concerns about last year's Senate Bill 861, which had severely limited the discretion of the Commission in approving (or denying) proposals. Furthermore, unlike in previous years, recent public policy polls show an increasing percentage of Marylanders approve of the concept of off-shore wind generation even at some increased monthly cost.[1] The question is whether this bill presents a reasonable approach to meet all these goals, including high priority goals related to price and reliability for ratepayers. On balance, after considering the changes made to the approach since last Session, the Office of People's Counsel supports the bill, subject to the caveats and recommended amendments discussed below.

Specific Comments – Recommended Clarifications and Amendments

OPC believes that the bill's approach is a reasonable way to balance long-term ratepayer interests and existing public policy goals in the State. It sets up a market for wind from qualified offshore wind projects to be sold at a competitive price and provides for a broad distribution of the costs related to the purchase of the ORECs to all customer classes and all service territories. This process is not set up to satisfy the energy supply needs of a single class of customers or

[1] The most recent poll was conducted by Opinion Works for Marylanders for Offshore Wind Coalition, who released the results on January 11, 2012. OPC is not suggesting that its position on this or other issues is driven by poll numbers; however, the results appear consistent with a previous poll conducted by Gonzales, and provide some insight on how voters may evaluate offshore wind proposals.

customers in a particular geographic area; it is being done to meet multiple ratepayer and public policy goals that have broad impacts for price stability, reliability, greenhouse gas reductions, jobs and the economy. Therefore, the broad based cost recovery mechanism is an essential part of this bill, as is the rate impact cap for ratepayers. OPC could not support any amendments that would alter either of these provisions.

While OPC considers the OREC approach to be a reasonable one, we have identified several areas that may need clarification or change to better protect ratepayer interests:

1. **7-704.1(b) (page 11)**: Given the complicated nature of these applications, the 180 days may not be sufficient for the Commission to consider the application. While the bill does not expressly provide for stakeholder (including OPC and other State agencies) input into the consideration process by the Commission, OPC expects that the Commission will provide for such input. In that case, the 180 day limitation may put significant constraints on the process.
2. **7-704.1(c) (pages 11-12)**: The bill requires the applicant to include specific criteria in its application, including a broad cost-benefit analysis and an impact on ratepayers over the life of the project. OPC believes the process would benefit from a requirement that, prior to the application process, the Commission establish common standards or specifications for the analysis and calculation of the various benefits and impacts. This

would be particularly beneficial for the analysis of the economic, job, health and environmental impacts.

3. **7-704.1(d) (pages 12-13)**: The bill does not prioritize the criteria for evaluation and comparison of the proposed offshore wind projects. In particular, this applies to the components of the cost-benefit analysis, upon which the Commission must rely to demonstrate positive net benefits to the State (or not). This also applies to the overall evaluation criteria, which include the relative weight of the long-term reliability and price impacts and the anticipated environmental and health benefits and environmental impacts. OPC recommends that the bill be amended to include a relative weighting of the criteria to provide an appropriate balance of ratepayer interests and public policy goals.
4. **7-704.1(f)(1)(iv)(1)(page 14)**: This provision states that the project owner will not receive a payment pursuant to the approved OREC price schedule until the project is operational ("until electricity supply is generated"). OPC understands this provision to mean that the payments will be made only for actual supply, and that payments will not be made (and ratepayers will not be responsible for payments) if production falls short of projections or if something happens (e.g. mechanical or other failures) to the offshore wind project after it goes into operation. To avoid any misunderstanding, OPC recommends that the bill be clarified to ensure that ratepayers make payments only for actual supply during the

duration, and that the project owner is at risk for loss of production, whatever the cause, during that time.

5. **7-704.1(f)(iv)(2)(page 14)**: In light of the above concern, OPC recommends that this provision be amended to refer to "costs in excess of Applicant's proposal" (in place of "cost overruns") as well as "Acts of God and negligence of the project owner or third parties."
6. **7-704.2(page 15)**: This subtitle sets out a detailed process for the Commission to establish an escrow account for the transfer of revenues and ORECs among the parties (suppliers, electric companies and offshore wind project) and for the actual transfers. With regard to § 7-704.2(C)(2), it would be helpful to clarify the overall purpose of this section and the refunds or credits, particularly since it may alleviate some of OPC's concerns stated in Item 4 above.
7. **Section 3**: To the extent that the bill is amended to provide for stakeholder input, including that of OPC and other State agencies, into the approval process, OPC believes that this process would put additional pressure on OPC's budget for expert technical assistance, and would request a similar provision for a special assessment to retain experts to assist OPC in this process.

Senate Bill 237 – Maryland Offshore Wind Energy Act of 2012
Office of People's Counsel
Proposed Amendments to SB 237
February 14, 2012

1. On page 11, in line 16, strike "180" and substitute "**210".**

2. On page 14, line 22, after "may" strike "not" and insert "**ONLY**'

3. On page 14, line 23 strike "until" and insert "**FOR**" and after supply, strike "is".

4. On page 14, in line 25, strike "cost overruns" and insert "**COSTS IN EXCESS OF OWNER'S PROPOSAL".**

5. On page 14, in line 27, after "project," insert "**LOSS OF PRODUCTION RESULTING FROM ACTS OF GOD, OR NEGLIGENCE OF THE OWNER OR A THIRD PARTY".**