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BILL NO.: **Senate Bill 880**
Electricity – Consumer Relations - Smart Meters

COMMITTEE: **Senate Finance**

HEARING DATE: **March 4, 2014**

SPONSOR: **Senator Kelley**

POSITION: **Informational**

Senate Bill 880 addresses two matters related to the deployment of so-called “smart meters.” The first set of provisions establishes certain written notice, disclosure and other requirements regarding the installation of the meters, and applies retroactively. The second set addresses customer privacy interests in the energy usage data, and prohibits an electric company from disclosing energy usage data obtained from a smart meter to a third party without the written consent of the customer, with certain exceptions.¹ The Bill also provides an explicit right of a customer to file a complaint about improper data disclosure with the Public Service Commission (Commission) and penalty provision.

¹ Another bill, Senate Bill 280, contains the same language as this Bill regarding the prohibition on releasing energy usage data without customer consent and related penalties. OPC supports that Bill with amendments.

Smart Meters – Notice, Disclosure and Other Requirements

“Smart meters” are digital meters that allow two-way digital communication between the home or business of an electric customer and the electric utility through a wireless network. After considering evidence in contested proceedings in 2010, the Commission authorized BGE, Pepco and Delmarva Power to deploy smart meters in their service territories, subject to numerous conditions requested by OPC and other parties.² In particular, the utilities cannot recover the costs related to the smart meter deployment and operation until they are shown to be cost-effective to customers. Pepco and Delmarva Power have completed or almost completed installation of the meters in their service territories, while BGE is still in the process of deployment, and has estimated completion by the end of 2014.

The Commission issued interim orders in May 2012 and January 2013 permitting electricity customers to “opt out” of the smart meter installation during the deployment, but indicated that customers who did opt out, for whatever reason, would be responsible for costs related to keeping existing analog or other substitute meters. On February 26, 2014, the Commission issued its order authorizing an allocation of certain non-AMI related costs of Pepco, Delmarva Power, BGE and SMECO to those customers who do not agree to the installation of the new meters.³ These costs are in the form of a one-time fee (\$75) and a monthly fee, which varies with each utility but falls within the range fees assessed in other states that permit opt-out from smart meter installation.⁴ In its comments to the Commission in those proceedings, OPC has stated that the allocation of

² PSC Case Nos. 9207 and 9208. The Commission authorized a fourth utility, SMECO, to deploy smart meters in Case No. 9294, in June 2013.

³ PSC Order No. 86200, page 2.

⁴ OPC is only aware of one state, Vermont, which has prohibited by law the recovery of any additional fees or charges from these customers.

reasonable costs to customers who decide not to allow the meter installation is appropriate. Once the Commission authorized the installation of the smart meters to replace the existing meters, the maintenance of parallel meter systems, with their separate costs, did not make financial or other sense to ratepayers. While OPC rigorously contested many aspects of the utilities' smart meter applications in 2010, we did recognize that certain operational savings would likely accrue upon installation and activation of the meters. Further, the ability to detect power outages automatically has the potential for cost savings and faster restoration times. OPC agrees with the Commission that the maintenance of a "parallel and redundant infrastructure"⁵ of existing analog meters and related support systems as a matter of personal choice will impose additional costs and no benefits to the ratepayers at large. Finally, OPC notes that the electric utilities sought authorization for these meter installations. If these non-AMI costs are not allocated to the customers who oppose the meters, the costs also should not be allocated to ratepayers at large.

The Commission has set out detailed communication and billing requirements for the utilities to follow as a result of its Order, and requires a report from the Commission's smart meter (AMI) workgroup, of which OPC is a member, within 45 days of the February 25 order. The order contains communications requirements for customers with installed smart meters who now choose to opt out and pay the fees; customers who opted-out on an interim basis, and for those customers who had not made a decision, not responded to a deployment in their area, or who live in areas where deployment has not

⁵ Order 86200, page 3.

started. The earliest date for imposition of fees in areas where smart meters have been installed is July 1, 2014.

OPC is very aware that deployment has not been smooth in the BGE service territory, in comparison to other service territories. In large part, the primary location of the meters *inside* the homes, rather than outside as in other service areas, has been a practical impediment, as BGE representatives must enter the home to replace the meter. Since being advised of the delays last summer, OPC has urged BGE separately and in comments to the Commission, to adopt different communication approaches, as necessary, to ensure that customers understand the purpose of the meter exchange and do not inadvertently incur fees. OPC also strongly encouraged enhanced communication with local government and community organizations. This is the responsibility of the utility: BGE sought the authorization to install the meters; the Commission, in its 2010 order, emphasized the importance of customer communication before, during and after installation. The Company will need to “double-down” to ensure that this communication occurs.

Disclosure of Energy Usage Data – Prohibition

OPC has consistently opposed the release of any personal information, including energy usage data, of residential customers by a regulated utility without the customer's affirmative consent. Consumer concerns about release of household energy usage data have been heightened in the face of deployment of “smart meters” in Maryland and elsewhere. Utilities collect such information for billing purposes and to ensure that customers' energy demands can be met. However, detailed usage data can reveal not just aggregate usage, but daily household usage patterns, and eventually, the use of specific

appliances or equipment in the household. Consumers should be able to control access to this type of information, and allow such access to third parties, including energy suppliers, only if and when they want to.

While OPC supports the codification of the data privacy and customer control principle, the Bill does contain a problematic exception to the disclosure prohibition for data obtained for purposes of “preparing a customer bill” or “supporting customer choice.” (7-302.1(b) (2)) (page 2, lines 13-16). The first exception is unnecessary, since current law permits disclosure of billing and payment information by utilities for bill collection purposes. PUA §7-505(b) (6). The second exception not only is ambiguous, it has the clear potential of allowing the exception to swallow the general rule, by allowing the release of data without consent to retail energy suppliers or any third party that claims data disclosure would encourage customer choice, for example, by the purchase of HVAC equipment or energy management systems, or installation of energy efficiency measure or solar PV. By creating such a large hole, the exception dilutes the purpose and strength of the customer consent requirement that is so important to consumers.