DAVID S. LAPP
PEOPLE'S COUNSEL

WILLIAM F. FIELDS
DEPUTY PEOPLE'S COUNSEL

JOSEPH G. CLEAVER
DEPUTY PEOPLE'S COUNSEL

OPC
OFFICE OF PEOPLE'S COUNSEL
State of Maryland

6 ST. PAUL STREET, SUITE 2102
BALTIMORE, MARYLAND 21202
WWW.OPC.MARYLAND.GOV

BRANDI NIELAND
DIRECTOR, CONSUMER
ASSISTANCE UNIT

BILL NO.:	Senate Bill 334 Electricity – Stand Offer Service – Renewable Energy
COMMITTEE:	Finance
HEARING DATE:	February 1, 2022
SPONSOR:	Senator Feldman
POSITION:	Informational

****

The intent of Senate Bill 334 is to promote the development of renewable resources in a cost-effective manner. The Office of People's Counsel supports that goal. The bill would further that goal by requiring utilities to enter into long-term contracts to purchase the electricity and renewable energy credits from certain types of generation facilities. Certain bill provisions appear counter to that goal and potentially detrimental to customers, however.

As we understand it, the bill allows for double-counting of some renewable energy credits. This problem may be inadvertent. Bill section 7-703.1(c)(7) says that the RECs purchased by the utility would be resold by the utility. The difference in price between the long-term contract price and the price received by the utility when the RECs are resold would be passed on to all of the utility's distribution customers. The bill then says, in section 7-703.1(d)(1), that the RECs would be used to meet the renewable portfolio standard obligation of the utility's standard offer service customers. If the RECs are both sold and used to meet the obligations for customers, the RECs would effectively be double counted. This would lower the overall demand for RECs and tend to lower REC prices.

OPC has additional concerns with section 7-703.1(d)'s requirement that the RECs purchased by the utilities be used to satisfy the RPS obligations of SOS customers. This

provision appears to place the risk of these contracts on a limited number of customers. While there is a provision on the bill for the Public Service Commission to approve the contracts based on cost-effectiveness evaluation, a risk remains that the contract would impose a cost on customers at sometime during its term.

A higher percentage of residential customers are on standard offer service than other rate classes, so the impact on residential customers would be greater than on other classes. The number of customers on SOS changes over time. An increase in retail shopping for electricity would concentrate the risks of these contracts on a smaller number of customers. The risk posed by these contracts would be better borne by all customers than just SOS customers. Additionally, including the costs of these contracts in SOS prices would either lower or raise SOS prices compared to what they would be without these contracts. This could adversely impact the retail electricity supply market.

As we understand it, section (c)(8) of the bill intends to prevent these risks to SOS customers through a credit or charge for all distribution customers that cannot be bypassed, but that section must be interpreted in light of section (d), which provides that the long-term contracts must be used for at least 25% of that year's and each subsequent year's RPS standard for SOS customers.

The provision on Commission review and approval of the contracts lacks clarity. Section 7-703.1(c)(4)(ii) says that the Commission would determine the cost-effectiveness of the contracts based on a comparison of the contract price to "the long-term projection of renewable energy costs." The contracts required by this bill would purchase both the electricity from the renewable facilities and the RECs. A cost-effectiveness evaluation should consider not only the costs of the RECs but also the cost of the electricity itself. Otherwise, the Commission might be compelled to approve a contract where the REC prices were reasonable but the price for the electricity itself was unreasonably high. The language in the bill should be clarified so that both the cost of the electricity and the RECs would be considered in the evaluation of the contract.

Section 7-703.1(C)(1)(iii) would allow a utility to receive a fee from customers of 1% of the cost of the contract. While it is possible that a contract under this proposal would impose some financial risk on the utility that could result in higher costs for the utility's overall financing, the utility would be compensated for that risk through the usual ratemaking process. There is no need for the additional compensation for the utility and mandating that customers pay a fee to the utility for the contract would be necessary compensation for the utility.