

**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

BILL NO.: **House Bill 1129**
Public Service Commission – Participant Compensation

COMMITTEE: **Economic Matters**

HEARING DATE: **March 7, 2013**

SPONSORS: **Delegates Carr, *et al.***

POSITION: **Support with Amendments**

House Bill 1129 would provide authority and a framework for the payment of reasonable compensation to intervenors in Public Service Commission proceedings who meet certain eligibility criteria. While the bill is modeled on California law, there are several other states that authorize payment of this type of compensation under varying circumstances. The Office of People's Counsel (OPC) understands that the sponsor of the bill intends to submit certain bill amendments at the time of the hearing, and supports the bill with those amendments.

Several states, including California, Colorado, Michigan, Minnesota, Wisconsin and Alaska (limited) have authorized some type of compensation by statute or regulation. Eligibility requirements are similar to those set forth in House Bill 1129, and include:

- A showing of financial hardship
- Substantial or material contribution to the approval of a position advocated by the intervenor
- No duplication of effort by other parties

House Bill 1129 particularly underscores the latter requirement by specifically stating that the intervenor customer's presentation cannot address issues normally addressed by the Office of People's Counsel. From an unofficial survey of other state utility consumer advocate offices, it appears that except for California, this compensation mechanism is not used that frequently, and in some instances, was adopted in states that lack a statutory independent consumer advocate agency.

While OPC is required to represent the interests of *all* residential customers of a utility or utility industry in Maryland, we do endeavor to identify issues and concerns that affect particular residential customer groups. However, a participant compensation mechanism may encourage participation in Commission proceedings by consumer groups or non-profit organizations that lack the funds to retain attorneys or expert witnesses, but could contribute information or policy perspectives that are unique to certain groups of customers. For example, customer groups or organizations that reflect the specific interests of low-income customers, elderly or disabled customers, or customers within certain portions of a utility's service territory may raise facts or issues that disproportionately impact those customer groups. Similarly, there may be issues of particular concern to small businesses as a group that have not previously been identified. The involvement of other intervenors therefore has the potential to enhance the Commission's decision-making process.

OPC does have one major concern with the original bill. It is modeled after a California law, which appears to provide for an automatic pass-through or rate adjustment of any compensation award. This seems to be a reflection of some unique aspects to the rate-setting process in California, and would result in a surcharge-type payment outside of a rate case and

without consideration by the Commission. This is in direct contrast to other state mechanisms, which simply provide authority for the state Commission to require a utility or utilities to pay a compensation award (and treat it as any other expense). In addition, since we do not have real experience with compensation awards, OPC believes it is reasonable to include a cap on the compensation award per customer (as defined) per case. OPC has worked with the sponsor on this concern, and understands that he will be introducing amendments during the bill hearing to address this concern.

OPC recommends a favorable report on House Bill 1129 with those sponsor amendments.