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**BILL NO.:** Senate Bill 1044  
**Public Service Commission – Competitive  
Retail Electric and Gas Supply – Consumer  
Protection - Report**

**COMMITTEE:** Senate Finance

**HEARING DATE:** March 4, 2014

**SPONSOR:** Senator Middleton

**POSITION:** Support

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Senate Bill 1044 requires the Public Service Commission (PSC) to submit a report to the General Assembly on the status of the Commission's efforts to provide appropriate protections for consumers in connection with competitive retail gas and electricity suppliers, as well as recommendations as to how to better protect ratepayers. Among other things, the report would include information and recommendations about the adequacy of the Commission's current supplier regulations; enforcement of the regulations by the Commission; whether to require additional safeguards; whether to require licensing of individuals who sell or facilitate energy supplier agreements, and any other issues. The Office of People's Counsel supports the Bill's requirement for a report on the status of the consumer

protection rules for energy suppliers and enforcement of those rules, as well the need for any additional safeguards.

The electric restructuring act, passed in 1999, contained a number of consumer protection provisions that were of great importance to the Office of People's Counsel. Of particular importance, the law contains the following:

- Licensing requirements for suppliers, brokers and aggregators
- Prohibition of unfair, deceptive and anticompetitive acts and practices
- Provisions for contracting, enrollment and billing practices and procedures

In 2000, the General Assembly passed legislation to apply these general consumer protection provisions to gas suppliers. Of additional importance to residential retail customers, the 1999 and 2000 laws made clear that *all* federal and state consumer protection laws also apply to the marketing, contracting and related business activities to gas and electric suppliers.

Subsequent to the enactment of the 1999 and 2000 Acts, the Public Service Commission issued orders, followed by the adoption of regulations, related to licensing and consumer protection requirements for gas and electricity suppliers. Some consumer protection requirements apply to non-residential customers. However, the Commission's marketing and solicitation, as well as specific disclosure and contracting, requirements primarily apply to residential customers. Furthermore, the State's Consumer Protection Act's prohibitions against deceptive practices, as well as the Door to Door Sales Act and Telephone Solicitations Act do *not* apply to non-residential customers, including small businesses.

Maryland has seen a higher level of marketing and contracting activity by suppliers over the past four years. As of the end of 2013, about 28% of residential

electric customers and 24% of residential gas customers have agreements with retail energy suppliers. However, even with this level of participation, OPC believes that there continues to be confusion among customers about marketing and solicitation activities, and the transparency of the price and term of services being offered. These can include such things as cancellation policies and fees and monthly fees. . In addition, while marketing practices can vary from time to time, there has been an increase in door to door sales and “cold call” telephone solicitation marketing by certain energy suppliers. This type of marketing has resulted in complaints of unauthorized enrollment (slamming) and deceptive identification by the supplier agent as a utility representative. Further, while suppliers are required to comply with all of the written contract requirements of the Door to Door Sales Act and Telephone Solicitation Act, OPC believes that suppliers are not always in compliance.

As a result of the recent extreme cold weather and the spikes in wholesale electricity market prices, residential consumers with variable price contracts are experiencing sharp increases in electricity supply charges from retail suppliers, at least doubling the per unit price. This type of volatile price change poses a real challenge for consumers. Consumer protections in the form of capping price changes from month to month and clear disclaimers, in display, font size and text, may be needed to inform customers of the high risk with these types of contracts.

While current Commission law and regulations contain a number of consumer protection requirements, it is very difficult to monitor compliance with these requirements. In addition, while individual complaints may be mediated by the Public

Service Commission's Office of External Relations, a pattern of deceptive practices or other non-compliant actions may not be detected or brought to the Commission's attention. For example, in a pending PSC case, over 200 customer complaints were filed with OER against Starion Energy, a licensed supplier. The complaints were reviewed by OPC, and included descriptions of slamming, deceptive identification of the marketer and proffered services; failure to comply with the Commission's contracting requirements, problems with cancellation of agreements and other matters. While this matter ended up as the subject of a Commission proceeding in Case No. 9324, OPC believes that enforcement of the Commission's rules, which include compliance with the Consumer Protection Act, is critical, even if small numbers of complaints show a pattern of noncompliance. Senate Bill 1044 would require not only a review of existing consumer protection regulations, but also of their enforcement. OPC believes this would be helpful in ensuring that consumers are adequately protected in the retail energy market.

Finally, OPC has heard of complaints from small businesses, although we do not represent them. It could be very useful for the Commission to examine whether additional safeguards would benefit those customers as well, particularly since the Consumer Protection Act does not apply to them.

For these reasons, OPC recommends a favorable report on Senate Bill 1044.