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BILL NO.:	**Senate Bill 391** **Renewable Energy Portfolio Standard Requirements-Standard Offer Service**
COMMITTEE:	**Senate Finance**
HEARING DATE:	**February 6, 2018**
SPONSORS:	**Senator Feldman et al.**
POSITION:	**Unfavorable Report**

The Office of People's Counsel (OPC) requests an unfavorable report on Senate Bill 391.

First, OPC believes that there should be no further changes to the RPS requirements until the legislature-required study of RPS is completed. In 2017, the General Assembly directed a comprehensive study of the RPS, with a preliminary study due by December 1, 2018, and a final report due by December 1, 2019.[1] OPC believes that it is in the best interest of residential customers, 80% of whom are SOS customers, to maintain the status of RPS and SOS procurement until the reports are produced, and there has been an opportunity to review them.

Second, the current law on Standard Offer Service (SOS) already provides the Public Service Commission with sufficient flexibility to modify the SOS procurement requirements so that SOS rates are the lowest cost while reducing price volatility.[2] This approach does not put

[1]Acts 2017 Ch. 393 (House Bill 1414), Renewable Energy Portfolio Study.
[2] PUA § 7-510 (c) (4).

residential SOS customers at risk of price shocks: the procurement process builds in price stability. However, if the current process is not delivering the proper balance between price stability and lowest price, the Commission has the authority to modify the process. This could include evaluation of the use of renewable long-term contracts for price reduction or stability purposes.

Third, SOS rates for residential customers have been declining steadily since 2009, in large part due to lower gas prices.[3] There is every expectation that natural gas prices will remain low over the next few years. Even with the most optimistic scenarios about renewable energy price reductions, there also is no indication that these customers would miss some major price reductions. This would be particularly so, if this proposal was reconsidered after release of the study.

Fourth, OPC understands that sponsors have introduced, or will introduce, at least two bills to increase the current RPS standard (for example, House Bill 878), and there may be other bills introduced in this 2018 session proposing modifications to the RPS. If adopted, those changes also could have unexpected impacts if Senate Bill 391 was passed.

Bill Requirements: Senate Bill 391 requires electric companies, commonly known as distribution companies, to enter into long-term contracts for renewable energy credits and electricity generated from certain Tier 1 renewable sources to meet at least 25% of each year's mandatory renewable portfolio standard (RPS) for electricity provided to standard offer service (SOS) customers. As of today, the RPS standard is 25% by 2020. While the RPS standard applies to all electricity suppliers, including electric companies, in Maryland, this Bill imposes the long-term contract requirement only on electric companies serving SOS customers.

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[3] See Attachment A.

The Bill has the following requirements:

- Electric companies must enter into renewable energy long-term contracts to serve SOS customers beginning in 2021.
- The contract terms must extend from 10 to 20 years.
- Electric companies must conduct a competitive bid process to secure RECs and electricity from a subset of Tier 1 renewable sources (solar, wind, geothermal, ocean and small hydroelectric facilities only).
- The electric companies must submit the contracts to the Public Service Commission for approval.
- The Commission must award the contract if "it is cost-effective as compared to long-term projection of renewable energy costs."
- Beginning 2021, once approved, the contracted-for electricity "shall be used to meet at least 25% of that year's [RPS]" for electricity provided to SOS customers.

SOS Procurement. The Electric Restructuring law provides a standard for the utility procurement of electricity for SOS customers. This standard requires the Commission to adopt a procurement process that balances the "best price" (i.e., least cost) with price stability (protection of customers "from excessive price increases").[4] The law requires the electric companies to use a competitive bidding process to procure supply, and permits bilateral contracts, if approved by the Commission. The Commission bidding process currently requires staggered two-year contracts, with bid solicitations twice a year. Contracts are subject to review and approval by the Commission. Despite the difficulties with the expiration of utility rate freezes in 2004 (Pepco) and

[4] PUC § 7-510(c) (4) (ii).

2006 (BGE), the SOS rates have been slowly declining since the high prices in 2008/2009. The current prices remain in decline, primarily due to the impact of low gas prices in the wholesale electricity markets.

In the past, OPC has supported the *concept* of considering the use of contracts, including contracts for renewable energy, as part of a strategy to procure diverse electricity products needed to supply residential SOS customers. Under the right circumstances, long-term purchases may be cost-effective and useful as part of an overall procurement strategy to balance lower costs and price stability. In fact, current law already provides the Public Service Commission (PSC) with authority to order distribution utilities to enter into long term contracts as part of a portfolio of blended wholesale supply contracts if those contracts meet demand for SOS electricity *in a cost–effective manner.*[5] However, for the reasons stated, OPC does not believe that adoption of a mandatory renewable energy contract requirement for SOS is either appropriate, prior to the release of the 2019 study, or necessary at this time.

In comparison to last year's version of this proposal, Senate Bill 391 has added certain provisions, and omitted others. OPC recognizes that the Bill addresses major concerns raised by OPC last year, by expressly providing for Commission oversight over the procurement process and ultimate approval of the contracts. The Bill also includes a cost-effectiveness standard for such approval.[6] This determination of cost-effectiveness by the PSC is important. With a long-term purchased power contract, ratepayers face the possibility of locked-in rates that are higher

[5] See Public Utilities Article, § 7-510 (c) (4) (ii) (2).
[6] OPC notes that the Bill provides for a cost-comparison between the contract costs and the "long-term projection of renewable energy costs." "Renewable energy" is not defined for purposes of this proposal; the phrase could refer to a broader group of renewable energy resources than is specified for the contracts.

than the market price of renewable energy during the term of the contract.[7] In addition, this Bill does not include last year's provision for recovery of "lost revenues" through distribution rates. OPC appreciates the changes to the proposal. If the Committee decides to report favorably on the Bill, these changes are beneficial. However, in evaluating whether the mandatory procurement requirements are either necessary or beneficial to residential SOS customers at this time, OPC believes that the answer is no.

For these reasons, the Office of People's Counsel respectfully requests an UNFAVORABLE report.

[7] Of course, the market price for renewable energy in any year over the duration of the contract could be affected by a number of factors including demand for renewable energy, the availability of other sources of cheaper renewable energy, technological improvements, and changes in law (for example, the availability of tax credits for forms of renewable energy).