

**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](http://www.opc.state.md.us)

**BILL NO:** **HOUSE BILL 1322**  
**Electric Companies and Electric Cooperatives**  
**– Standard Offer Service – Service Rights**  
**Auctions**

**COMMITTEE:** **Economic Matters**

**HEARING DATE:** **March 23, 2011**

**SPONSORS:** **Delegate Barkley**

**POSITION:** **Oppose**

\*\*\*\*\*

House Bill 1322 would require the Public Service Commission (Commission or PSC) to study and make recommendations regarding auctioning the right to serve standard offer service (SOS) customers of investor-owned utilities and electric cooperatives. The Commission would be required to report its recommendations to the General Assembly by December 31, 2011. OPC opposes this bill. The proposal to be studied is contrary to fundamental principles in the Electric Industry Restructuring Subtitle of the Public Utilities Article and contrary to the interests of residential customers.

Maryland law regarding SOS for residential and small commercial customers, as implemented by the Commission, makes available to all customers an electric service that is not fully exposed to the volatility of the wholesale electricity market and is offered at terms and conditions overseen by the Commission. The proposal that would be studied under this bill would violate a

number of provisions of Maryland law and eliminate the protection that current law provides for them. Section 7-507(g)(1) states that “[a]n electricity supplier or any person or governmental unit may not , without first obtaining the customer’s permission ... make any change in the electricity supplier for a customer ...”<sup>1</sup> As a result of amendments made in the Special Session in 2006, the utilities have an ongoing obligation to provide SOS in their service territories. See Section 7-510(c)(3)(ii). Also, Section 7-510(c) (2) (IV) states that “a customer is considered to have chosen the standard offer service if the customer...does not choose an electricity supplier...” An auction of the right to provide SOS would necessarily require that SOS customers be switched to the supplier that won the auction, without obtaining permission from the customers. If the customer’s permission to switch suppliers is not obtained, the law states that the customer remains on SOS, which is supplied by the utility. The auction proposal would result in SOS customers being switched to the winner of the auction without obtaining the permission of those customers. This would be a violation of Section 7-507(g) (1) and Section 7-510(c) (3) (ii). These provisions provide an important consumer protection in the electric industry by ensuring that all residential and small residential customers will have electricity service available to them that is overseen by the PSC. Because the investor-owned utilities (IOUs) and electric cooperatives have an obligation to serve SOS customers that does not have a definite end point, the Commission can implement a procurement mechanism for

---

<sup>1</sup> Section 7-507(g) (2) requires the Commission to “adopt regulations or issue orders establishing procedures to prevent the practices prohibited under paragraph (1) of this subsection.” The Commission has issued such regulations in COMAR 20.53.07.08B (1) (“A supplier may not enroll a consumer using a process that does not require affirmative confirmation by the consumer.”).

SOS such as the current laddered contract approach. This provides for customers an SOS that is not fully exposed to wholesale market prices at any one time. Once SOS customers are auctioned off to an alternate supplier, SOS as it currently exists, and the protections it provides, would no longer exist. The auction proposal that is the subject of HB1322 would result in SOS customer service arrangements that have a starting and ending point, which means that SOS customers would be fully exposed to wholesale market conditions at the end of one of those arrangements. This type of exposure precipitated the large increase in rates for Baltimore Gas and Electric residential customers in 2006.

If the requirements of HB1322 are imposed, the Commission will have to undertake a proceeding to receive input from interested parties on an auction of the right to provide SOS. This will require interested parties, such as OPC and the Commission's Technical Staff, to use their resources to participate in that process and respond to the proposal. The Commission would have to spend its resources to conduct such a proceeding, decide whether to make recommendations regarding such a proposal, and then produce a report. It would not be an efficient use of the Commission's, or other interested parties', resources to require the Commission to undertake these efforts with regard to a proposal that would violate several fundamental pieces of existing Maryland law regarding the electricity market for residential and small commercial customers and would be adverse to the interests of those customers.

For the reasons stated, the Office of People's Counsel urges an  
**UNFAVORABLE REPORT.**