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BILL NO.:	**Senate Bill 861** **Maryland Offshore Wind Energy Act**
COMMITTEE:	**Senate Finance**
HEARING DATE:	**March 15, 2011**
SPONSORS:	**The President (By Request – Administration) and Senators Pinsky *et al.***
POSITION:	**Support with Amendment**

Senate Bill 861 is a bill to support the development of offshore wind power through a long-term purchase power agreement between the wind developers and the four investor-owned electric utilities in Maryland. The Maryland Energy Administration (MEA) has identified five reasons to support the development of offshore wind generation:[1]

- Jobs
- Lack of local energy supply and its impact on energy supply prices
- Price stability
- Contribution towards meeting Maryland's RPS goals by 2022; and
- Economic impact beyond jobs

[1] http://www.energy.state.md.us/documents/offshorewindfactsheet.pdf.

The bill is intended to address ratepayer interests in reliability and price stability, energy public policy goals already established by the Maryland legislature, and economic goals. We need to be clear that in meeting these goals through this bill's proposed purchased power agreements, however, there will be at least a near-term cost to ratepayers. The question is whether this bill presents a reasonable approach to meet all these goals, including high priority goals related to price and reliability for ratepayers. OPC would much prefer to see analysis of the long-term costs and benefits of generation (including renewable resources), transmission and demand response/efficiency alternatives in an integrated resource planning process. Unfortunately, we lack an integrated planning process in Maryland. Projects enabled by this Bill have the potential to bring a significant renewable resource into our resource mix; however, OPC's concerns are that there is no concrete "cap" on the potential cost exposure for ratepayers, and there is little discretion granted to the Commission to reject proposals except under a "non-comparability" standard.

OPC Position: Support with Amendments

OPC could support the bill if Section 7-803(c) were amended as follows:

- Clarify the meaning of the non-comparability standard;
- Add a requirement of a cap, in the form of a limitation on the price paid in the contract between the investor-owned utilities and the offshore wind facility; and

- Add a provision that allows the Commission to reject the proposals if it determines that it is not in the public interest.

OPC would oppose any bill amendments that would alter the broad-based distribution of costs (and possible savings) of these agreements to all the customers in the State (subject to the specified limitations) as set forth in the bill.

Summary of Bill

The bill requires the Public Service Commission (PSC) to order the 4 IOUs to enter into long-term purchased power agreements with "qualifying offshore wind generators." The 4 IOUs are BGE, PEPCO, Delmarva Power & Light, and Allegheny Power. The PSC is responsible for developing and issuing a Request for Proposal (RFP) for all 4 IOUs, evaluating responses to the RFP, deciding whether to make contract awards and with whom, and approving the contract awards.

Through the RFP, the PSC must solicit offers for the energy and capacity resulting from a total nameplate capacity of 400 to 600 megawatts for a term of not less than 20 years, together with ancillary services, renewable energy credits (RECs) and environmental attributes, if applicable (referred to as the "products"). The capacity is equal to about 4% of the average peak load for all Maryland load.

The RFP must be issued by January 31, 2012, with responses due by March 31, 2012 and the selection completed by December 31, 2012. The contracts must be filed with the PSC by March 31, 2013. Each IOU must file a

similar contract with the PSC, with the only variable being the amount of output to be purchased by the IOU.

The IOUs would be required to purchase the designated amount of output and in turn sell the products into the wholesale market. The PSC may designate a contract administrator who will administer the contracts and the sale of the products.

Senate Bill 861 sets out a list of criteria to be applied by the PSC in evaluating the responses to the RFP, including:

- Lowest cost impact over term
- Price stability over term
- Long-term reliability
- Potential reductions in transmission congestion
- Potential reductions in capacity prices
- Environmental, climate and health benefits
- Estimated ability to meet RPS goals
- Siting and Project Feasibility
- AND any other criteria.

There is no prioritization of criteria to be applied. The PSC must accept a proposal or proposals unless it determines that the proposals "are *not comparable* to other offshore wind projects."

The Preamble states that the "benefits of electricity generated from clean and renewable energy sources accrue to the public at large." Therefore, the

output purchased from the offshore wind generators is intended to be a statewide benefit. Although only the 4 IOUs purchase and then sell the output, the costs (and possible savings) are to be distributed *equitably* through a non-bypassable charge (or other mechanism)to all customer classes and to all service territories (BGE, PEPCO, Delmarva, Allegheny Power, SMECO, Choptank, municipal utilities, except for the small rural cooperatives (A&N and Somerset)). The major exception is the prohibition on any charge to a customer for sales in excess of 75,000,000 of industrial process load.[2] The charge must allow for "full and timely recovery of all IOU costs arising from its obligations under the contract, including any costs directly incurred by the IOU that are approved by the PSC.

Specific Comments

OPC believes that the bill's approach is the right one, in its use of an RFP process to potentially purchase the output and to sell it into the wholesale markets, and its broad distribution of the costs related to the purchase of the offshore wind output to all customer classes and all service territories. This purchase would not be made merely to satisfy the energy supply needs of a single class of customers or customers in a particular geographic area; it is being done to meet multiple goals that have broad implications for price stability, reliability, greenhouse gas reductions, jobs and the economy. Therefore, an equitable cost recovery mechanism is an essential part of this bill.

[2] This is in contrast to the much higher limit of 300,000,000 kilowatt-hours in the RPS law. See PU Article, § 7-703(a) (2) (i).

However, OPC does have concerns and offers the following specific comments regarding Senate Bill 861. OPC assumes that the bill has been introduced this year to provide some certainty to interested off-shore wind developers that the output can be sold. The lack of long-term purchasing agreements has been an issue for developers of non-renewable resources as well. However, the bill may be premature for several reasons:

- The Department of Natural Resources' PPRP program is expected to release its Long-Term Electricity Report in December 2011, and the PSC has established a process for issuing an RFP for generating and other resources (Case No. 9214), both of which may better inform us.
- The Atlantic Transmission Project, which OPC understands is an integral (though unmentioned) part of this project, is the subject of contested proceedings at the Federal Energy Regulatory Commission (FERC) and in any event, Phase I is not projected to be completed until 2016
- It appears that the offshore wind generation facilities contemplated by this bill would not be built before 2016.

The criteria for evaluating the responses to the RFP are not prioritized, and the use of "any other criteria" allows the PSC to use any criteria to accept responses. Furthermore, the potential reductions in transmission congestion, capacity prices and LMP should not be evaluated in a vacuum, as other initiatives (generation, transmission and demand response/energy efficiency) may provide similar benefits. Since an integrated planning process, such as the one in Connecticut, is

not available in Maryland, we cannot be sure that there is no "double-counting" of potential benefits. In other words, it may be anticipated that a certain project, such as offshore wind, might provide benefits in terms of congestion reduction, but there may be other projects, such as transmission, generation facilities, or demand response or energy efficiency being considered separately that would potentially provide the same benefits.

The bill only has one "out" for the Commission when faced with responses to the RFP. The Commission must approve a contract unless the proposals "*are not comparable to other offshore wind projects.*" At this time, there are only a few offshore wind projects in the United States (Massachusetts, Rhode Island and Delaware) with a range of features and prices. The comparability standard is not clear, particularly whether it applies to price. OPC could support the bill if it were amended to clarify that standard and include a cap, in the form of a limitation on the price paid in the contract between the investor-owned utilities and the offshore wind facility. For example, if the contract price were limited to 20 cents per kWh, the calculation attached to this testimony would indicate that the expected charge for an average residential customer would be $3.10 per month.[3] Further, OPC believes that the Commission should be granted flexibility to reject the proposals if it determines that approval is not in the public interest.

The bill allows the Commission to designate a contract administrator to administer the IOU contracts and the sale of the products in the wholesale

[3] Depending on how the contract price terms are bid, the analysis of offers may need to include a calculation to put the bid offers in terms of a flat price per kWh in order to apply the cap.

markets. The relationship between the contract administrator and the IOUs is not clear, since the IOUs have the responsibility to sell the products into the markets.

There is a significant amount of uncertainty regarding the assumptions used in calculating the costs and savings, and therefore it is difficult at this time to estimate the cost of this measure to ratepayers. For informational purposes, OPC has developed the attached chart which provides a simple calculation of estimated costs based on one set of assumptions. It must be kept in mind that different assumptions may result in higher or lower bill impacts for customers.

The bill does place responsibility for these long-term contracts on *all* ratepayers of *all* electric companies (except the small rural cooperatives). The non-bypassable charge would serve to pass through costs (or possibly savings). However, the bill does place a limitation on the volumetric charge for large industrial customers. OPC does not know the impact of this limitation on the projected average customer charges.

ATTACHMENT

Example: Calculation - Costs

The following chart provides a simple calculation of the cost based on one set of assumptions.[4]

Price paid for OSW	20 cents/kWh
Annual Cost of Contract	$324 million/year
Revenue from sale of power	$113 million/year
Annual Net Cost	$211 million/year
Customer Charge	0.31 cents/kwh
Residential monthly charge	$3.10

Assumptions. This calculation is based on an assumed contract price of 20 cents per kWh for a 500 MW off-shore wind project with a 37% capacity factor, which is the percentage of time the project generates electricity. These assumptions result in the total payment to the wind generator of $324 million per year.

The output of the off-shore wind facility could be sold into the wholesale markets as capacity, energy, and Renewable Energy Credits. The calculation above assumes that the plant can sell 185 MW of capacity, using the discount

[4] These assumptions are different from those identified in MEA's Fact Sheet (see footnote 1), to show how changes in assumptions will affect the estimated outcome. For example, OPC believes that MEA is using a 15 cents/kWh price (Delaware Bluewater price), and a 39.3% capacity factor.

applied by PJM to wind generators. The price used for capacity sales is the price for the Delmarva zone for the last capacity auction held by PJM ($245/MW-day). The prices used for calculating the revenue from the energy output are current NYMEX prices for energy produced in 2015, with an adder to account for higher prices in eastern PJM because of congestion and transmission losses. The calculation of revenues from the sale of Renewable Energy Credits is based on current broker quotes for Maryland Tier 1 Renewable Energy Credits. With these assumptions, the amount of yearly revenue produced by selling the output of the plant is estimated to be $113 million per year.

The difference between the cost of the contract ($324 million) and the revenue from selling the output ($113 million per year), is the estimate for the amount that will have to be charged to customers ($211 million per year). In the calculation above, this amount is evenly applied to all electricity sales in Maryland, with the exception of the small rural electric cooperatives. This results in a charge of 0.31 cents/kWh. For a residential customer using 1000 kWh of electricity per month, the monthly charge would be $3.10. This calculation does <u>not</u> take into account the provision of the bill that excludes certain industrial load from paying the charge. That exclusion would increase the charge per kWh to residential customers.

Making different assumptions would, of course, produce different results for the charge to customers. For example, if the assumption for the price paid for the power were lower than 20 cents/kWh, then the estimate for the charge to

customers would be smaller. If the prices received for the output of the plant were assumed to be lower, the charge to customers would be higher.