

*Before The*

**COMMITTEE ON PUBLIC SERVICES AND  
CONSUMER AFFAIRS**

*of the*

**COUNCIL OF THE DISTRICT OF COLUMBIA**

**TESTIMONY OF THE  
OFFICE OF THE PEOPLE'S COUNSEL**

*on the*

**COMMUNITY RENEWABLES ENERGY ACT of 2012**

**June 14, 2012**

Good afternoon, Chairperson Alexander, Members of the Committee, advocates and friends. For the record, my name is Rishi Garg, Assistant People's Counsel with the Office of People's Counsel. I represent the Office before the Federal Energy Regulatory Commission and PJM Interconnection proceedings and I serve as a member of OPC's Energy Efficiency and Sustainability Section. I appear before you this afternoon on behalf of People's Counsel Sandra Mattavous-Frye, who was previously scheduled as a presenter this week at the National Energy and Utility Affordability Conference in Louisiana and therefore is unable to be with us today.

The Office of People's Counsel appreciates the opportunity to testify today in support of the Community Renewables Energy Act of 2012. The proposal is consistent with the People's Counsel's four objectives: consumer empowerment; affordability, reliability and energy efficiency; and with her goal of making sustainability a priority for all DC consumers.

OPC has been an active participant in the development of the bill and intends to continue to engage with all interested parties to ensure that the Community Energy Generating Facilities (“CEGF”) program is designed to ensure reliability and cost-effectiveness.

Pursuant to D.C. Code § 34-804, in addition to OPC’s traditional role as Consumer Advocate in proceedings involving public utility services, OPC’s mandate was expanded in 2008 to require:

“In defining its positions while advocating on matters pertaining to the operation of public utility or energy companies, the Office shall consider the public safety, the economy of the District of Columbia, the conservation of natural resources, and the preservation of environmental quality.”

The Community Renewables Energy Act of 2012, B19-715, provides an excellent example of OPC’s challenge to fulfill both its traditional role of consumer rate advocate and our important newer role of developing positions that consider public safety, the economy, conservation and environmental preservation.

OPC supports the creation of Community Energy Generating Facilities in the District because, if implemented correctly, these facilities could lead to reduced overall energy bills for District consumers while improving the public health, safety, economic and environmental conditions of the District. Specifically, if properly implemented this bill should achieve the following:

- Provision of a pathway for energy customers who cannot afford to spend the tens of thousands of dollars required to purchase roof-top solar panels, to access new, clean, emissions-free energy resources;
- Support for economic growth, as CEGFs would require renewable resource facility production, distribution, interconnection and maintenance;

- Support achievement of the District's clean energy goals, such as the solar carve-out of the District's Renewable Energy Portfolio Standard, which stands at .5% currently and ramps to 2.5% in 2023;
- Compliment the Mayor's Sustainable DC Plan which envisions an 80% cut in GHG by 2050, a reduction of energy consumption by 50% and an increase in the use of renewable energy to 50%;
- Decrease District residents' dependence on the large, antiquated bulk power system and reduce the amount of wholesale power purchased to serve customers during expensive peak hours; and
- Help modernize our current grid infrastructure, requiring over time, better system operator flexibility to reliably respond to changes in CEGF output, better utility accounting methods to properly and accurately compensate CEGF subscribers, and better system modeling and engineering to ensure that the costs and benefits of CEGF integration are distributed equitably and accurately.

OPC understands that important details concerning substantive provisions of the bill, including its implementation and enforcement, are yet to be worked out.

These include:

- Interconnection Standards (currently under review in PSC Docket FC 1050);
- The need for a Feasibility Study to determine reliability impacts and a Bill Impact Analysis to determine energy bill impacts;
- The creation of a program to target CEGF participation by low-income energy customers;
- Consumer protections, including transparency requirements and an enforcement mechanism; and

- Pricing\*\* (among others)

The issue of Pricing of Unsubscribed Energy (the portion of a CEGF's output that no person or group has purchased) is where I would like to spend the balance of my time. The current proposal would require the electric company to purchase the unsubscribed energy at the avoided cost of energy set by the Commission. Historically, jurisdiction over the sale of electricity at the wholesale level has fallen under either the Public Utility Regulatory Policies Act of 1978 (PURPA) or the Federal Power Act (which provides for FERC jurisdiction).

Under PURPA, if a renewable energy provider is a qualified facility, the state, or in our case the District, can order our public utility to purchase power from that qualified facility at a state-set price, but the state-set price cannot exceed the utility's avoided cost.

[PURPA definition of "incremental cost of alternative electric energy" (avoided cost) – the cost to the electric utility of the electric energy which, but for the purchase from the qualified facility, such utility would generate or purchase from another source.]

Since the District is in the PJM region, the avoided cost rate would be based upon existing coal or perhaps new natural gas prices. Prices set based on these resources would generally not be sufficient to compensate a renewable energy facility and could serve as a disincentive to investments in CEGFs.

In an October 2010 decision issued by the Federal Energy Regulatory Commission ("FERC") and concerning California's AB1613, a carbon emission reduction bill, the FERC stated:

"the concept of a multi-tiered avoided cost rate structure can be consistent with the avoided cost requirements set forth in PURPA...Further, in determining the avoided cost rate, just as a state may take into account the cost of the next marginal unit of generation, so as well the state may take into account obligations imposed by the

state that, for example, utilities purchase energy from particular sources of energy...” Order, EL10-64; EL10-66, October 21, 2010, P. 26.

In the District’s case, we now have a solar carve out in our Renewable Portfolio Standard. In considering the rate at which the utility should purchase “unsubscribed energy” from CEGFs, the FERC decision appears to allow a jurisdiction to set that rate based upon the cost of mandated renewable resources, at least up to the portion of a specific resource that is mandated (2.5% by 2023). So for example, under our interpretation of the FERC order, since the 2012 solar carve out is .5%, the Commission can set Pepco’s avoided cost rate for that .5% requirement based upon the cost of comparable solar resources. This would more adequately compensate CEGFs than an avoided cost rate based on coal or natural gas prices.

OPC believes it is important to keep the new FERC precedent in mind when setting a rate for unsubscribed energy, as well as all of the positive externalities that flow from increased renewable energy integration and deployment. As noted above, economic development, avoided emissions, energy independence and reduced reliance on the bulk power system could all be considered in determining the appropriate rate.

OPC appreciates this opportunity to testify in support of the “Community Renewable Energy Act of 2012” and plans to submit supplemental written testimony in this proceeding.

On behalf of People’s Counsel, Sandra Mattavous-Frye I thank you for allowing us this opportunity and I am available for any questions you may have.