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BILL NO.: HB 1214 - Residential Retail Electricity - Green Power - Renewable Energy Credits and Marketing Claims

COMMITTEE: Economic Matters

HEARING DATE: February 23, 2023

SPONSOR: Delegate Stein

POSITION: Informational

House Bill 1214, as the Office of People’s Counsel (OPC) understands it, is intended to ensure the integrity of retail electricity suppliers’ “green marketing” claims by requiring suppliers who claim their products benefit the environment to: (a) buy renewable energy credits (RECs) that are both sufficient to match their environmental marketing claims and are in quantities that exceed their existing renewable energy portfolio standard (RPS) requirements under Maryland law; (b) buy only RECs from particular Tier 1 resources; (c) buy RECs from sources within the PJM region or adjacent to the PJM region, provided that the associated electricity is delivered into the PJM region; and (d) provide an explanation to consumers clarifying what RECs are. OPC supports this intent but is concerned that certain provisions of the bill, as currently written, run counter to this intent, and may prove detrimental to consumers.

Since 2004, Maryland’s Renewable Energy Portfolio Standard (“RPS”) has required electricity suppliers to fill to a minimum of their electricity sales with energy from renewable sources. See Public Utilities Article (“PUA”) §§ 7-701 et seq. The RPS allows for the sale and transfer of renewable energy credits (“RECs”) where individuals and companies interested in installing a qualifying source of energy can sell their RECs to an electricity supplier. If an electricity supplier does not comply with the minimum requirements, it will have to pay a financial penalty.

First, proposed section 7-707(b) requires an electricity supplier to purchase RECs “in accordance with subsection (c) of this section for each year the electricity supplier

offers green power for sale to residential customers”. Subsection 7-707(c), however, says only that the RECs a supplier buys under 7-707(b) must be from solar, wind, geothermal, or hydro sources, and from within PJM or be deliverable to PJM. HB 1214, as currently drafted, does not contain language stating how many RECs, or the proportion of RECs, that a supplier must buy to call itself or its products “green.”

HB1214’s failure to state how many RECs, or the proportion of RECs, that a supplier must buy to call itself or its products “green” means that a supplier could call itself “green” by complying only with the current RPS law—purchasing only solar/wind/geothermal/hydro RECs to meet RPS, and nothing more. Worse, HB 1214 could be read as stating that a supplier would only have to buy a single solar, wind, geothermal or hydro REC to call itself “green”, while meeting the RPS requirements through other Tier 1 resources. Suppliers should not be allowed to market themselves as “green” for simply meeting the minimum standard that Maryland law requires—an outcome the bill likely does not intend.

Second, proposed section 7-707(c) would require that green power suppliers use RECs from sources within the PJM region or “[o]utside the PJM region if the electricity is delivered into the PJM region.” Due to PJM’s interconnection with Midcontinent Independent System Operator (MISO), electricity from as far away as North Dakota and Montana can be delivered into the PJM region. Thus, as currently drafted, RECs from Montana could be used to meet the requirements of HB 1214, defeating the bill’s apparent intent to ensure that purchased RECs assist Maryland in meeting its greenhouse gas emissions reduction goals. The language in the bill should be modified to align more closely with the existing definition of a REC in Public Utilities Article section 7-701(m), including to expressly include offshore wind RECs.

Third, OPC is also concerned that the disclaimer language in proposed section 7-707(d) is potentially misleading. The proposed disclaimer seems to suggest that the purchase of RECs does not have any effect on the resource mix used to generate electricity. However, OPC believes that suppliers’ purchases of RECs do change the mix of generation that customers receive. RECs provide funding to renewable energy producers, which in turn supports the creation of more renewable energy generation. This effect may be small at the individual level but is larger in aggregate.

Given the complexities of this issue, OPC suggests that the General Assembly instead instruct the Public Service Commission to promulgate regulations that fulfill the intent of HB 1214. The Commission could be required to set orders or regulations that (1) require suppliers that want to make “green” marketing claims to buy only solar, wind, geothermal, or hydro RECs; (2) define what percentage of RECs above the RPS

requirement a supplier must purchase to call itself or its products “green”; and (3) draft an appropriate explanation of how RECs work, as necessary.