

Testimony of Sandra Mattavous-Frye
People's Counsel for the District of Columbia
Before the
Committee on Business & Economic Development
On Bill 22-904
“The Clean Energy DC Omnibus Amendment Act of 2018”

October 29, 2018

INTRODUCTION

Good afternoon Chairperson McDuffie, Members of the Committee, and Committee Staff. I am Sandra Mattavous-Frye, People's Counsel for the District of Columbia. Accompanying me today are key members of my team.

Proposed “Bill 22-904, the Clean Energy DC Omnibus Amendment Act of 2018” (“Act”) is a watershed bill. Energy and environmental policy decisions made today will irrevocably impact our planet and the quality of life for our present and future citizens.

A cleaner energy future is not an option; it is an imperative—our obligation to future generations. Our environment is irreplaceable and unless changes are made in energy policy, irreparable harm will be done to our climate. Indisputably, the District of Columbia has been at the forefront of fighting climate change and paving the way for a cleaner energy future. The District was an early adopter of renewable energy portfolio standards (“RPS”) to support the use of renewable energy technologies and diversify the District’s resource portfolio. The Council, Mayor Bowser, former Mayor Gray, and the Department of Energy and the Environment (“DOEE”) enacted several laws and have issued policy initiatives and programs to reshape the city’s energy footprint. The public, including environmental advocates, have been outspoken in support of comprehensive and progressive energy and environmental policies and climate action.

In meeting its statutory mandate, OPC has consistently considered and supported the District’s environmental and sustainability policies, including climate-related concerns. We were early adopters promoting energy efficiency, and conservation as far back as the late seventies. By law, OPC is an original member of the District of Columbia Sustainable Energy Utility (“DCSEU”) Advisory Board created in 2000. We commissioned a District based Value of Solar study; we conduct city-wide forums on sustainability issues and energy efficiency workshops;

and we advocate before the PSC and FERC on matters that directly impact the environment and the climate. These are practices the Office will continue.

OPC is unique. Unlike many other stakeholders, our sole mission is to represent the interests of users of the District's utility services. This role requires that we balance the often-competing interests of our broad constituencies in a changing and evolving regulatory environment. What remains constant is our obligation to ensure that rates are just, reasonable, and affordable and to ensure that consideration of the environment is an important part of our advocacy.

OPC enthusiastically supports the Clean Energy Omnibus Bill's ambitious environmental and sustainability goals. However, I would like to share two areas of concern regarding certain provisions of this Act: Specifically, the impact on the affordability of utility services for District consumers and reaching consensus on the best course of action to achieve the District's goals. Accordingly, my testimony will address specific provisions of the Bill.

The Clean Energy Future Must be Affordable.

In improving the District's environmental status, we must do so in a manner that balances the environment with the equally important public policy goal of affordability.

One measurement of energy affordability is based on a “home energy burden” index which compares the percentage of a ratepayer’s gross annual household income used to pay their annual residential energy bills, to that household’s total bills. Researchers have concluded that home energy bills are unaffordable—and an energy burden exists—when ratepayers spend more than 6% of their gross annual income on energy-related costs.¹

A recent report for the District² found that more than 27,000 District of Columbia households live with income at or below 50% of the federal poverty level,³ but spend 32% of their household income on their home energy bill. They carry an energy burden that is over 5 times higher than the threshold of what is considered “unaffordable.”

The home energy burden is not confined to low-income residents. It also affects moderate-income families who do not qualify for energy assistance programs such as the Residential Aid Discount (“RAD”) or LIHEAP, but for whom basic

¹ Fisher, Sheehan & Colton, Home Energy Affordability Gap, http://www.homeenergyaffordabilitygap.com/01_whatIsHEAG2.html (accessed October 5, 2018).

² The Home Energy Affordability Gap 2017 for the District of Columbia, available at Fisher, Sheehan & Colton, Current Year Affordability Gap Data, http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html (accessed October 5, 2018). A copy of the report is attached.

³ For reference, the 2017 federal poverty level for a household of four was around \$25,000. United States Census, Data: Poverty Thresholds, <https://www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-thresholds.html> (accessed October 5, 2018).

living expenses, including rent, food, utilities, can push them into a low-income status.⁴

OPC is concerned with the impact Bill 22-904 may have on the affordability of utility customer bills, specifically, regarding the proposed increase to the SETF fees.

- *Sustainable Energy Trust Fund (SETF) Fee Increase*

OPC supports the overall goal for funding the Green Bank and providing additional funding for low-income energy assistance, however, we are concerned that the proposal will increase the Sustainable Energy Trust Fund (SETF), surcharge on electric and natural gas bills. According to the Council’s summary of the bill, the proposed increase would raise the average homeowners monthly SETF charge on electric bills from \$1.05 to \$1.89 and on natural gas bills from \$1.05 to \$3.15.

- *Alternative Compliance Payments*

The Act also proposes to fund programs through the alternative compliance fees that suppliers pay when they fail to meet the District’s RPS goals. According to the Public Service Commission’s (“PSC”) latest RPS compliance report, District suppliers paid \$26.5 million in compliance fees in 2017.⁵

⁴ According to FSC, District’s households earning incomes of 185-200% of the Federal poverty line faced a home energy burden of 7%, also higher than the affordability threshold.

⁵ Public Service Commission of the District of Columbia, Report on the Renewable Energy Portfolio Standard for Compliance Year 2017 at iv (May 1, 2018), <https://dcpsc.org/PSCDC/media/PDFFiles/NaturalGas/Report-on-REPS-for-2018-043018-final.pdf>.

Costs of RPS Compliance			
	Renewable Energy Certificates (“REC”) Costs	Compliance Fees	Total
2014	\$21,064,260	\$6,308,710	\$27,372,970
2015	\$18,630,633	\$19,910,000	\$38,540,633
2016	\$31,933,353	\$15,230,000	\$47,163,353
2017	\$16,107,803	\$26,571,010	\$42,678,813

Compliance fees will likely continue to rise, as neither the current, nor the forecasted, renewable energy supplies in the region meet the target deadlines proposed in the Act. Because suppliers generally roll the compliance costs into rates, consumers ultimately pay the costs for the utilities’ non-compliance.

- *Long-term PPAs*

The Act requires electricity suppliers to secure a certain percentage of their electricity sales through long-term power purchase agreements (“PPAs”) with terms of at least 7 years. While PPAs are useful for hedging against price volatility, they are not always the most affordable means of procuring energy or environmental attributes because they lock in prices at a fixed rate that may not reflect lower future costs in a competitive market. Taken together, these adders put upward pressure on customer bills.

- *Affordability impacts of other energy projects and utility initiatives.*

Bill 22-904's cost impacts cannot be viewed in a vacuum. The District of Columbia energy industry is undergoing a major transformation that impacts the affordability of consumer bills particularly for residential consumers. The District's gas and electric utilities are investing in large infrastructure projects, including DC PLUG and ProjectPipes, to replace aging infrastructure and enhance safety and resilience.⁶ Consumers are paying the costs of these initiatives. While the incremental costs to consumers of the Clean Energy Omnibus Bill may seem small, they are an add on to an already high energy burden and may be the difference between a District resident being able to keep the lights on, heat their home or purchase food and pay rent. To illustrate the problem, attached to my testimony is a document that lists and defines the numerous surcharges on energy bills and a graphic that explains the jurisdictional breakout of electric and natural gas costs.

This is a problem that confronts all stakeholders. However, I believe through a collaborative approach we can move closer to lessening the financial pressure on consumers.

OPC met recently with several representatives of the environmental community to discuss OPC's affordability concerns. In addition to discussing our shared goals for a cleaner environment, we discussed some options that they believe

⁶ Both utilities have, or are expected to, file large additional infrastructure proposals this year. Pepco filed its \$280 million Capital Grid proposal this summer, and Washington Gas is planning on filing the second phase of its accelerated pipeline replacement program before the end of the year.

could help mitigate or reduce the expected increase in the energy burden. For example, we discussed methods to increase enrollment by income-qualifying residents in utility discount programs, many of whom are eligible but are not currently receiving these benefits. We discussed increasing the SETF fund set-aside for programs that target low-income residents and establishing clean-energy related workforce development initiatives. It is this type of open mind thinking that will increase the likelihood of success. These and other proposals bear further review and scrutiny.

The Act Must Set Forth Reasonable Parameters to Achieve the District's Clean Air Energy Policies and Goals.

OPC also has concerns regarding the Act's ability to successfully achieve the District's clean energy goals. Major changes are being proposed by FERC and PJM.

- *Expected changes in wholesale markets tariffs could impact the feasibility of the Act.*

The Act does not consider pending changes in the wholesale market and at the Federal Energy Regulatory Commission ("FERC"). As we know, 70 percent of a residential consumer's bill comes from wholesale markets unregulated by the PSC.

Moreover, the District of Columbia largely depends on the wider PJM region to meet its electric needs. District electricity suppliers must abide by PJM's procurement and pricing rules including meeting PJM's reliability requirements. Presently FERC is reviewing PJM's tariff and addressing its capacity market rules. The outcome of this proceeding could have a significant impact on both the price and availability of renewable resources in the District of Columbia. OPC and other stakeholders, including environmental intervenors, have submitted proposals urging FERC to approve a construct that will allow the District to continue to support its preferred energy resources through RECs and other means. FERC will issue a decision in March 2019.

- *The proposed RPS standards in the bill exceed current renewable energy output and forecasts in the District of Columbia and PJM-region.*

The RPS standards set out in the proposed Act will be difficult to achieve given PJM's current and projected future resource portfolio. For example, at the end of last year, coal and natural gas comprised nearly 70% of PJM's total installed capacity, but wind comprised just 0.6% and solar 0.2% of the portfolio.⁷ In addition, the District is just one of several jurisdictions in the PJM region with strong RPS

⁷ PJM Interconnection, L.L.C., 2017 Maryland and District of Columbia Infrastructure Report (May 2018).

standards competing for the limited supply of renewable energy and environmental attributes of “new” generation. Simply stated, you can’t buy unavailable resources. We must determine what mechanisms are necessary to reasonably insure that the resources will be available.

- *The Bill’s long-term PPAs are inconsistent with the District’s current competitive procurement structure and may increase costs in the long term.*

The Bill requires suppliers to increase a portion of their portfolio with long term PPAs of a minimum 7 years. Currently, the District operates in a competitive wholesale and retail environment under which suppliers may not know how much load they will be serving 7 years out. Competition benefits customers with increased generation diversity and lower costs. A long-term PPA requirement could also be a barrier to entry. The Council should proceed cautiously to avoid restricting future energy supply options.

OPC’s Recommendations

OPC recognizes that something must be done if we are to succeed. We offer the following recommendations to the Council as it considers the proposed legislation.

- (1) *Leverage multiple resources to support the financing of the District’s environmental and sustainability goals.*

A clean energy future will not be free, but that does not mean that ratepayers should be required to be the main source of funding. Multiple resources should be considered to maximize the potential to achieve the District’s goals in an efficient and equitable manner including public-private partnerships, private investment, non-profit lending sources, and federal and private grants. The recent announcement that the District has been named as one of the twenty jurisdictions to win the Bloomberg American Cities Climate Challenge demonstrates that other funding options can help support the District’s efforts to achieve a clean energy future.⁸

(2) Investigate and participate in regional greenhouse gas reduction strategies.

OPC supports the Act’s proposal to investigate and, if appropriate, enter regional initiatives to reduce greenhouse gases from the transportation sector. Exploration of other options to work collaboratively on a regional basis may also be warranted, including consideration of a potential role in the Regional Greenhouse Gas Initiative (“RGGI”) market whereby the District offers energy efficiency measures as a carbon offset.

(3) Revise the proposed RPS standards considering constraints in regional supply and the current deliverability system.

⁸ DC Executive Office of the Mayor, *Mayor Bowser Recognized for Bold Climate Policies, District Wins Bloomberg American Cities Climate Challenge*, rel. Oct. 21, 2018.

Extend the RPS compliance timelines. We believe a 2050 compliance timeline is an achievable target. Indexing the District's RPS goals to the available generation on PJM's system is also an option.

(4) The Council should commission a study on the feasibility of using long-term PPAs to meet the majority of the District's load or environmental attribute requirements.

The Council should look at both whether the long-term PPA requirements could be met in considering current and expected market conditions, and if they could be met, whether the results would be reasonable. The Council should look at the value of a balanced portfolio.

(5) Include accountability mechanisms that would allow the Council and stakeholders to periodically review whether the standards the Act establishes are achievable and affordable.

Accountability mechanisms could include reports on the amount of actual renewable energy delivered or RECs contracted for and assessments of why that amount differs from the standard and whether it is feasible to achieve the standard under then current conditions. Further, the Council should establish a stakeholder group to monitor progress and ensure the Act is achieving its goals. The stakeholder group could be charged with reviewing rate impacts and providing suggestions for legislative or regulatory changes needed to achieve the District's stated goals.

In sum, OPC supports the District's clean energy goals. We respectfully urge the Council to ensure that any new laws or policies promote affordable, sustainable clean energy. OPC looks forward to continuing to work with the Council and other stakeholders on the District's efforts to achieve a clean energy future.

Thank you for the opportunity to share our thoughts on this important piece of legislation.