

Testimony of

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On the

Renewable Portfolio Standard Expansion Amendment Act of 2016

and the

Solar Energy Amendment Act of 2015

and the

Commission on Climate Change and Resiliency Establishment Act of 2015

Before the

Committee on Transportation & the Environment

Of the

Council of the District of Columbia

May 23, 2016

Good morning Chairman Cheh and members of the Council Committee on Transportation and the Environment. For the record, I am Nicole Sitaraman, Assistant People's Counsel, in the Office of the People's Counsel's Energy Efficiency and Sustainability section. I am OPC's representative on renewable and sustainable energy policy and represent the Office in the PJM stakeholder process, before FERC and other federal agencies and national organizations.

I am presenting the testimony of Sandra Mattavous-Frye, the People's Counsel, who is unavailable to attend today's hearing. Specifically, OPC will provide comments on the three proposed pieces of legislation being discussed today: B21-0650, The Renewable Portfolio Standard Expansion Amendment Act of 2016 ("RPS Expansion Act"); B21-0412, The Solar Energy Amendment Act of

2015 (“Solar Amendment Act”); and B21-369, The Commission on Climate Change and Resiliency Establishment Act (“Climate Change Commission Act”).

As you know, OPC has a long and consistent history in promoting energy efficiency, and renewable energy and sustainability policies in the District of Columbia. We are not new to the conversation, as reflected by our decades-old involvement and support of energy conservation, integrated resource planning, and more recently renewable energy and sustainability policies. On a forward-looking basis, OPC supports all efforts to advance the conversation around ways that the District can accelerate the deployment of solar energy installations for low-income and limited-income residents; and the importance of establishing a formal mechanism for assessing the District’s vulnerability to climate change and level of preparedness for adverse weather events.

It is rationally indisputable that we are living in the era of climate change and global warming. Our nation’s most vulnerable and under-served residents are suffering the resulting harsh and devastating environmental impact while their energy expenses continue to rise. OPC is firmly committed to working on initiatives that enable the District to mitigate and adapt to climate change while helping to reduce the burden of high energy costs for consumers. The People’s Counsel is acutely sensitive to the disproportionate impact high energy costs have on our most vulnerable and financially challenged consumers and recognizes the correlation between the adoption of effective energy policies and lower customer bills.

I. Commission on Climate Change and Resiliency Establishment Act

The People’s Counsel wholeheartedly supports the creation of a Commission on Climate Change and Resiliency. Given the growing impacts of climate change in this region, this initiative is timely and forward- looking. In its National Climate Assessment, the U.S. Global Change Research Program noted that the Northeast/Mid-Atlantic region which includes the District of Columbia is particularly vulnerable to climate change impacts such as heat island effect, extreme weather-like hurricanes and super-storms, flooding and rising sea levels.

OPC applauds this effort to move forward with an integrated and comprehensive approach to assess the District’s ability to mitigate and adapt to climate change. We have just entered a period in our nation’s history where entire communities are being displaced because of rising sea levels and extreme weather. Community resiliency, as well as the resiliency of our critical infrastructure and

systems, is of paramount importance. OPC is pleased that the District is taking the lead on developing a plan to address this critical issue.

II. Solar Energy Amendment Act

Next, I would like to discuss the Solar Energy Amendment Act. This legislation proposes to extend the RPS compliance fee of 50 cents per kWh through 2023 and to make the Renewable Energy Development Fund (“REDF”), which is funded by alternative compliance fees, applicable to DC households earning less than the area median income and used for solar and energy efficiency improvements.

OPC supported this legislation early on in the process in discussions with Councilmember Elissa Silverman’s office and we continue to believe the bill is a step in the right direction. OPC is firmly committed to advancing concrete ways to achieve renewable energy equity in the District. We strongly support devoting REDF funds solely for use in low-income communities and for affordable housing. We would advise expressly including reference to community solar for low-income residents in the legislation. OPC applauds the District’s Solar Advantage Plus program for low-income single-family homeowners and renters but believes that we can do more. The impacts of climate change and ever increasing energy costs impact low-and limited-income communities disproportionately. As we know, DC has undergone significant demographic changes over the past several years and the income gap has widened. These changes undoubtedly will continue. Unfortunately, as we have seen, the full benefits of solar are more often not accessible to the communities and residents with limited-and-low-incomes, primarily due to the lack of capital and financial resources.

OPC believes it is incumbent upon DC policy and decision-makers to make solar access a reality for all. OPC is supportive of all endeavors to achieve that objective. OPC is aware that there is concern that there are not enough low-income households and affordable housing units to make use of the entire REDF. OPC will be conducting an assessment of low-income solar access issues in our Value of Solar study this year. However, if there is current data regarding the number of low-income units in the city, produced in conjunction with detailed analysis regarding the specific funds that would be necessary to retrofit and solarize those homes, we welcome that information. Notwithstanding that concern, OPC supports the policy choice to devote all or part of the REDF to the District’s low-income residents, affordable housing and community solar.

With respect to the alternative compliance fee, OPC believes it is reasonable to extend the current 50 cents per kWh amount through 2023 to further galvanize solar deployment in the District and make solar energy installation financially feasible for residents and solar developers. Thus far, the impacts on electricity bills have not been proven to be unjust or burdensome to all ratepayers. OPC is launching a Value of Solar study where costs and benefits, current rate design and incentives for solar will be reviewed. However, to date, OPC has not determined that alternative compliance fee costs that are absorbed by consumers have been more than a *de minimis* impact.

III. Renewable Portfolio Standard Expansion Act

a. DC's Current RPS Law

For the record and to facilitate a clearer understanding for the viewing public, it is important to provide some historical context for the District's current RPS law. Over 10 years ago, the District of Columbia made a policy choice to enable renewable energy sources to compete with cheaper fossil fuel-based energy sources in the marketplace. With growing awareness about the environmental impacts of fossil fuel combustion in this region, in 2005, the DC Council enacted the Renewable Portfolio Standard ("RPS") which mandated that energy suppliers for the District of Columbia (including Pepco) purchase a certain percentage of retail electricity supply from renewable sources every year.¹

Essentially, the RPS was passed to kick-start DC's use of renewable energy by facilitating and creating a viable path to increased sustainability. The RPS is a legislative tool which sets clean energy targets that are designed to incentivize the marketplace to transform the District's energy portfolio from fossil fuel-based energy to renewable energy over time. The RPS established mandatory minimum, annual requirements for renewables-based electricity in the District which would increase incrementally over several years, through 2020. In the event that the companies do not meet the annual requirements, the law requires electricity suppliers to meet the annual standards by purchasing renewable energy credits (also called "renewable energy certificates" or "RECs") from renewable energy generators.

If an electricity supplier fails to comply with the applicable standard for a given year, i.e., generate renewable energy or purchase RECs they are required to

¹ See D.C. Code § 34-1431 *et seq.*

pay an “alternative compliance payment” (“ACP”), which is a basically a penalty. However, it is important to remember that the cost for paying the ACP is absorbed by the electricity suppliers’ customers. Under the law, ACP funds are designated for the Renewable Energy Development Fund (“REDF”) which is generally earmarked to support renewable energy projects in the District.

The RPS was amended by the Clean and Affordable Energy Act of 2008² (adding eligibility of solar thermal for RPS compliance and establishing the Sustainable Energy Utility (SEU) and the Distributed Generation Amendment Act of 2011 (increasing the RPS solar carve-out from .4% to 2.5% by 2023). The current RPS mandates that 20% of electricity in the District must be supplied from renewable sources by 2020 and 2.5% of energy in the District must be generated by solar by 2023.

Additionally, the RPS establishes a specific ACP – on a sliding scale over future years – for failure to supply energy under the solar carve-out. Specifically, the law provides for an ACP of 50 cents per kilowatt hour between 2011 through 2016; 35 cents in 2017; 30 cents in 2018; 20 cents in 2019 through 2020; 15 cents in 2021 through 2022 and 5 cents in 2023 and thereafter. According to the Public Service Commission’s May 2, 2016 Report on the Renewable Energy Portfolio Standard for Compliance Year 2015, the total amount of compliance payments for 2015 was \$19,910,000. That amounts to almost \$20 million available for renewable energy projects, separate and apart from funds used for the DC SEU. In 2014, the total amount of alternative compliance payments was \$6,308,710.

With respect to solar energy deployment, the PSC in its most recent report indicates that the District continues to fall short of the statutory requirement. As of April 19, 2016, the District’s total capacity of solar energy installations eligible under the RPS is 39.6 MW. The RPS solar carve-out requires that by the close of 2015, solar capacity should have been 59 MW. By the close of 2016, solar capacity should be 69.9 MW in order to comply with the RPS. The differential is significant and continues to be a challenge.

b. RPS Expansion Act Provisions

Turning to the proposed legislation, the RPS Expansion Act has several key provisions. They include:

² See D.C. Code § 8-1774.01 *et seq.*

- Increasing the RPS to 50% of all Tier 1 renewables by 2032;
- Increasing the RPS solar carve-out to 5% by 2032;
- Extending the 50 cents/kWh ACP for solar through 2023; then gradually decreasing the amount by 10 cents per 2 year period, concluding at 5 cents/kWh in 2033 and thereafter;
- Establishing a “Solar for All” program to install solar energy systems on the home of low-income homeowners in DC; program to be administered by DOEE;
- Funding the Solar for All program through: 1) an additional \$5 million for the Sustainable Energy Trust Fund (“SETF”) annually and 2) 50% of the Renewable Energy Development Fund annually.
- Increasing the SETF surcharge on electricity consumers’ bills to \$.001875 per kWh.³ The current SETF surcharge is \$.0015 per kWh.

c. OPC’s Perspective

OPC supports extending the current RPS law before it expires in 2020 – a date that is fast approaching. Several factors influence our position, including the growing urgency and concern about the impacts of climate change, the anticipated requirements of President Obama’s Clean Power Plan and surging consumer interest in renewable energy. OPC and the District are not alone in raising these concerns, a trend has begun across the country to increase, substantially, the percentage of renewables required under state RPS laws.

For example, states such as California, New York and Oregon have increased their renewable energy mandates to 50% by 2030. Vermont has increased its goal to 75% renewables by 2032. Hawaii now has a target of 100% renewables by 2045. This is a very exciting time in the expansion of renewable energy in the nation’s energy portfolio. However, while there are great opportunities there are also challenges.

With respect to the new target in the RPS Expansion Act, the goal of 50% renewable energy with a 5% solar carve-out by 2032 is undoubtedly aggressive. It would double the solar-carve-out and more than double the overall renewable energy goal. Our city has a model sustainability plan, which calls for 50% renewable energy use by 2032. Codifying a 50% overall renewable energy goal demonstrates that we take the Sustainable DC Plan seriously and are committed to taking action to achieve that goal. OPC, however, is concerned about any

potentially negative impact that the doubled solar carve-out might have on consumers. Our office has not had the opportunity to do any modeling or economic analysis on this. However, as noted above, the District of Columbia has consistently fallen far short of the solar carve-out requirement under the RPS. OPC is concerned that doubling the carve-out might not result in the intended outcome of more solar in DC but only remain another cost of doing business for energy suppliers -- a cost that is directly absorbed by consumers.

OPC understands that the purpose of this legislation is to send a clear signal to the renewable energy marketplace that the District is open for business. OPC also understands that this legislation would send a message to the rest of the country and the world that the District of Columbia is a leader in sustainable, community-based energy generation. However, OPC would be remiss if we ignored the crucial question of whether RPS statutes are the most effective tool for actual renewable energy deployment or are they merely a vehicle for a clean energy avoidance fee that companies pay as just a cost of doing business?

To be clear, OPC supports taking steps to extend the RPS because it will soon expire but doing so should not eclipse a conversation about necessary steps to remove regulatory and economic barriers to renewable energy adoption by all consumers, particularly limited-and low-income consumers. OPC will be analyzing the issues as part of the Value of Solar study.

Finally, given that the current REDF amount is \$19,900,00, which is close to the entire annual budget for the DC SEU, OPC opposes increasing the Sustainable Energy Trust Fund surcharge by an additional \$5 million applicable to all ratepayers for purposes of supplementing a new Solar for All fund. The case has not been made that this increase is necessary and more importantly, the increase would add an additional financial burden to DC ratepayers. There are substantial funds currently in the REDF – close to \$20 million. As I mentioned earlier, OPC strongly supports devoting the REDF to low-income households. Further, these funds are distinguished by the fact that under the law, they cannot be comingled with the General Fund.

The challenge is to develop policies on how to leverage these dollars effectively to have the most impact on limited-and-low-income families in the District. OPC is confident the appropriate utilization of the current funding under the REDF could make DC a national and international leader in solar energy equity. Let's consider how revolutionary it would be to solarize a significant number of limited-and low-income households in the District. We have the

resources to do it with the money we currently have. Let's make low-income solar access a statutory reality instead of a just a convenient talking point.

OPC appreciates the opportunity to share our testimony with this Committee and we welcome any questions you may have.