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BILL NO.: Senate Bill 131
Public Service Commission –
Rate Suspension Proceedings

COMMITTEE: Finance

HEARING DATE: February 1, 2022

SPONSOR: Senator Kelley

POSITION: Support

The Office of People's Counsel strongly supports SB 131. The bill will provide additional time for analysis and input in proceedings before the Public Service Commission involving alternative forms of ratemaking. The bill's extension of the schedule by 90 days for these proceedings will benefit utility customers.

In a typical rate case proceeding, a utility's expenses and capital projects over a recent "historic" 12-month period are reviewed to determine if the expenditures were prudent and whether the projects serve the interests of customers. The analysis entails the examination of the utility's expenses and investments over that 12-month period to determine the utility's required annual revenues. The utility must give 30 days' notice of a change in rates, and the Commission has authority to suspend the rate change for an initial period of 150 days and then an additional 30 days beyond that. Thus, the longest time allowed for a rate case under current law—from the utility's filing until the Commission's order—is 210 days (roughly 7 months). This timeframe is one of the shortest in the country and creates challenges for parties to traditional rate cases.

A utility's proposal for an alternative form of ratemaking is vastly more complex than a traditional rate case, but current law still allows only 210 days from start to finish. In 2020 and 2021, two utilities filed cases for multi-year rates, a form of alternative ratemaking. As these cases showed, parties to an alternate form of ratemaking case—such as OPC—must perform detailed analyses of not only past spending, but also proposed spending. OPC's analysis is necessary to carry out its statutory obligation of evaluation

and participation for the protection of residential customer interests. This requires OPC to retain experts, present testimony, and make arguments before the Commission—all of which is more challenging and time consuming than for a traditional rate case.

In particular, alternative ratemaking cases require examining past utility expenses and capital projects, as well as the expenses and investments occurring simultaneously with the litigation of the case, to establish a baseline for judging the reasonableness of the projections of three separate future annual rates. Beyond that, they require examining new issues, including the utility's future-year plans for projects and expenditures. Often they also require a detailed assessment of the utility's financial incentives under various rate design proposals to determine how they align with the public interest. These analyses require additional evidence, such as the testimony of experts, which is not submitted in a traditional rate case.

Additionally, as occurred with the multi-year proposals filed by Baltimore Gas and Electric and Potomac Electric Power Company, a utility filing a multi-year rate plan will often propose rate increases for each year of the plan. Such proposals raise the rate case's total cost impact for customers, making it critical for OPC to have adequate time to conduct the required discovery and present the necessary testimony to give the Commission the fullest record to review so that it can make the most informed decision in setting utility rates and performance expectations.

Furthermore, future multi-year cases will be even more complicated because the utility's actual expenditures and performance since the prior case must be compared to what the utility had projected and the Commission approved. This review could result in changes to the utility's rates to correct for performance failures over the course of the multi-year rate period. Thus, it becomes even more important over time that OPC and other parties have additional time to sufficiently analyze and present evidence in alternative-form rate cases.

SB 131 would amend the Public Utilities Article to allow the Commission to extend the schedule an additional 90 days if the case involves an alternate form of ratemaking. This schedule extension is critical for a more thorough evaluation of the utility's rate case, which will ultimately benefit utility customers.

Recommendation: OPC requests a favorable report on Senate Bill 131.