

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 974 (Delegate Chisholm, *et al.*)
Environment and Transportation

Electricity and Gas - Retail Supply (Freedom From Monopolies Act)

This bill repeals and modifies various provisions of State law enacted under Chapter 537 of 2024 related to the marketing and sale of electricity and gas, primarily as they apply to residential service. Among other things, the bill also (1) decreases the maximum amount that the Public Service Commission (PSC) may assess public service companies each year to reimburse its expenses; (2) alters the name, purposes, and permissible uses of the Education and Protection Fund; (3) abolishes a division within PSC established under Chapter 537 and requires PSC to reassign employees hired or assigned to the division to equivalent positions elsewhere within the commission; and (4) makes technical and conforming changes. The bill must be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any electricity or gas supply agreement that is in effect on or before October 1, 2026.

Fiscal Summary

State Effect: There is insufficient time to analyze the effect on the State; an updated fiscal and policy note will be provided when practicable. Nevertheless, general effects on State agencies are noted below.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: Likely meaningful, although there is insufficient time to analyze the effect on small businesses.

Analysis

Bill Summary:

Energy Salespersons and Energy Vendors

The bill repeals §§ 7-317 and 7-318 of the Public Utilities Article, which pertain to energy salesperson and energy vendor licenses, as well as related references to those provisions. The bill also repeals all other references to “energy salespersons” and “energy vendors” throughout the Public Utilities Article, including the definitions of those terms. As a result, the bill eliminates PSC’s authority to license or otherwise regulate energy salespersons and energy vendors and removes the requirement that individuals be licensed to act as energy salespersons or vendors.

Electricity Suppliers

The bill repeals or modifies various provisions in the Public Utilities Article related to electricity suppliers, as described below.

Licensure: Current law specifies that, except for an electric company providing standard offer service (SOS) to specified customers, a municipal electric utility serving customers in its distribution territory, the Department of General Services (DGS) selling energy under power purchase agreements, or a community choice aggregator under § 7-510.3 of the Public Utilities Article, a person may not engage in the business of an electricity supplier in the State unless the person holds a license issued by PSC. The bill repeals the exception for DGS selling energy under power purchase agreements. Additionally, although the bill maintains the requirement that a person be licensed to act as an electricity supplier, it repeals the three-year term for residential electricity supplier licenses, as well as provisions relating to the renewal of those licenses. Therefore, once issued, an electricity supplier license remains in effect unless revoked or suspended.

Under current law, for just cause and on its own investigation or on complaint of the Office of People’s Counsel (OPC), the Attorney General, or an affected party, PSC may deny, revoke, suspend, or refuse to renew an electricity supplier license; impose a civil penalty or other remedy; order a refund or credit to a consumer; or impose a moratorium on adding or soliciting additional customers by the electricity supplier. The bill repeals (1) PSC’s authority to deny an electricity supplier license under these circumstances; (2) related references to license denial in the Public Utilities Article; and (3) references to license renewal for electricity suppliers, as those licenses no longer expire. The bill also repeals one of the 11 criteria that may be used to establish just cause – specifically, the commission of prohibited acts by an affiliate of a licensee or a person under common control with a licensee.

Civil Penalties: The bill reduces the maximum civil penalty that may be imposed on an electricity supplier for a violation of supplier licensing requirements from \$25,000 to \$10,000 and repeals a provision that specifies that each part of a day a violation continues is a separate violation. The bill also repeals a provision specifying that each customer to whom electricity is sold or offered in violation of these requirements constitutes a separate violation. The bill further specifies that a civil penalty may be imposed only as an alternative to license revocation or suspension, rather than in addition to those actions as permitted under current law. In determining the amount of any civil penalty, PSC must continue to consider specified factors; however, the bill repeals PSC's authority to consider any other matter it considers appropriate and relevant.

Annual Reporting Requirements: Under current law, each electricity supplier must submit a report to PSC annually in a form and by a date specified by PSC that includes specified information. The bill repeals the requirement that the report document the amounts and types of generation associated with renewable energy credits (RECs) purchased during the reporting period as well as the requirement that the report document the amount of renewable energy certificates that do not qualify as RECs, including the following information for each certificate:

- the energy source associated with the certificate, including its location, when it was constructed, and which electric distribution system received the energy;
- whether the purchase of the certificate was bundled with a power purchase agreement from the energy source associated with the certificate;
- whether the certificate was purchased directly from the operator of the energy source or through a third party; and
- any other information required by PSC.

The bill also repeals related provisions exempting certain entities from the above requirement. Other existing reporting requirements remain in effect.

Gas Suppliers

With respect to gas suppliers, the bill repeals § 7-603.1 (enforcement of consumer protections) and § 7-604.2 (residential retail gas customer protection) of the Public Utilities Article. Broadly, these provisions establish (1) various enforcement actions that may be taken against gas suppliers, including license denial, revocation, or suspension and the imposition of civil penalties and (2) specified consumer protections, including contract and price limitations for gas supplied to residential retail gas customers and restrictions on direct marketing contacts by gas suppliers to those customers.

Annual Assessment on Public Service Company Gross Operating Revenues

Under current law, the costs and expenses of PSC, the Strategic Energy Planning Office (SEPO), and OPC must be borne by the public service companies that are subject to PSC's jurisdiction. The bill reduces the maximum amount that may be assessed to a public service company for PSC's costs and expenses in a given State fiscal year from 0.5% to 0.25% of the company's gross operating revenues derived from intrastate utility and electricity supplier operations in the preceding calendar year, or other 12-month period determined by the PSC Chairman. The bill does not alter the maximum amounts that may be assessed for the costs and expenses of SEPO or OPC.

Retail Electricity Choice

Implementation of § 7-510 of the Public Utilities Article: Under current law, PSC must, by regulation or order, adopt procedures to implement § 7-510 of the Public Utilities Article, which relates to phased implementation of customer choice. The bill specifies that the procedures must include the allocation of any unused opportunity for customer choice among customer classes.

Consumer Protection and Monthly Reporting Provisions: The bill repeals § 7-510(d) through (g) of the Public Utilities Article, enacted by Chapter 537, which established specified consumer protection and reporting requirements associated with retail electricity choice. These provisions include:

- establishing various restrictions on residential electricity supply offered by electricity suppliers (other than supply offered through SOS, energy sales by DGS, or community choice aggregation), including limits on pricing relative to SOS, contract term length and renewal practices, and the use of variable rates;
- prohibiting a residential electricity supplier from selling accounts receivable to an electric company or an electric company from purchasing them;
- requiring electric companies and residential electricity suppliers, except as specified, to establish a mechanism for customers whose account numbers or customer choice identification numbers have been compromised to receive replacement account numbers or customer choice identification numbers on request;
- requiring electric companies and residential electricity suppliers, as approved by PSC and except as specified, to maintain a "do not transfer" list allowing customers to indicate their intention to remain on SOS indefinitely and avoid directed marketing contacts from electricity suppliers; and
- requiring billing entities (including electric companies and licensed electricity suppliers) to submit a monthly report to PSC on customer choice in their service territories for the preceding month that contains specified information.

Reporting Requirements for the Public Service Commission: Under current law, by December 31, 2008, and every five years thereafter, PSC must report to the Governor and the General Assembly on the status of SOS and the development of competition. In addition to these reporting requirements, the bill requires PSC to report on the transition of SOS to default service and requires PSC, by order or regulation, to establish a definition of “default service.”

Residential Energy Retailer Notices and Disclosures

The bill repeals § 7-315 of the Public Utilities Article, enacted under Chapter 537, which (1) requires PSC to require “residential energy retailers” (see Current Law) to post on their websites in clear and unambiguous language the terms and conditions of their residential services and products and an environmental disclosure, as specified, and (2) authorizes PSC to adopt regulations establishing specified requirements or prohibitions on residential energy retailers related to notices, disclosures, or marketing materials.

Marketing and Cost Recovery

The bill repeals § 7-316 of the Public Utilities Article, enacted under Chapter 537, which generally prohibits electric or gas companies, but not electric cooperatives, from recovering through their rates any costs associated with marketing their services. The bill also repeals § 7-510(c)(10) of the Public Utilities Article, likewise enacted under Chapter 537, which authorizes an electric cooperative to advertise, market, and promote SOS and related products in its service territory in compliance with appropriate consumer protections, as specified (this does not apply to Choptank Electric Cooperative).

Retail Choice Customer Education and Protection Fund

The bill renames the Education and Protection Fund established under § 7-310 of the Public Utilities Article as the Retail Choice Customer Education and Protection Fund, the name originally used when the fund was established by Chapter 134 of 2016. The bill also repeals the other changes made to the fund by Chapter 537 and restores the statutory language to that used in Chapter 134.

Accordingly, the bill specifies that the fund’s purpose is to provide resources to improve PSC’s ability to (1) educate customers on retail electric and gas choice and (2) protect customers from unfair, false, misleading, or deceptive practices by electricity or gas suppliers (under current law, the fund’s purpose is broader). The bill further specifies the fund may be used only to educate retail electric or gas customers on retail choice and improve customer protections for those customers. Under current law, the fund may also be used to educate retail electric or gas customers on energy choices that help to meet the

State's climate commitments and to develop a training and educational program for electricity suppliers, energy salespersons, and energy vendors.

Relatedly, the bill specifies that the only permissible funding source for the initial development of the training and educational program (discussed below under Current Law) that PSC must develop for entities or individual licensed as electricity or gas suppliers is PSC's standard assessment. Under current law, the fund may also be used for this purpose.

Marketing Electricity as Green Power

The bill repeals § 7-707 of the Public Utilities Article, enacted under Chapter 537, which among other things, generally prohibits electricity suppliers (other than DGS and community choice aggregators) from marketing electricity as green power unless specified conditions are met.

Repeal of Section 5 in Chapter 537

The bill repeals Section 5 of Chapter 537, which required PSC to (1) develop a training and education program for any entity or individual that is licensed by the commission as an electricity supplier, a gas supplier, an energy salesperson, or an energy vendor and (2) report to the General Assembly on the status of the development of the program.

Abolition of Division in the Public Service Commission Established by Chapter 537

The bill abolishes the division within PSC established under Section 2 of Chapter 537. Any position identification numbers created in accordance with that provision must remain with PSC, and any employee hired or assigned to the division must be reassigned to an equivalent position elsewhere within the commission. A reassigned employee may not experience any diminution in pay or benefits as a result of the reassignment.

Current Law:

Energy Salespersons and Energy Vendors

Chapter 537 established energy salespersons and energy vendor licenses, and associated licensing requirements for individuals to become energy salespersons or energy vendors.

Energy Salespersons: "Energy salesperson" means an individual who is licensed by PSC to sell:

- electricity or electricity supply services to residential retail electric customers on behalf of an electricity supplier as an employee or agent of the electricity supplier;
or

- gas or gas supply services to residential retail gas customers on behalf of a gas supplier as an employee or agent of the gas supplier.

It does not include specified governmental entities or an employee or contractor of an electric company when the individual is performing duties specific to SOS.

A person may not engage in the business of an energy salesperson or energy vendor in the State unless the person holds a license issued by PSC. Additionally, a licensed energy salesperson or energy vendor may offer or sell electricity supply agreements or gas supply agreements to customers in the State only if the energy salesperson is associated with a licensed electricity supplier or licensed gas supplier, respectively.

Application requirements for an energy salesperson license include providing proof of association with a licensed electricity or gas supplier, as appropriate; payment of an applicable licensing fee; and proof of compliance with applicable training requirements for customer protection. PSC must also, by regulation or order, require proof of financial integrity and require the licensee to post a bond or similar instrument if, in PSC's judgement, it is necessary to insure the licensee's financial integrity. The term of the license is three years and may be renewed. Terms may be staggered by PSC. The license cannot be transferred without prior PSC approval.

Energy Vendors: "Energy vendor" means a person that has a contract or subcontract to provide energy sales services to an electricity supplier or a gas supplier that provides electricity supply services or gas supply services, respectively, to a residential customer.

A person may not engage in the business of an energy vendor in the State unless the person holds a license issued by PSC. Application requirements for an energy vendor license include payment of an applicable licensing fee, and additional actions that PSC must take by regulation or order that mirror those for energy salespersons. The term of the license is three years and may be renewed. Terms may be staggered by PSC. The license cannot be transferred without prior PSC approval.

Electricity and Gas Supplier Training Program

Chapters 373 and 374 of 2020 required PSC to develop a training and educational program, in consultation with interested stakeholders, for any entity or individual that is licensed by PSC as an electricity supplier or a gas supplier, subject to specified requirements. Chapter 537 expanded the program to include energy salespersons and energy vendors and authorized the Education and Protection Fund (discussed below) as an additional funding source for the program.

The program must require that a designated representative of each licensed electricity supplier, licensed gas supplier, licensed energy vendor, or licensed energy salesperson demonstrate a thorough understanding of relevant PSC regulations. PSC must conduct an examination at the end of the training and certify that the designated representative has successfully completed the training. PSC was authorized to recover the initial costs of the program through its standard assessment and funds deposited into the Education and Protection Fund. PSC may establish reasonable fees to pay for the costs of the program.

Education and Protection Fund

Chapter 134 of 2016: Chapter 134 of 2016 established the Retail Choice Customer Education and Protection Fund in PSC. The purpose of the fund was to provide resources to improve PSC's ability to (1) educate customers on retail electric and gas choice and (2) protect customers from unfair, false, misleading, or deceptive practices by electricity or gas suppliers. The fund was authorized to be used only for these purposes. The fund consists of (1) revenues from related civil penalties; (2) money appropriated in the State budget to the fund; and (3) any other money from any other source accepted for the benefit of the fund.

Chapter 537 of 2024: Chapter 537 modified the purposes and permissible uses of the Retail Choice Customer Education and Protection Fund, renamed it the Education and Protection Fund, and allowed for it to be used as a funding source for the required training and educational program discussed above. The purposes and permissible uses of the fund were expanded to include (1) educating customers on energy choices that help meet the State's climate commitments, as specified; (2) protecting customers from unfair, false, misleading, or deceptive practices by energy salespersons and energy vendors (this previously only applied to electricity and gas suppliers); and (3) developing a training and educational program for electricity and gas suppliers, energy salespersons, and energy vendors.

Retail Customer Choice

Generally: The Electric Customer Choice and Competition Act of 1999 facilitated the restructuring of the electric utility industry in Maryland. The resulting system of customer choice allows the customer to purchase electricity from a competitive supplier or to continue receiving electricity under SOS. Default SOS electric service is provided by a customer's electric company (e.g., Baltimore Gas and Electric Company or Pepco). Competitive electric supply is provided by competitive electricity suppliers. In either case, the electric company delivers the electricity and recovers the costs for delivery through distribution rates. Gas supply and delivery are similarly restructured, with gas suppliers and gas companies.

In practice, to provide SOS to residential customers, electric companies solicit bids for electricity through a series of rolling auctions every six months. At any one time, the SOS rate generally reflects the average of four separate auctions held over two years, which has a moderating effect on rate changes.

Licensing and Related Enforcement Activities: An electricity supplier – other than an electric company providing SOS and specified governmental entities – must be licensed by PSC before doing business in the State. PSC must adopt regulations or issue orders to protect consumers, electric companies, and electricity suppliers from anticompetitive and abusive trade practices and to establish related consumer safeguards, such as procedures for contracting with customers.

Application requirements for an electricity supplier license include providing proof of technical and managerial competence; proof of compliance with all applicable requirements of the Federal Energy Regulatory Commission, and other specified entities; a certification of compliance with applicable federal and State environmental laws and regulations that relate to the generation of electricity; and payment of an applicable licensing fee. PSC must also, by regulation or order, (1) require proof of financial integrity; (2) require the licensee to post a bond or similar instrument if, in PSC's judgement, it is necessary to insure the licensee's financial integrity; (3) require a licensee to provide proof of being qualified to do business in the State and agree to be subject to all applicable taxes; and (4) adopt any other requirements the commission finds to be in the public interest. The term of a residential electricity supplier license is three years and may be renewed. Terms may be staggered by PSC. The license cannot be transferred without prior PSC approval.

An electricity supplier, an energy vendor, or any other person (except an energy salesperson) selling or offering to sell electricity in the State in violation of applicable licensing requirements, after notice and an opportunity for a hearing, is subject to a civil penalty of up to \$25,000 and/or license denial, revocation, or suspension or refusal to renew the license. An energy salesperson selling or offering to sell electricity in the State in violation of applicable licensing requirements, after notice and an opportunity for a hearing, is subject to license denial, revocation, or suspension or refusal to renew the license.

Under specified circumstances, PSC may also (1) impose a moratorium prohibiting an electricity supplier, energy salesperson, or energy vendor from adding or soliciting additional customers or (2) order that a refund or credit be provided to a customer.

PSC is required to license gas suppliers, energy salespersons, and energy vendors, and it has the same regulatory authority over gas suppliers as it does for electricity suppliers, energy salespersons, and energy vendors, including the authority to (1) deny, revoke, suspend or refuse to renew a license; (2) impose a moratorium, civil penalty, or other

remedy; and (3) order a refund or credit to a customer. PSC must adopt licensing requirements and procedures for gas suppliers, energy salespersons, and energy vendors that protect consumers, the public interest, and the collection of all State and local taxes.

Gas supplier licenses do not expire under current law. As previously discussed, residential electricity supplier, energy salesperson, and energy vendor licenses have a term of three years and are renewable.

Consumer Protection Provisions: For residential electricity supply other than supply offered through SOS or specified governmental entities, a residential electricity supplier:

- may offer electricity, other than green power, only at a price that does not exceed the trailing 12-month average of the electric company's SOS rate in the electric company's service territory as of the date of agreement with the customer;
- may offer residential electricity supply only for a term up to 12 months at a time and without automatic renewal;
- may, for electricity supply other than green power, automatically renew the term only if the electricity supplier provides notice to the customer 90 days before and 30 days before renewal;
- may offer green power that meets specified requirements, discussed below, but may not automatically renew the term with the customer;
- may not offer a variable rate other than a rate that adjusts for seasonal variation up to two times in a single year (this does not prohibit the offer and use of time-of-use rates that establish different rates for periods within a single day); and
- may not pay a commission or other incentive-based compensation to an energy salesperson for enrolling customers.

Additionally, a residential electricity supplier may not sell to an electric company, and an electric company may not purchase from an electricity supplier, accounts receivable.

An electric company and a residential electricity supplier must establish a mechanism for a customer whose account number or customer choice identification number has been compromised to receive a replacement number on request, subject to verification in a manner approved by PSC.

Generally, as approved by PSC by regulation or order, each electric company and each residential electricity supplier must allow a customer to indicate the customer's intention to remain on SOS indefinitely and not to receive directed marketing contacts from electricity suppliers through the implementation of a "do not transfer" list onto which the customer may request to be placed.

Parallel requirements apply to gas suppliers that supply gas to residential gas customers; however, the requirements specified above that relate to green power are not applicable to gas suppliers.

Monthly Data Reporting: By the 15th day of each month, each billing entity, as defined, must submit a report to PSC on customer choice in its service territory for the preceding month, including:

- the total kilowatt-hours distributed, and supply cost charged, to customers purchasing electricity from a third-party electricity supplier, along with the total cost that would have been paid by those customers under SOS;
- the net third-party total cost compared to the net SOS cost;
- the total third-party average rate, the SOS average rate, and the difference between the two;
- various specified third-party average rates for specified customers and types of rates, and the variance between such rates and the SOS average rate; and
- other pertinent information PSC considers appropriate.

Parallel requirements apply to billing entities for gas customers.

Residential Energy Retailer Notices and Disclosures

PSC is authorized to adopt regulations to (1) require a residential energy retailer to post notices and disclosures required under Title 7 of the Public Utilities Article on the retailer's website, subject to specified requirements, and (2) require or prohibit the use of specific language in a residential energy retailer's marketing materials, disclaimers, disclosures, and legal documents, as specified. However, PSC must require a residential energy retailer to post on its website – in clear, unambiguous language – the terms and conditions of its residential services and products and an environmental disclosure, as specified.

For purposes of these requirements, a “residential energy retailer” includes an electricity supplier that supplies electricity to residential retail electric customers, a gas supplier that supplies gas to residential retail gas customers, an energy salesperson, and an energy vendor. It does not include specified governmental entities or a gas or electric supplier when supplying gas or electricity to commercial retail customers.

Marketing and Cost Recovery

Generally, except for materials to educate or inform a retail customer about SOS, default gas commodity service, or customer choice, an electric company or gas company may not recover through its rates costs associated with marketing its services. However, PSC may,

by regulation, adopt criteria for reviewing marketing and other communication materials to determine whether their costs may be recovered through rates. An electric cooperative may advertise, market, and promote SOS and related products in its service territory in compliance with appropriate consumer protections consistent with those that apply to electricity suppliers under § 7-507 of the Public Utilities Article (this does not apply to Choptank Electric Cooperative). An electric cooperative may recover through its rates any costs associated with marketing its services, including the costs associated with materials that educate or inform a retail customer about SOS or customer choice.

Green Power Marketing

Generally, an electricity supplier that supplies electricity to residential electric customers may not market electricity as “green power” unless:

- the percentage of electricity being offered, or the equivalent number of RECs associated with the electricity being marketed as green power, equals or exceeds the greater of 51% or 1% higher than the Renewable Energy Portfolio Standard for the year the electricity is provided to the customer;
- PSC approves the price of the electricity being marketed as green power, subject to specified requirements; and
- the electricity supplier submits an application to PSC that describes the electricity being marketed as green power; describes how the green power complies with State law and regulations; and includes any other information PSC considers necessary.

PSC must hold a proceeding each year to set the price per megawatt-hour for electricity marketed as green power that, generally, an electricity supplier may not exceed; however, PSC is authorized to set a higher price for a particular electricity supplier under specified circumstances. Among other requirements, the electricity supplier must demonstrate to PSC that the actual cost for the generation or supply of electricity exceeds the general green power price set by PSC. A separate price approved by PSC may not be more than 150% of the general price unless PSC determines that the actual cost of the green power exceeds the general price; any such approval requires PSC to report to the General Assembly, as specified. PSC must annually review any specific supplier prices.

An electricity supplier must purchase RECs for each year the electricity supplier offers green power for sale to residential retail electric customers. The RECs must be retired in a PJM Generation Attribute Tracking System reserve subaccount accessible by PSC.

An electricity supplier that claims in its marketing materials for residential customers that the customer will be purchasing green power must include in those marketing materials related disclosures about the source of the green power. An electricity supplier must include a specific disclosure required under State law (or a similar disclosure approved by

PSC). PSC must adopt regulations requiring an electricity supplier to include in their marketing materials a disclosure, written in plain language, that explains other related concepts.

The above requirements do not apply to specified governmental entities or a supplier when supplying electricity to commercial retail electric customers.

Annual Assessment on Public Service Company Gross Operating Revenues

The costs and expenses of PSC, OPC, and SEPO must be borne by the public service companies that are subject to PSC's jurisdiction. The total amount that may be charged to a public service company for a State fiscal year, as a percentage of the company's gross operating revenues derived from intrastate utility and electricity supplier operations in the preceding calendar year, may not exceed 0.5% for PSC. PSC is also authorized to assess up to 0.074% for OPC's costs and expenses and up to 0.074% for SEPO's costs and expenses. Assessed amounts accrue to the Public Utility Regulation Fund.

Prior to the enactment of Chapter 537, the maximum percentage PSC could assess a public service company for its costs and expenses was 0.25% of the company's gross operating revenues.

State Fiscal Effect: There is insufficient time to analyze the effect on State operations and finances. An updated fiscal and policy note will be provided when practicable. Nevertheless, an initial assessment indicates that, at a minimum, the bill results in fiscal and/or operational effects for PSC, the Office of the Attorney General, and DGS. The bill may also marginally increase electric and gas rates paid by State agencies due to the repeal of DGS' authority to act as an electricity supplier, thereby limiting DGS' ability to procure energy at favorable rates for State facilities.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Public Service Commission; Office of People's Counsel; Department of General Services; Office of the Attorney General; Judiciary (Administrative Office of the Courts); Department of Budget and Management; Maryland Department of the Environment; Maryland Energy Administration; Department of Legislative Services

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