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BILL NO.: **House Bill 260**
Residential Electricity and Gas Supply Billing Information – Reports

COMMITTEE: **Economic Matters**

HEARING DATE: **February 5, 2020**

SPONSOR: **Delegate D. E. Davis**

POSITION: **SUPPORT**

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The Office of People's Counsel (OPC) supports House Bill 260. OPC has encouraged the regular collection of residential energy supplier price data and its comparison with utility supply prices for several reasons:

It's time. The retail competition law is over 20 years old, with promises of competition and economic benefits to all customers, including residential customers. It is past time to assess whether residential customers have been receiving tangible benefits, in the form of lower supply prices.

Other states have collected and analyzed data. These include Massachusetts, Connecticut, New York, Illinois, Rhode Island and Maine.

Other states have revealed substantial overpayments.[1] Reports and investigations from these states have shown that residential customers are paying more as a whole for competitive retail supply than if they stayed with their local electric utilities. For example:

[1] See Attachments A to OPC's Testimony.

- **Massachusetts Office of Attorney General:** The OAG conducted an analysis of actual price data, which showed that electric customers overpaid by $253 million during 2015-2018.
- **Connecticut Office of Consumer Counsel**: OCC's review of actual price data reported to the Connecticut regulator showed that electric customers overpaid by approximately $200 million during the period 2015-2018.
- **Illinois Commerce Commission**: The Commission reported actual data showed that electric customers of Ameren and Commonwealth Edison overpaid by $551.3 million during the period 2015-2018.
- **New York Public Service Commission Staff**: The Staff analyzed actual supplier data and reported that electric customers overpaid by $1.2 billion during the period 2014-2016.

In each of these states, the data has shown a significant impact on low-income households.

Maryland reports have consistent findings, but ongoing data collection is needed.[2] Two 2018 Maryland reports, issued by OPC and the Abell Foundation, have used different data sources, but the results are consistent with other retail competition states – residential customers are paying more as a whole. The OPC report also shed light on the comparable overpayments by customers of gas suppliers.

Households suffer harm when they pay more than necessary for gas or electricity. A public policy choice was made twenty years ago to economically benefit these households. We should know if the households actually are reaping those benefits, or instead, are harmed.

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[2] See "*Maryland's Residential Electric and Gas Supply Markets: Where Do We Go From Here,*" (Susan Baldwin and Sarah Bosley, November 2018), Appendices A and B, released by OPC, at www.opc.maryland.gov/publications. ("OPC Maryland Report"). *Maryland's Dysfunctional Residential Third-Party Energy Supply Market: An Assessment of Costs and Policies* (Abell Foundation, Laurel Peltier and Arjun Makhijani, Ph.D., authors, December 2018).

Over twenty years ago, the General Assembly passed retail electric choice legislation, with the stated purpose of creating competitive retail supply markets and most importantly, providing "*economic benefits to all customer classes.*" As of November 2019, about 430,000 residential electric customers were enrolled by electric suppliers. About 213,000 residential gas customers were enrolled by gas suppliers as of December 2019. These totals have declined over time from a peak in 2014-2015. However, they still represent a significant number of residential households in the State. House Bill 260 will provide a valuable means of assessing whether residential gas and electric customers are getting the economic benefits they were promised and deserve.

Bill Requirements. House Bill 260 requires electric and gas utilities, as well as certain energy suppliers that provide billing services, to submit monthly reports to the Public Service Commission. The initial report must contain information for the previous 12 months. These reports require them to report energy supplier rate data broken out by categories, with a comparison to utility gas and electric supply rates. The report information is only required for residential customer data. The reports must be made available to OPC and the Office of Home Energy (OHEP) programs. OHEP must use to reports to analyze information related to low-income customers receiving OHEP energy assistance.

The Bill also includes an annual reporting requirement for the Commission to report to the General Assembly, and provide a comparison of the aggregated residential electricity and gas supply prices to Standard Offer Service (utility electric rates) and gas utility supply prices. The report also should assess how the prices impact low-income customers. Finally, the overview report must be public and made available on the Commission website.

An assessment of the state of the residential retail energy market in Maryland is needed, and now is the time. It has been done in other retail competition states, and Maryland should be no different. The data from other states, and the assessments in the Maryland reports raise legitimate concerns that Maryland households served by suppliers are paying supply prices that are higher than necessary. By requiring data collection and reporting, House Bill 206 provides a straightforward way to answer the questions and concerns about retail energy supply for residential customers.

For the foregoing reasons, the Office of People's Counsel respectfully requests a FAVORABLE REPORT on House Bill 260.

STUDIES OF RESIDENTIAL RETAIL ENERGY SUPPLIER PRICES COMPARED TO DEFAULT SERVICE (EXCLUDES COUNTY OR MUNICIPAL AGGREGATION)

June 2019

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There are no publicly available studies that document that most residential customers have paid lower prices for gas and electric service from retail energy suppliers compared to default service for any reasonable period of time. On the contrary, to the extent that restructuring has resulted in consumer benefits, those benefits in the form of lower prices have been passed through via default service procured in a competitive manner in the wholesale market. The following studies have documented that on average retail energy suppliers charge residential (and, in some cases, small commercial customers) more for essential electric and natural gas service than default service procured pursuant to state default service policies:

- **Connecticut.** Between 25%-30% of residential customers are enrolled with alternative suppliers outside of any aggregation programs in the two electric utility service territories. Based on required pricing information filed by alternative suppliers, the Office of Consumer Counsel has published annual reports that compare supplier prices to utility default service. In the month of September 2018, seven out of ten residential supplier customers paid more than the Standard Offer in Eversource territory, and seven out of ten residential supplier customers paid more than the Standard Offer in UI territory. In the month September 2018, residential Eversource customers who chose suppliers paid in aggregate $2,962,056 more than the Standard Offer for their electric generation, and residential UI customers who chose suppliers paid in aggregate $994,812 more than the Standard Offer. For the rolling year of October 2017 through September 2018, residential consumers who chose a retail supplier paid, in aggregate, $38,380,874 more than the Standard Offer.[i] Based on OCC's annual reports, between 2015 and 2018, residential electric consumers on competitive supply paid approximately **$200 million more** than they would have paid if they had stayed with their utility's Standard Offer service.[ii]

- **Illinois**. Between June 2015 and May 2018, the Illinois Commerce Commission reported that Commonwealth Edison's and Ameren's residential consumers enrolled with an alternative supplier outside of municipal aggregation programs paid **$551.3 million more** than they would have paid with the utility's default service. Approximately 18% of Illinois' residential customers are served by an alternative supplier outside of municipal aggregation programs.[iii]

- **Maine**. As of September 2018, 16.2% of Maine's residential electric customers were served by an alternative supplier.[iv] For the three-year period 2014 through 2016 that Maine Public Utilities Commission has reported that residential customers served by an alternative electricity supplier paid approximately **$77.7 million more** than they would have paid for standard offer service. On average, these customers paid approximately 12% more in 2014, 60% more in 2015, and 56% more in 2016, or, per customer, approximately $67 more in 2014, $278 more in 2015, and $245 more in 2016.[v]

- **Maryland.** As of the fall of 2018, 18% of residential electric customers and 20% of residential natural gas customers were served by an alternative supplier.[vi] A Report commissioned by the Maryland Office of People's Counsel relied on supplier prices posted on suppliers' web sites and compiled by the OPC and on participation rates reported by the Public Service Commission to estimate a net annual consumer loss of approximately $34.1 million in the residential electric supply market and an approximate net annual consumer loss of approximately $20.7 million in the residential gas supply market resulting from Maryland households' participation in energy supply markets. In other words, Maryland's households are paying approximately **$54.9 million** more for electricity and gas than if they had purchased energy from their utility default service.[vii]

- **Massachusetts.** A 2018 Report shows that 18% of non-low-income residential customers and 36% of low-income customers enrolled in utility bill payment assistance programs were served by an alternative supplier outside of municipal aggregation programs.[viii] Based on an analysis of utility billing data that includes charges by alternative suppliers, the Massachusetts Attorney General reports that between July 2015 and June 2018, individual residential consumers served by alternative suppliers paid **$253 million more** than they would have paid if they had stayed with their default service.[ix]

- **New York.** The Public Service Commission Staff's analysis of actual bills issued by utilities that include supplier charges concluded that between 2014 and 2016, residential consumers on competitive electric and gas supply paid **$1.2 billion more** than they would have paid with their default utility service.[x] The most recent published shopping data by the New York Commission from December 2017 indicates that 20% of residential electric customers and 25% of residential natural gas customers were enrolled with an alternative supplier.[xi]

- **Rhode Island.** Based on supplier pricing data reported by Rhode Island electric utilities, the Division of Public Utilities and Carriers stated in May 2018 that during the previous five-year period, residential and small commercial consumers served by alternative suppliers paid **$55 million more** than they would have paid if they had been on default service (the residential portion was $28 million) .[xii]

Several States have examined the impact of the retail market on low-income consumers, older adults, consumers with limited English proficiency, and other vulnerable consumers. These customers, who cannot afford the higher prices and whose essential electric and gas service may be terminated for non-payment are often charged even higher prices for essential service, as the following examples indicate:

- Analyses of Connecticut data found that from October 2016 through September 2018, Connecticut's "hardship" electric customers— those consumers who are identified as medically vulnerable or facing significant financial hardship—paid approximately $7.2 million more to purchase electricity from third-party electric suppliers than if they purchased utility standard service. These hardship customers experienced an average annual net loss of $143 per hardship household over this time period.[xiii]

- Based on publicly available statewide data in Maryland as well as information collected in interviews with clients at GEDCO CARES, a Baltimore City agency that provides a variety of services to low-income Baltimoreans, including energy assistance, the 40 low-income account holders interviewed paid, on average, a 51 percent premium for electricity and a 78 percent premium for natural gas, when compared to Baltimore Gas and Electric Company's default rates.[xiv]

- The Massachusetts pricing analysis that compared utility default rates with supplier charges billed by utilities found that low-income consumers participate in the market at twice the rate of non-low-income consumers. Furthermore, the pricing study found that alternative suppliers charge low-income consumers higher rates for essential electric service than non-low-income consumers. The report's use of zip code analysis of enrollment data suggests that some suppliers may target low-income neighborhoods for enrollment in competitive supply.[xv]

- The New York Public Service Commission, based on its findings that most low income customers are charged more than default supply by alternative suppliers, that such higher charges had an adverse impact on the ratepayer funded low income bill payment assistance programs, and that there was no evidence to support the supplier's allegation that other "value added" attributes could be relied upon to justify these higher charges, has ordered that only approved alternative energy suppliers that agree to charge at or below default service can enroll such customers.[xvi]

- Billing data from PPL Electric in Pennsylvania showed that over a 34-month period, an average of 49% of low income customers in the Customer Assistance Program were served by alternative suppliers, 55% of whom were paying above the default service rate, with a net annual financial impact of $2.7 million. Billing data from FirstEnergy in Pennsylvania similarly showed over a 58-month period, that nearly 65% of low income customers in the Customer Assistance Program served by alternative suppliers paid rates above the default service rate, resulting in a net increase of $18.3 million over the 58-month period.[xvii]

[i] OCC FACT SHEET: ELECTRIC SUPPLIER MARKET, OCTOBER 2017 THROUGH SEPTEMBER 2018

[ii] Connecticut Office of Consumer Counsel ("OCC") Press Release *Time To End the Third-Party Residential Electric Supply Market (Feb. 4, 2019).available at* https://www.ct.gov/occ/lib/occ/2-4-19_press_release.pdf

[iii] Illinois Commerce Commission*, Office of Retail Market Development ("ORMD") 2018 Annual Report*, at 27-32 (June 29, 2018) (providing a breakdown of how residential customers who sign up with an Alternative Retail Electric Supplier ("ARES") fare in Illinois), *available at* https://www.icc.illinois.gov/reports/report.aspx?rt=22. The $551.3 million number referenced was derived by adding the $405,555,489 more that Commonwealth Edison Company (serving Northern Illinois) customers paid over the default supply rates in effect during the June 2015 through May 2018 time period (p. 30) with the $145,833,368 more that Ameren Illinois (serving Central and Southern Illinois) customers paid over the default supply rates in effect over that same time period (p.32). All dollar figures incorporate the impacts of the purchased energy adjustments (PEA) that reconcile over- and under-collection of default supply revenues.

In terms of levels of alternative supply participation in Illinois, the ORMD report notes that as of June 2018, 229 of the 728 communities or 31% of the communities that implemented an aggregation program let their aggregation terminate, but that 20% of the state's residential consumers are still receiving their electric supply through a municipal aggregation program. In addition, the number of residential customers receiving ARES service *outside* of an aggregation program remains at 18% of the total residential customers in the state. ORMD Report, p. 7. On average, residential ARES customers in the ComEd territory paid around $10.2 million more per month during the last twelve months when compared to the ComEd default Price-to-Compare (PTC)3 and $11.5 million more per month during the last twelve months when compared to the ComEd default PTC including the PEA. *Id.* In terms of cents per kWh, residential ARES customers in the ComEd territory paid about 1.289 cents/kWh more when compared to the ComEd default, PTC only, and about 1.445 cents/kWh more when including the PEA. *Id.* In the Ameren Illinois territory, residential ARES customers paid around $6 million more per month during the last twelve months when compared to the Ameren Illinois default PTC and $7.4 million more per month during the last twelve months when compared to the Ameren Illinois default PTC including the PEA. *Id.* In terms of cents per kWh, residential ARES customers in the Ameren Illinois territory paid about 1.073 cents/kWh more when compared to the Ameren Illinois default PTC only, and about 1.330 cents/kWh more when including the PEA. *Id.* Illinois Commerce Commission*, Office of Retail Market Development ("ORMD") 2018 Annual Report*, at 27-32 (June 29, 2018) (providing a breakdown of how residential customers who sign up with an Alternative Retail Electric Supplier ("ARES") fare in Illinois), *available at* https://www.icc.illinois.gov/reports/report.aspx?rt=22

[iv] http://www.maine.gov/tools/whatsnew/attach.php?id=180998&an=1

[v] Maine Public Utilities Commission, Report on Competitive Electricity Provider and Standard Offer Price Comparisons (Feb. 2018).

[vi] [Electric] http://www.psc.state.md.us/electricity/wp-content/uploads/sites/2/Electric-Choice-Enrollment-10-2018.xls

[Gas] https://www.psc.state.md.us/gas/wp-content/uploads/sites/4/9-2018-Gas-Choice-Enrollment-Report.pdf

[vii] Susan M. Baldwin and Sarah M. Bosley, on behalf of the Maryland Office of People's Counsel. Maryland's Residential Electric and Gas Supply Markets: Where Do We Go from Here? (Nov. 2018), *available at* http://opc.maryland.gov/Portals/0/Hot%20Topics/Maryland%20Electric%20and%20Gas%20Residential%20Supply%20Report%20November%202018.pdf.

[viii] https://www.mass.gov/doc/comp-supply-report-final

[ix] Massachusetts Attorney General's Office, *Are Consumers Benefiting from Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts* (March 2018); *Available at:* Are Consumers Benefiting from Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts; Massachusetts Attorney General's Office, 2019 Supplemental Report. See, also, "Suppliers Are Not Providing Value to Individual, Residential Customers," presentation to the New England Restructuring Roundtable, Rebecca Tepper, Chief, Energy and Telecommunications Division, Massachusetts Office of the Attorney General, October 12, 2018. Available at: http://www.raabassociates.org/main/roundtable.asp?sel=147

[x] State of New York Public Service Commission, *In the Matter of Eligibility Criteria for Energy Service Companies*, Case 15-M-0127, et al., Initial Brief of the New York Department of Public Service Staff, at 2 (March 30, 2018).

[xi] http://www3.dps.ny.gov/W/PSCWeb.nsf/All/4759ECEE7586F24B85257687006F396E?OpenDocument

[xii] State of Rhode Island, Division of Public Utilities & Carriers ("DPUC"), Press Release: DPUC Enacts New Rules for Competitive Electricity Suppliers, Initiates Review of Competitive Supply Marketplace (May 8, 2018).

[xiii] Direct Testimony of Susan M. Baldwin on Behalf of the Office of Consumer Counsel (Feb. 27, 2019), Connecticut Public Utilities Regulatory Authority Docket No. 18-06-02, *Review of Feasibility, Costs, and Benefits of Placing Certain Customers on Standard Service Pursuant to Conn. Gen. Stat. § 16-245o(m)*, *available at* http://www.dpuc.state.ct.us/dockcurr.nsf/8e6fc37a54110e3e852576190052b64d/4bef308bf564773e852583ae004fb3e0?OpenDocument.

[xiv] Makhijani, Arjun and Peltier, Laurel, Dysfunctional Residential Third-Party Energy Supply Market, December 2018, *available at* https://www.abell.org/sites/default/files/files/Third%20Party%20Energy%20Report_final%20for%20web.pdf

[xv] Massachusetts Attorney General Report, cited above.

[xvi] N.Y. Public Service Commission, Case Nos. 12-M-0476, 98-M-1343, 06-M-0647, and 98-M-0667, *Order Adopting a Prohibition of Service to Low-Income Customers by Energy Service Companies* (Dec. 16, 2016), at http://www3.dps.ny.gov/W/AskPSC.nsf/96f0fec0b45a3c6485257688006a701a/9398a8fe616603ce85258243006e4b99/$FILE/Order%20Adopting%20a%20Prohibition%20on%20Service%20to%20Low-Income%20Customers%20by%20Energy%20Service%20Companies.pdf

[xvii] Motion of Commissioner David W. Sweet, Pennsylvania PUC, Electric Distribution Company Default Service Plans—Customer Assistance Program Shopping, Public Meeting, December 20, 2018, http://www.puc.state.pa.us//pcdocs/1599226.pdf