

House Economic Matters Committee
February 4, 2021

Vistra respectfully submits this testimony in **opposition to HB 397 – Electricity and Gas - Energy Suppliers - Supply Offers.**

Vistra is a premier, integrated, Fortune 275 energy company with retail operations in Maryland. Vistra combines an innovative, customer-centric approach to retail with safe, reliable, diverse, and efficient power generation.¹

While Vistra believes the policy goals of HB 397 are laudable - that being assisting customers in need and providing additional customer protections - the process that the legislation takes to achieve those goals are actually a step backward for customers who would benefit most from competition.

Vistra is not a stranger to customer assistance and believes that strong customer protections and assistance programs are vital to a functioning competitive market. Through our TXU Energy retail brand in Texas, Vistra provides one of the largest privately funded customer energy assistance programs in the nation. For over 35 years, customers of TXU Energy have been able to take advantage of one-time bill payment assistance through the TXU Energy AidSM program (fact sheet attached). This assistance is in addition to any aid customers can receive through state, federal and other programs.

Vistra funds four million dollars into the TXU Energy Aid program for one-time assistance to customers. All of those monies are supplied by Vistra without rate base recovery. Vistra also serves as a catalyst for additional donations. In addition to the four million dollars provided by Vistra, there's approximately \$600,000 that is also donated, of which approximately \$300,000 is from Vistra employee donations through our annual United Way/Energy Aid campaign. The remaining donations come from TXU Energy customers via bill donations and other

¹ The company brings its products and services to market in 20 states and the District of Columbia, including six of the seven competitive wholesale markets in the U.S. and markets in Canada and Japan, as well. Serving nearly 5 million residential, commercial, and industrial retail customers with electricity and natural gas, Vistra is the largest competitive residential electricity provider in the country and offers over 50 renewable energy plans. The company is also the largest competitive power generator in the U.S. with a capacity of approximately 39,000 megawatts powered by a diverse portfolio, including natural gas, nuclear, solar, and battery energy storage facilities. In addition, the company is a large purchaser of wind power. The company is currently constructing a 400-MW/1,600-MWh battery energy storage system in Moss Landing, California, which will be the largest of its kind in the world when it comes online.

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donations/gifts.

HB 397 requires that all customers who receive OHEP assistance would no longer have an unrestricted ability to select their competitive supply for their electric or gas service, instead being limited to those plans that were pre-approved by the commission, essentially removing a customer's ability to choose for themselves the electric or gas service that works best for them and their situation. It also leaves unclear how a customer, who had become ineligible to participate fully in the market, can reinstate their power to choose. Furthermore, this restriction on choice for customers receiving assistance may actually provide an inhibition in seeking or taking advantage of available assistance programs for those customers who could benefit the most. The Maryland Department of Human Services (DHS) has indicated that should this legislation pass, there would be a need to "implement an educational campaign so as to not discourage program applicants" (SB 685 from 2020 Department of Legislative Services Fiscal Note - this year's fiscal note was not yet available at the time of submitting this testimony).

Vistra seeks to improve transparency and to be a strong Maryland partner. Vistra believes that the actions currently and previously taken at the Public Service Commission (PSC) are noteworthy when considering the intent of this legislation. In 2016, the PSC implemented stronger consumer protections. After a collaborative effort with input from utilities, retailers, and consumer advocates developed a strong set of consumer protections. Retailers were/are required to do the following:

- Provide notifications to customers 30 days before a contract term end
- Disclose the following month's variable rate (if applicable) 12 days in advance (via email, letter, toll-free number, and website)
- Provide customers with an easy to read "contract summary"
- Switch a customer to/from their service provider within 3 days
- Provide additional customer disclosures concerning pricing (including a letter to customer if rate changes more than 30%)
- Adhere to certain door to door sales requirements concerning agent training and qualifications

The PSC features information regarding consumer protections on the current PSC website (<https://www.psc.state.md.us/electricchoice/customer-rights-protections/>) and released a new customer shopping website in 2020. Also, in 2020, the PSC announced that it created a Compliance and Enforcement Unit within its Consumer Affairs Division (CAD). We respectfully suggest that the creation of these educational opportunities and the new unit's responsibilities support the intent of this legislation and make this legislation unnecessary.

Vistra is a passionate advocate for the competitive market as a solution to provide Marylanders' electric service that best works for their needs - where Maryland consumers can be empowered to shop and customize their energy supply via retail energy supply offerings. While price is just

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one of the many factors that benefit consumers from a competitive market, during the period where competition has been available in Maryland, energy prices have decreased while surrounding states have experienced increases. Indeed, this benefits all customers - not just those who shop. Customers seek and benefit from increased choice, convenience, and control when making the determination to shop for their electricity and natural gas. Vistra believes the ability to choose how electricity is generated should not be limited by income. There is a better avenue to assist customers in need - rather than removing their choices altogether.

Vistra is a strong believer that customer assistance paired with appropriate customer protections, helps to ensure that customers never have to choose between affording their electricity and avoiding life-threatening conditions. Vistra looks forward to partnering with the Maryland legislature, state agencies and other stakeholders to ensure that all Maryland consumers can receive the benefits of the competitive market balanced with the appropriate customer protections and assistance programs that any competitive energy market needs to be effective. Towards this goal, Vistra is looking for ways to expand our TXU Energy aid program to other states, including Maryland, as a means to provide effective assistance to those customers in need.

Thank you for the opportunity to share our perspective on HB 397 and for the above reasons Vistra urges the Committee to provide an **unfavorable** report.

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