HOUSE BILL 1327 –PUBLIC UTILITIES – TRANSITIONAL AND DEFAULT ELECTRIC SERVICE – IMPLEMENTATION
FAVORABLE

HOUSE ECONOMIC MATTERS COMMITTEE
March 4, 2021

NRG Energy, Inc. ("NRG") submits these comments in **support** of **HB 1327 – Public Utilities – Transitional and Default Electric Service – Implementation.**

NRG is a Fortune 500 company, delivering customer-focused solutions for managing electricity, while enhancing energy choice and working towards a sustainable energy future. We are honored to serve more than 6 million residential, commercial, and industrial customers in North America through our portfolio of retail electricity businesses. In Maryland, NRG owns several companies that are licensed by the Public Service Commission, and we offer a variety of products to retail customers including ones that include 100% renewable electricity, shopping rewards, charitable giving, portable power solutions and energy efficiency measures.

Our retail business would like to become *more* invested in Maryland. Making that commitment requires a market structured to facilitate investment and robust competition. It also requires transparency where customers are empowered to hold their service providers accountable. And it requires a clear distinction between the roles of the various market participants – one where retail suppliers licensed by the PSC vigorously compete against each other to provide service to consumers, and where regulated monopoly utilities are laser focused on grid reliability and the safe delivery of electricity to every home and business in the state.

The Electricity Customer Choice and Competition Act passed in 1999 was intended to deliver this reality to Maryland consumers. It was designed to transition Maryland's electricity market from a monopoly structure with regulated utilities supplying all customers a single undifferentiated electricity product, to a market where every customer exercises his or her right to shop and choose from among myriad electricity product offers supplied by the retailer with the best offer.

The evolution of the market was interrupted in 2007 when rate caps implemented as part of the transition expired, and the sunset on Standard Offer Service was removed. Rather than continue down the path to a robust competitive market, the transition halted half-way through the process, leaving the industry in a state of competitive market limbo. The result is a semicompetitive retail market where the dominant actor remains the regulated utility, through its Standard Offer Service ("SOS"). SOS was intended by the 1999 law to sunset, but it has become a permanent fixture of Maryland's market. Customers are automatically enrolled in SOS when they establish new service and they are forced to return to SOS when they move. In offering SOS, the utility is allowed to make up any difference between its projected costs and actual costs through surcharges and reconciliations and bears essentially none of the risk of its position in the competitive market.

The result is a dominant market presence by a utility—long after the law declared the era of monopoly over—that substantially reduces the confidence of competitive retailers to make longer-term investments. It is utility SOS that has created the conditions in Maryland for retail energy competition to be characterized by fly-by-night operations and companies that are not interested in creating real value for their customers. Moreover, the heavy reliance on utility billing (to which suppliers add their charges) has allowed "bad actors" to exist to take advantage of vulnerable families. It's time to make a change to professionalize the retail energy landscape, to discipline the conduct of market participants, to promote long-term investments that benefit reliability and clean energy goals alike, and to set the stage for a truly vibrant customer-facing marketplace.

HB 1327 creates a uniquely Maryland structure that would complete the transition to a fully competitive retail electricity market envisioned by the General Assembly in 1999. It would replace the current standard offer service program with a structure that fully empowers customers to select the electricity supplier of their choice, while strengthening consumer protections. The Act would assure that all retail electricity customers have adequate, safe and efficient access to electric service, including an increased amount of clean energy by accelerating Maryland's Renewable Portfolio Standards in the near term. The legislation also would create a Customer Choice Clean Energy Fund, administered by the Public Service Commission, to support and assist in the deployment of clean energy resources by and for low- and moderate-income residential and small commercial customers, and help to deliver the jobs, economic development, and other benefits of a fully competitive market to this state and its citizens. HB 1327 provides for the following:

Transitional Electric Service: To facilitate the transition of customers to qualified electric generation suppliers, the Act establishes a competitive assignment process:

- Regulated utilities will cease providing standard offer service on October 1, 2023.
    - Electric co-ops are exempt
- By October 1, 2023, the Commission would conduct a competitive assignment process whereby standard offer service customers are assigned to qualified electricity suppliers.

The Commission will establish the rules and procedures for the competitive assignment process.

- Licensed electricity suppliers that are in good standing with the Commission can submit Applications to be a qualified provider. Qualified participants will compete to provide clean energy generation *transitional electric service* to each residential and small commercial customer assigned for 24 months and to each industrial customer assigned for 12 months, with no termination or cancellation fees, and at a price established by the competitive assignment process.

- The competitive assignment process will be a one-day competitive auction process, wherein the price will be set by the lowest price bid that would result in all the customers in a class being served by a qualified provider. A minimum of four qualified providers will be selected in each utility service territory.

- Following the initial 24 months of transitional electric service for residential and commercial customers, qualified providers must agree to provide assigned default service customers a 12-month, fixed-price, clean energy contract, with no early termination or cancellation fees.

- Electricity suppliers electing to participate in the assignment process would be required to: 1) pay a non-refundable application fee of $25,000; 2) pay to the Customer Choice Clean Energy Fund an Acquisition Fee of $50 per customer assigned; 3) remit $2 for each customer enrolled through the competitive assignment process to fund a consumer education program; 4) remit a $5,000 fee to the commission for each competitive assignment group to which the qualified participant desires to provide default service; and 6) utilize supplier consolidated billing to bill customers.

- **Customer Choice Clean Energy Fund:** The PSC will determine, after a notice and comment period, the specifics of the fund including: (i) structure and make-up; (ii) the types of clean energy development that will be supported by the fund; and (iii) fund grant recipient qualifications and procedures for obtaining grants.

The bill also contains a number of **consumer protections** and provisions aimed at customer education efforts:

- **Customer Notice**: Electric Distribution Companies would be required to provide notice to customers of the competitive assignment process, the nature of their transitional electricity product and right to switch, and their options prior to and following the assignment.

- **New or moving customers** can receive the transitional electric service from a qualified provider selected by the Commission during the initial, respective 24-month and 12-month periods. The contracts would be prorated to reflect the number of months remaining.
  - Following the initial 24-month and 12-month periods, new or moving customers will be required to select an electricity supplier.
- All customers are free to shop for offers from any qualified supplier and may leave the transitional electric service at any time without penalty.
- **Default Service (POLR):** Following the initial 24-month and 12-month periods, the commission would conduct a process to select one or more electricity suppliers to serve as default service providers. The default service providers would stand ready to offer customers a standard retail service price at a non-discountable price established by the commission if the customer's electricity supplier exited the market or the customer was otherwise without an electricity supplier. The commission would establish the process to select the default service provider and may require one or more electricity suppliers to serve as the default service provider if no party applies for the role.
- **Supplier Consolidated Billing:** The Act would require electricity suppliers providing transitional electric service or default service to issue to its customers a monthly supplier consolidated bill for electricity service. The electric distribution companies would continue to execute service terminations.
- **Supplier License Renewals/Bonding:** The Act authorizes the commission to establish consumer protections, including requiring periodic supplier license renewals and supplier posting of a bond or similar financial security with the Commission at a level equal to 5% of the supplier's reported Maryland gross receipts. In addition, the Commission is empowered to promulgate a consumer bill of rights and create a supplier report card.
- **Door-to-Door Ban:** The Act prohibits electricity suppliers from engaging in door-to-door solicitation of residential consumers.
- **Low-Income Assistance Programs:** Electricity Suppliers providing transitional electric service or default service must offer a minimum of one low-income customer assistance program. Existing low income assistance programs continue.
- **Customer Education:** The Act directs the Commission to implement a comprehensive consumer education program to assure that all customers are informed of the changes. The consumer education plan would be funded by qualified providers.

- **Cost Recovery:** The Act would enable electric distribution companies to recover implementation and administrative costs from distribution customers through a reconcilable adjustment clause.

NRG strongly supports HB 1327. It promotes the vibrant competitive market the legislature envisioned when it enacted the Choice Act in 1999. It creates a retail market where customers exercise their right to choose more freely, have access to myriad products and services to meet their needs. It brings transparency by allowing customers to easily know who their chosen supplier is, giving customers the transparency needed to hold their suppliers accountable. It makes it harder for "bad actors" to exist. And it eliminates a sales channel that sometimes has served as an avenue for the "bad actors" to participate in the market. HB 1327 reflects the knowledge acquired from the experience of two decades of retail energy competition. It establishes a transition process and customer-focused structure unlike any other state.

While the bill accomplishes all of these things, NRG does note that the bill also includes several drafting errors that require correction in order for the transition process described above to make sense and be workable. Our amendments to the bill can be found in the attachment to this testimony.

Thank you for the opportunity to share our perspective on HB 1327 and for the above reasons NRG urges the Committee give the bill a **favorable with amendment** report.

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Amendments to HB 1327

Page	Line	Strike	Insert
26	26	2021	2022
27	15	January	June
28	7	-	“service territory” after “electric company”
28	28	Subsection (H)	Subsection (I)
28	33	Item (4)	Item (4)(II)
29	3	Subsection (J)	Subsection (I)
29	4	Item (4)	Item (4)(II)
30	3	January	July
30	29	Subsection (D)	Subsection (D)(4)(II)
31	1	Subsection (D)	Subsection (D)(4)(III)
32	9	This Section	Subsection (D)(4)
32	10	Subsection (J)	Subsection (G)(2)(III)
32	18	Subsection (D)	Subsection (D)(4)
32	23	Subsection (D)	Subsection (D)(4)
33	6	Subsection (D)	Subsection (D)(4)(I) and (D)(5)
33	10	Subsection (D)	Subsection (D)(9)
34	6	Electric Company	Default Service Provider
34	9	Electric Company	Default Service Provider
34	13	Electric Company	Default Service Provider
34	29	Subsection (D)	Subsection (D)(4)(I) and (D)(4)(II)
35	25	Electric generation suppliers providing default service	Default Service Providers
36	10	May 31, 2023	September 30, 2023
36	21	Utility	Electric company
40	21	Electric Company	Electricity Supplier