



JASON M. STANEK
CHAIRMAN

PUBLIC SERVICE COMMISSION

February 2, 2021

Chair Delores G. Kelley
3 East, Miller Senate Office Building
Annapolis, MD 21401

RE: Senate Bill 31 – UNFAVORABLE - Electricity and Gas – Energy Suppliers – Supply Offers

The Maryland Public Service Commission has reviewed Senate Bill 31, which intends to prevent individuals who receive ratepayer-funded and other forms of energy assistance from paying a gas or electric supply rate that is higher than default utility rates. Despite well-meaning intentions, I cannot support the bill in its current form due to concerns regarding implementation.

SB 31 requires the Commission to issue an Order or promulgate regulations before January 1, 2022, and to approve gas and electric supply offers for individuals who receive energy assistance through the Maryland Department of Human Services, Office of Home Energy Programs. Suppliers would be prohibited from soliciting individuals receiving OHEP benefits with unapproved offers. Furthermore, section B(1)(i) specifies that an approved supply offer may not be offered to customers who received energy assistance during the previous fiscal year. SB 31 would therefore limit approved retail supply offers to customers who are receiving their first year of benefits. Implementation would require the Commission to design and implement an ongoing process for identifying customers who are approved by OHEP and solicited by suppliers.

The Commission would likely need to establish procedures via regulation to satisfy the legislation's requirements. In light of the complex and technical nature of the Commission's regulations, it is usually most effective to use a stakeholder working group to allow various constituencies to work towards a complete set of regulations for Commission consideration. While effective, this collaborative process can take several months or longer. Once draft regulations are presented to the Commission, the notice and comment period required under Maryland law takes several additional months. Accordingly, I recommend amending the proposed legislation to extend the date for promulgating regulations to July 1, 2022. Similarly, the effective date for supplier compliance should be moved to January 1, 2023, at the earliest.

In addition, SOS electricity rates change at least twice a year, and gas rates change on a monthly basis. Each time the utility rates change, the Commission would need to review approved offers to determine if they remain at or below the new SOS rate. This could be a very large undertaking depending on the number of suppliers that elect to participate. Any violations

will result in an evidentiary proceeding, which are time consuming and resource laden. For these reasons, the Commission will require additional staff resources with expertise in economic analysis and legal prosecution to accomplish the bill's requirements.

Further, SB 31 requires the Commission to file an annual report; sections D and E require information that the Commission does not currently possess. The Commission does not have access to energy assistance data cross referenced with supplier enrollment data required under (D(1)(iv)-(v)), and it is unclear whether the Commission has legal authority to require OHEP and retail supply companies to disclose the data necessary to comply. Therefore, the bill may require amendments to clarify that the relevant entities must provide necessary data to the PSC. In addition, D(1)(vi) requires the Commission to report "the total number of energy assistance households that filed complaints about their third party supplier." While the Commission handles and tracks complaints against suppliers and regulated companies, it does not require customers to report their income or OHEP qualification status during the complaint process. While adding this requirement is possible, it may have a chilling effect on customers' willingness to file complaints. Finally, section (E) requires the Commission to create "test cases" for each utility to verify supplier compliance with this law. The Commission does not have test accounts with any Maryland utility and does not know how or if this requirement can be satisfied. I recommend clarifying the meaning of "test cases" or removing (E).

I urge an unfavorable vote on SB 31 as currently drafted. The PSC is available to participate in any discussions or efforts with the Office of People's Counsel, utilities, retail suppliers, and OHEP to improve the language and address the issues I have highlighted above.

Sincerely,



Jason M. Stanek, Chairman