

**SB0334\_Standard\_Offer\_Service\_MLC\_FAV.pdf**

Uploaded by: Cecilia Plante

Position: FAV



**TESTIMONY FOR SB0334**  
**Electricity - Standard Offer Service - Renewable Energy**

**Bill Sponsor:** Senator Feldman

**Committee:** Finance

**Organization Submitting:** Maryland Legislative Coalition

**Person Submitting:** Cecilia Plante, co-chair

**Position:** FAVORABLE

I am submitting this testimony in favor of SB0334 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

This bill is designed to encourage the construction of renewable energy projects in Maryland. Long term contracts are used by the utility companies to demonstrate that the energy specified in the contracts will have a market in the future. In the case of the newer, renewable energy sources, it will help them receive better financing terms because they would already have the power sold before construction begins, thus allowing those new industries to grow. Under this bill, utility companies will be required to establish long term contracts for Renewable Energy Credits (RECs) for at least 25% of the utilities' contract values for solar, wind, geothermal, ocean, and small hydro-electric power.

This will support the development of the clean, renewable energy sources that we need for our future.

We support this bill and recommend a **FAVORABLE** report in committee.

**SB 334\_CHESSA\_Favorable.pdf**

Uploaded by: Isaac Meyer

Position: FAV



**SUPPORT**  
**Senate Bill 334**  
**Electricity – Standard Offer Service – Renewable Energy**

**Finance Committee**  
**February 1, 2022**

Honorable Delores Kelley  
Chair, Finance Committee  
3 East  
Miller Senate Office Building  
Annapolis, Maryland 21401

Chair Kelley, Vice-Chair Feldman, and members of the Committee,

On behalf of the Chesapeake Energy Storage and Solar Association (CHESSA), thank you for the opportunity to issue our **SUPPORT** of **Senate Bill 334**, requiring electric companies to procure 25 percent of their RPS requirement via long term contracts. These competitively bid contracts of 10-20 years in term ensure there are buyers for the energy produced and give lenders the surety to invest the upfront capital to build the projects. Simply put, longer contract duration combined with improved lender surety will translate to lower cost renewable electricity.

In addition to the importance of creating a mechanism to expand the growth of renewable energy projects in the state, CHESSA supports this legislation for two reasons. First, this program has the potential to save ratepayers money as has been demonstrated and projected in other states. Long-term contract costs per kilowatt hour are fixed over the life of the contract. Therefore, when fossil fuel energy procured on the spot market exceeds the value of the fixed price in the long-term contract, ratepayers are not impacted. Second, this bill permits long-term contracts only for renewable energy projects such as wind, solar, and geothermal as defined in the legislation. This ensures that the new projects built as a result of this legislation will have a true impact on reducing the state's carbon footprint.

On behalf of CHESSA, thank you for your support of Maryland's solar industry and urge of favorable report on Senate Bill 334.

Submitted by:  
Isaac Meyer, Compass Government Relations Partners on behalf of CHESSA

**LS22, SB334, CCAN Venable testimony (1).pdf**

Uploaded by: Victoria Venable

Position: FAV



## **SB0334 - Electricity - Standard Offer Service - Renewable Energy**

**Date: February 1, 2022**

**Committee: Senate Finance Committee**

**Position: Favorable**

**Victoria Venable, Maryland Director**

**Chesapeake Climate Action Network Action Fund**

On behalf of the Chesapeake Climate Action Network Action Fund, I urge a favorable report from the committee on **SB0334 - Electricity - Standard Offer Service - Renewable Energy**.

The CCAN Action Fund is the advocacy arm of Chesapeake Climate Action Network, a grassroots organization dedicated exclusively to fighting for bold and just solutions to climate change in the Chesapeake region of Maryland, Virginia, and Washington, DC. We have been a steadfast supporter of renewable energy and state-level policies to increase renewable energy deployment.

SB0334 will build off of the great work done with the Clean Energy Jobs Act of 2019 by requiring that electric companies procure 25% of their RPS requirement through long-term (10-20 years) renewable energy contracts. We believe that long-term renewable energy contracts are an important tool in decarbonizing our energy sector because they reduce financing costs, increase investment certainty, and support competitive procurement, all leading to more renewable energy deployment and ratepayer savings.

In addition to supporting clean energy development, SB0334 has strong ratepayer protection provisions, requiring that the Public Service Commission determines that the long-term contracts are cost-effective compared to the projections of renewable energy costs. Ensuring access to affordable renewable energy will be increasingly important as fossil fuel prices continue to rise, causing a burden not only on our climate but also on our budgets.

We believe that this bill is an important policy addition to our efforts to decarbonize our energy sector while protecting and benefiting ratepayers. Thank you for your consideration of SB0334. For all the reasons stated above, we urge a favorable vote from the committee.

**CONTACT:** Victoria Venable, Maryland Director  
[Victoria@chesapeakeclimate.org](mailto:Victoria@chesapeakeclimate.org) (301) 960-8824

# **Testimony\_SB334\_Electricity-SOS-Renewable Energy\_F**

Uploaded by: Alfred Bartlett, MD

Position: FWA

**Committee: Finance**

**Testimony on: SB0334 “Electricity – Standard Offer Service – Renewable Energy”**

**Position: Support with Amendment**

**Hearing Date: February 1, 2022**

The undersigned organizations submit this testimony regarding SB334, which requires electric companies to procure a portion of their standard offer service (SOS) through competitively awarded 10- to 20-year contracts for renewable energy credits and electricity from eligible Tier 1 renewable sources.

We support this legislation only on the condition that it be amended to remove the specifications (Sections 7.703.1 (B) and (D)) that the electricity and associated Renewable Energy Credits (RECs) from these long-term contracts will be applied to the electric companies’ requirements under the applicable year’s Renewable Portfolio Standard (RPS). This specification is contrary to the legislation’s proposal that the RECs be sold into the wholesale spot market (Sections 7.703.1(C)(6-8), and would result in double-counting of renewable energy obtained.

We agree that it is appropriate for the amount of a specific year’s requirement for long-term contracts as a portion of SOS to be benchmarked to the year’s RPS requirement; but while the requirement to sell the RECs will benefit ratepayers, those same RECs and the power purchased cannot be counted against the year’s RPS requirement. The two mechanisms must be entirely separate.

With this amendment, the legislation’s requirement for electric companies to obtain a portion of their electricity through long-term contracts for specified clean renewable energy sources offers important benefits to Maryland ratepayers and to the state’s commitment to development of clean renewable energy:

- **Cost savings for electricity ratepayers.** As a competitive market-based approach, long-term contracts with specified prices for electricity allow electric utilities to procure the power they distribute to their customers at the lowest possible price. The length of the contracts provides a dependable revenue source to the electricity producer, reducing risk elements that would otherwise need to be factored into a higher price. These locked-in savings are then passed on to consumers.
- **A cost-effective way to increase clean renewable energy development.** SB334 requires that any long-term contract issued must be found by the Public Service Commission to be cost-effective in regard to the projected price of renewable energy.

The cost advantage of long-term contracts is especially relevant to clean renewable energy generation resources. The cost of electricity from large scale wind and solar projects is now at or below the cost of fossil fuel generated electricity.<sup>1</sup> For wind and solar (and to some extent, small hydroelectric) projects, most of the cost is in their construction, and therefore is knowable from the outset. Once built, there’s no uncertainty about fuel cost, since there is no fuel cost; and maintenance and operation costs are predictable. For these reasons, clean renewable electricity generation sources can enter long-term contracts with price certainty. Because fossil fuel electricity generation faces the future price uncertainties of coal, oil, and fracked gas, it is more difficult for these forms of electricity generation, which are important sources of carbon pollution and methane leakage, to lock in low long-term prices.



Long-term contracts are now commonly the way large private sector energy consumers like Google, Amazon, and Walmart are locking in their power supplies. Public sector entities are also using this approach. New York has created a long-term contracts system which will enable both utilities and third-party electricity suppliers to share in the benefits. Connecticut anticipates reducing ratepayers' electricity costs by meeting RPS requirements through long-term contracts. Local governments here in Maryland, including Montgomery County and the City of Annapolis, have also developed long term contracts to purchase electricity from large solar projects at prices below commercial rates, saving taxpayers tens of thousands of dollars every year.

Buying electricity under long-term contracts from clean renewable sources will give Maryland the opportunity to add securely low-priced renewable electricity to our energy supply, even as demand – and therefore potential cost – for electricity grows through increasing electrification of the transportation and building sectors.

- **Supporting the development of new clean renewable energy sources.** Long-term contracts offer a critical stimulus for building new clean energy: a guaranteed revenue stream that project developers can take to the bank. Long-term contracts actually provide the financial stability that new clean renewable energy projects need to get built – new utility scale projects can cost 10's or even 100's of millions of dollars. A long-term contract provides guaranteed revenue, offering the security that potential investors need to justify financing such projects. In 2018, Massachusetts used long term-contracts to guarantee 1,600 megawatts of new electricity from new offshore wind at an average price (including RECs) of less than 7 cents per kilowatt hour; this contract allowed the project to secure the financing needed to be built, at the same time saving residents a projected \$1.4 billion over the 20-year life of the contracts.<sup>2,3</sup>

SB334 can offer these benefits to Maryland. This Act will lower electricity costs by directly saving money for ratepayers. It will also promote the development of new renewable energy sources – the change that is needed to reduce carbon pollution and methane from the electricity sector – by purchasing increasing amounts of our electricity from clean renewable sources. For these reasons, we support approval of this bill, if amended as noted.

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<sup>1</sup> Lazard *Levelized Cost of Energy – 2021*; Oct 18, 2021

<sup>2</sup> Commonwealth of Massachusetts Executive Office of Energy and Environmental Affairs, Department of Energy Resources; Petitions for Approval of Proposed Long-Term Contracts for Offshore Wind Energy, August 2018

<sup>3</sup> [https://www.bloomberg.com/news/articles/2018-08-01/first-big-u-s-offshore-wind-offers-1-4-billion-to-customers?utm\\_medium=social&utm\\_content=business&utm\\_source=twitter&utm\\_campaign=socialflow-organic&cmpid=socialflow-twitter-business](https://www.bloomberg.com/news/articles/2018-08-01/first-big-u-s-offshore-wind-offers-1-4-billion-to-customers?utm_medium=social&utm_content=business&utm_source=twitter&utm_campaign=socialflow-organic&cmpid=socialflow-twitter-business); First Big U.S. Offshore Wind Farm Offers \$1.4 Billion to Customers, August 1, 2018

Chesapeake Physicians for Social Responsibility  
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HoCo Climate Action (350.org)  
Ruth Alice White  
Steering Committee Member  
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# **SB334-UtilityLongTermContracts- Finance-CJW-FAVwam**

Uploaded by: Diana Younts

Position: FWA



**Committee: Finance**

**Testimony on: SB334 - Electricity - Standard Offer Service - Renewable Energy**

**Organization: MLC Climate Justice Wing**

**Submitting: Diana Younts, Co-Chair**

**Position: Favorable With Amendment**

**Hearing Date: February 1, 2022**

Dear M. Chair and Committee Members:

Thank you for allowing our testimony today. The MLC Climate Justice Wing, a statewide coalition of over 50 grassroots and professional organizations, urges you to incorporate our suggested amendment to SB334 and then vote favorably on the bill.

This bill is important to achieving Maryland's statutorily required greenhouse gas emission reduction goals because it will encourage the construction of renewable energy projects in Maryland. It does this by requiring the utilities to enter into long term contracts for Renewable Energy Credits (RECs) for at least 25% of the utilities' contract values for solar, wind, geothermal, ocean, and small hydro-electric power. These long-term contracts will enable the renewable energy projects to receive financing at better financing terms than they are currently able to receive because they would already have the power sold before construction begins.

The very important benefit of long-term contracts – especially when awarded to planned projects – especially with the bill's requirement that the projects be built within three years – is that having a multi-year contract represents a guarantee of long-term revenue for the project. This makes banks or venture capital firms much more willing to provide the large financing such projects require, since they can see that their investment will get paid back. This is a critical factor in promoting investment in new renewable energy projects.

#### **Necessary Amendment**

However, we support this legislation only on the condition that it be amended to remove the specification (Sections 7.703.1(D)(1-2)) that the electricity and associated Renewable Energy Credits from these long term contracts will be applied to the electric companies requirements under the applicable year's Renewable Portfolio Standard. This specification is contrary to the

legislation's proposal that the Renewable Energy Credits be sold into the wholesale spot market (Sections 7.703.1(C)(6-8)).

**2022-SB334\_PHI Opp.pdf**

Uploaded by: Alexis Gallagher

Position: UNF



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An Exelon Company



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An Exelon Company

February 1, 2022

112 West Street  
Annapolis, MD 21401

**Oppose Senate Bill 334**  
**SB 334 - Standard Offer Service - Renewable Energy**

Potomac Electric Power Company (Pepco) and Delmarva Power & Light Company (Delmarva Power) oppose **Senate Bill 334 – Electricity- Standard Offer Service- Renewable Energy**. Senate Bill 334 would require an electric company, on behalf of its standard offer service (SOS) customers, to procure at least 25% of its renewable portfolio standards (RPS) requirements through a competitive bidding process for long-term contracts between 10 20 years. SB334 requires long term contracts for the bundled output of renewable energy facilities, including renewable energy credits (RECs) and electricity. Under this proposed arrangement, an electric distribution company would submit contracts to the Maryland Public Service Commission (PSC), and the PSC would review and approve contracts if they are cost-effective as compared to the long-term projection of renewable energy costs.

In 2017, this Committee passed House Bill 1414 – Renewable Energy Portfolio Standard – Study and the Governor signed it into law. That legislation required the Power Plant Research Program (PPRP) to conduct a study on “the net environmental and fiscal impacts that may be associated with long-term contracts tied to clean energy projects.”<sup>1</sup> The study conducted by PPRP pursuant to House Bill 1414 found that “under the range of financial and market assumptions considered, reliance on long-term contracts tended to result in higher costs than meeting RPS requirements through sequential short-term contacts over 20 years.” Energy suppliers, who compete against other suppliers or the electric company’s default service are already fully incentivized to manage the costs of their portfolio of REC obligations in order to provide the most competitive price, which can include hedging with long-term contracts.

Senate Bill 334 will not further Maryland’s efforts to meet the RPS because it requires that energy and RECs purchased through the long-term contracts be sold in the spot market. As a result, the RECs procured will not necessarily be used to comply with Maryland RPS (many states in PJM have RPS statutes like Maryland which allow compliance with the RPS from RECs generated throughout PJM (not just in Maryland)). Further, there is extreme uncertainty of long-term contracts as compared to market prices. The price of electricity under the long-term contracts may be higher or lower than market prices over time. If higher, the long-term contracts could cost customers more than if the energy was procured by a competitive supplier or through the SOS process. In addition, the costs of the power provided under a long-term contract often exceed the current market price of electricity, especially as technology advances and the cost of building renewable facilities decreases. In both New Jersey and Delaware, Pepco and Delmarva Power

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<sup>1</sup> [Interim-RPS-Report.pdf \(maryland.gov\)](#)

affiliates have been required to enter into long-term contracts with independent power providers that ended up costing customers millions of dollars annually in above-market electricity costs.

Finally, the remuneration payment offered in this legislation is not enough to compensate the utility to take on the financial obligation of these deals. Regardless of the mechanism the utility employs to recover the fixed payments of a long-term contract, the credit rating agencies will assign some level of uncertainty to the recovery of the imputed costs. These costs can affect the financial ratios of a utility which impacts the overall creditworthiness of the utility. This reduces the ability of a utility to issue debt for construction and other activities, restricts access to capital during times of tight credit, and can increase the cost of the debt that the utility does issue – ultimately increasing costs to customers.

For the above reasons, Pepco and Delmarva Power respectfully request an unfavorable vote on Senate Bill 334.

Contact:

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**Brookfield SB334 Oppose 2022.pdf**

Uploaded by: Brett Lininger

Position: UNF



**Senate Bill 334****Position: OPPOSE****Testimony for Brookfield Renewable Partners L.P. to members of Senate Finance on SB334  
Electricity – Standard Offer Service – Renewable Energy**

Brookfield Renewable thanks Chair Kelley, Vice Chair Feldman, and members of the Committee for the opportunity to provide comments on SB334. Brookfield Renewable Partners L.P. (“Brookfield Renewable”) has a substantial presence in PJM, including nearly 1,251 MW of renewable hydroelectric resources, 190 MW of wind resources, and over 200 MW of distributed solar resources.

In Maryland, Brookfield Renewable’s nearly 150 MW of renewable resources (20 MW Deep Creek hydropower facility and approximately 124 MW of distributed solar) powers the equivalent of 23,000 Maryland homes and offers over 60 recreational areas for families to enjoy.

Brookfield opposes SB334 as it would require an electric utility company to enter into long-term contracts for between 10-20 years for renewable energy credits and electricity generated from solar, wind, geothermal, tidal, and small hydro-electric sources on the RPS pursuant to the following framework:

- Solicit bids from renewable energy facilities that will be placed into service within 3 years after the date of the solicitation;
- Use a competitive procurement process to award the contract;
- Receive annual compensation equal to 1% of the annual payments under the contract to compensate the electric utility company for accepting the financial obligation of the long-term contract; and
- Be entitled to account for the purchase of renewable energy generation, including the solar energy and renewable energy certificates, as a regulatory asset rather than as debt.

Competitive markets are a more efficient means for the development of new renewable energy resources and such market forces give Maryland the best opportunity to drive new build projects at the least risk to the customer (ratebase).

The Maryland legislature has historically rejected long term contracts as a public policy and should continue to do so. We respectfully urge an unfavorable report.

Sincerely,  
Gene Alessandrini  
Regional Vice President, US  
Brookfield Renewable

**P3 MD SB 334 - Testimony in Opposition .pdf**

Uploaded by: Caitlin McDonough

Position: UNF

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# The PJM Power Providers (P3)

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Before the Senate Finance Committee

Testimony of the PJM Power Providers Group

Senate Bill 334 – Public Utilities – Standard Offer Service – Renewable Energy

February 1, 2022

The PJM Power Providers Group (P3) respectfully submits these comments on Senate Bill 334. P3 is a non-profit organization made up of power providers whose mission is to promote properly designed and well-functioning competitive wholesale electricity markets in the 13-state region and the District of Columbia served by PJM Interconnection.<sup>1</sup> Combined, P3 members own more than 65,000 megawatts of generation assets in PJM and produce enough power to supply over 55 million homes. P3 members own generation facilities in Maryland and serve Maryland consumers as competitive retailer providers.

As a general proposition, mandated long term contracts for electricity are a costly proposition for consumers as they are forced into contracts that inevitably are higher than market prices. Policymakers are wise to avoid them as history has proven that these efforts rarely live up to their promise and nearly always bind consumers to bad deals that extend for decades.

Senate Bill 334 would expand this flawed policy by mandating that at least 25 % of the utility renewable energy credit requirements be acquired via a long-term contract. Under the terms of the bill, the Public Service Commission would have an opportunity to reject contracts based on cost effectiveness, however, the Commission in theory would still be obligated to meet the 25% threshold

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<sup>1</sup> The views expressed in these comments represent the views of P3 the organization and do not necessarily reflect the views of individual P3 members with respect to any issue. For more information on P3: [www.p3powergroup.com](http://www.p3powergroup.com).

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which would significantly impinge on the Commission's ability to evaluate cost effectiveness.

Moreover, sophisticated customers will quickly realize that lower cost options are available to them (that meet or exceed the renewable energy mandates) and migrate to competitive suppliers leaving the utility with an increasingly smaller pool of consumers that are available to pay the above market costs associated with the long term contracts. The gap between what shopping and non-shopping customers are paying for essentially the same product will grow and disproportionately impact those consumers who do not seek out an alternative supplier.

In addition, Senate Bill 334 puts the state's utilities back in the business of buying and selling wholesale market power in direct contrast to Electric Customer Choice and Competition Act of 1999 which required the state's utilities to transfer generations assets out of the utility. As such, Senate Bill 334 represents a significant change in Maryland's energy policy and has consequences that should be thoughtfully considered.

Finally, the legislation, if it became law, would be vulnerable to a constitutional challenge based on the *Hughes* case. The bill effectively allows the wholesale market price to be set by the state-mandated long-term contract and then requires the utility to buy the energy and capacity from the generator, sell that energy and capacity to the wholesale market and then net the difference as either a charge or credit to consumers. This approach is akin to the contract difference approach that the United States Supreme Court deemed unconstitutional in the *Hughes v Talen* case. Any developer entering a long-term contract pursuant to the provisions of Senate Bill 334 would do so knowing that, at any point, the contract could be invalidated by a court which will either drive the costs of the project up or prevent them from being constructed at all.

Senate Bill 334 could have significant negative repercussions for Maryland's consumers and would likely fail to meet the expectations of those supporting the bill. P3 urges the Committee's unfavorable consideration.

**SB334\_StaneK\_Unf.pdf**

Uploaded by: Jason Stanek

Position: UNF

JASON M. STANEK  
CHAIRMAN

MICHAEL T. RICHARD  
ANTHONY J. O'DONNELL  
ODOGWU OBI LINTON  
MINDY L. HERMAN



## PUBLIC SERVICE COMMISSION

February 1, 2022

Chair Delores Kelley  
Finance Committee  
Miller Senate Office Building, 3 East  
Annapolis, Maryland 21401

**RE: UNFAVORABLE – SB 334 – Electricity – Standard Offer Service – Renewable Energy**

Dear Chair Kelley and Committee Members:

I write today in opposition to SB 334. This bill would change the dynamic of two longstanding Maryland electricity policies: (1) deregulated electricity supply, established by the *Electric Customer Choice and Competition Act of 1999*; and (2) the Renewable Portfolio Standard (“RPS”), established in 2004. Electricity suppliers currently meet the statutory compliance requirements of the RPS by trading Renewable Energy Credits (“REC”) via a Commission-approved system operated by market overseen by PJM Environmental Information Services, Inc. (“PJM-EIS”). SB 334 would require the electric utilities to meet a portion of their RPS compliance with long-term contracts directly with renewable energy facilities. The PSC oversees compliance by electricity suppliers with the RPS and compliance by utilities that offer customers Standard Offer Service as an option for electricity supply.

SB 344 carries both potential cost impacts to ratepayers and poses implementation issues for the PSC. First, the bill would require an electric company contract for RECs and electricity generated from Tier 1 renewable sources. The existing RPS uses market principles in that the price of RECs is determined by the supply of RECs offered by generators and the number of RECs demanded by retail electric suppliers. SB 334 would shift a portion of the RPS away from the market and likely increase costs. Additionally, to the extent that long-term contracts lock in REC prices at a given level, this prevents the utilities from acquiring those RECs later using the existing SOS bid process, at potentially lower costs.

Second, SB 334 would shift risks from the developers of renewable energy generation to electricity ratepayers. A similar federal mandate for the purchase of electricity from projects pursuant to the *Public Utility Regulatory Policies Act* has increased costs for some Maryland ratepayers, namely customers of Potomac Edison who have had to pay above-market costs for the output of the Warrior Run project. The Warrior Run project uses a similar mechanism to pay for its output (utility power purchase and resale on the wholesale market), and has cost Maryland

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ratepayers nearly \$1.5 billion in above-market power costs over the last twenty years. The PSC is concerned that SB 334 could cause similar cost impacts to ratepayers if passed.

Third, SB 334 directs that electric companies “receive an annual remuneration equal to 1% of the annual payments under the contract to compensate the electric company for accepting the financial obligation of the long term contract.” However, as the commodity cost of electricity is passed to consumers, it is unclear why the electric companies would need remuneration. This cost, which would be recovered from ratepayers, could approach \$2.5 million annually.

Fourth, SB 334 would require the PSC to determine if a contract submitted for renewable energy is cost effective as compared to the long-term projection of renewable energy costs. The Commission does not have expertise internally to make this determination. As the price of RECs and solar RECs (SRECs) vary significantly from year to year; the Commission would need a means to forecast the long-term price of RECs and SRECs. Making this determination would be difficult without additional PSC resources and staffing.

Finally, the PSC would be required to adopt regulations on or before March 31, 2023 to carry out the requirements of the legislation. The March 31, 2023 effective date does not provide sufficient time for the Commission to establish regulations. The earliest that the PSC could reasonably adopt comprehensive regulations would be in mid-2024 or later to allow the PSC to: (1) issue a solicitation for consulting services; (2) hire a contractor; (3) establish a work group process; and (4) promulgate regulations. Similarly, the beginning date to for an electric company to contract for RECs and electricity generated from Tier 1 renewable resources under section 7-703.1 should be postponed to a date after regulations are established.

For these reasons, the PSC opposes SB 334 and urges an unfavorable report. Thank you for your consideration of this information. Please contact Lisa Smith, Director of Legislative Affairs, at (410) 336-6288 if you have any questions.

Sincerely,



Jason M. Stanek  
Chairman

# **NRG Comments on SB334 Long Term PPAs.pdf**

Uploaded by: John Fiastro

Position: UNF





**SENATE BILL 334 – ELECTRICITY – STANDARD OFFER SERVICE – RENEWABLE ENERGY**

**UNFAVORABLE**

**SENATE FINANCE COMMITTEE**

**February 1, 2021**

NRG Energy, Inc. (“NRG”) submits these comments in **opposition** to **SB 334 – Electricity – Standard Offer Service – Renewable Energy**.

NRG is the leading integrated energy and home services company powered by its customer-focused strategy, strong balance sheet, and comprehensive sustainability framework. A Fortune 500 company, NRG brings the power of energy to millions of North American customers. Our family of brands help people, organizations and businesses achieve their goals by leveraging decades of market expertise to deliver tailored solutions. Our retail brands serve more than six million customers across North America, including here in Maryland, where NRG owns seven companies that are licensed by the Public Service Commission to serve retail customers.

NRG appreciates and supports the important public policy goal of encouraging the development of renewable resources encompassed in SB 334. However, the best way to achieve that goal is to continue Maryland’s long tradition of supporting that development through market-based incentives that have effectively encouraged renewable resource development for many years. Maryland’s Renewable Portfolio Standards Act of 2004 established the initial structure of market-based incentives for renewable energy development. The legislature has increased those incentives over time and can continue to do so to facilitate further development.

NRG opposes SB 334 for the simple fact that it will irreparably harm the competitive market, force consumers to bear the investment risk better born by renewable resource developers’ shareholders, introduce the possibility of stranded costs that Maryland customers will once again have to pay should any new investment prove uneconomic, diminish innovative choices for Maryland consumers, and set Maryland on a path to a regulated energy market. What’s more, the bill enables the regulated utilities to receive compensation equal to 1% of the annual payments of any contract they sign to reward them for taking on the financial risk of the financial obligation of the long-term contracts. Finally, not only will the utilities be compensated directly for taking on the financial risk, but they will also be entitled to account for the purchase of energy from these contracts as a regulatory asset – enabling them to earn a return on that investment. All of this adds up to higher costs to consumers who have no choice but to pay for these costs.

Notably, the General Assembly has considered proposals to require Maryland’s utilities to enter into long term power purchase agreements with renewable energy developers multiple times over the last decade and it has wisely declined to adopt this policy. And Maryland is not alone – the City Counsel of the District of Columbia and the Pennsylvania General Assembly have similarly rejected

proposals to burden their ratepayers with the financial risks associated with the development of renewable resources that are more appropriately borne by private market investors.

While long-term power purchase agreements (PPAs) may be a viable option between a willing buyer and a willing seller, government mandated PPAs are extremely disruptive to the competitive market. Requiring the utilities to engage in ten to twenty year PPAs runs counter to the way energy supply is procured in the competitive market. And the Commission has never approved an SOS supply contract longer than two years for any customer class since the adoption of customer choice two decades ago.

It is the competitive market that has driven the development of renewable resources and enabled consumers to choose to go green with their energy supply. As an example, one of NRG's retail companies, Green Mountain Energy Company, pioneered renewable energy for mass market customers. Green Mountain was the first retail supplier in the nation to offer green power products to residential customers and has served renewable products to mass market customers longer than any other retail supplier. Demand for renewable energy by Green Mountain customers led to the first utility scale wind power project in the Eastern U.S. – right here in PJM – the Green Mountain Energy Wind Farm in Garrett PA in 2000. We like to think we started the renewables revolution and we are certainly committed to seeing the adoption of renewable resources grow.

Maryland consumers have the ability to make their own decisions regarding energy either on their own or through clean energy aggregations. They have the ability to pay for the kind of energy they want, and they can choose the source. NRG strongly supports a competitive energy market that promotes innovation and better prices and services for consumers, including renewable energy choices. The current availability and fungibility of renewable energy resources and credits has worked well for Maryland customers from both an environmental and cost perspective.

Long-term power purchase agreements also force consumers to bear investment risk and drive up the price for electricity. Renewable Energy technology is constantly evolving and improving as the industry innovates and develops cheaper ways to produce electricity. Ten and twenty year contracts lock customers into the costs for those resources available at the time they are signed. As these resources continue to become more efficient – and cost less – customers will be stuck paying too much and will be prevented from benefiting from lower cost renewable sources that become available over time. Maryland already recognized the weakness of that model when it restructured the market to introduce competition more than two decades ago.

Finally, long term PPAs will reduce competition. Mandating such PPAs puts Maryland government in the position of picking winners and losers and effectively shutting various competitors out of the market for a decade or more. Reducing the number of participating renewable resources in today's market would limit the availability of diverse resources that exists today and increase costs. Inhibiting competition is ultimately bad for consumers as well as the environment.

Thank you for the opportunity to share our perspective on SB 334 and for the above reasons NRG urges the Committee give the bill an **unfavorable** report.

### **NRG Energy, Inc. Contact Information**

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# **BGE - SB 334 - Electricity - Standard Offer Servic**

Uploaded by: John Quinn

Position: UNF



An Exelon Company

## Position Statement

OPPOSE  
Finance Committee  
2/1/2022

### **Senate Bill 334 - Electricity - Standard Offer Service - Renewable Energy**

Baltimore Gas and Electric Company (BGE) opposes *Senate Bill 334 - Electricity - Standard Offer Service - Renewable Energy*. Senate Bill 334 would require that an electric company enter into long-term (10 to 20 years) contracts for renewable energy credits and electricity generated from certain Tier 1 renewable sources to meet a portion of the renewable energy portfolio standard (RPS) for the electric company. However, Senate Bill 334 also requires an electric company to sell the purchased renewable energy into the wholesale market and sell the associated renewable energy credits (RECs) as well. Therefore, there would be no RECs available to meet any portion of the RPS for the electric company and an intended goal of the legislation would be nullified. BGE further opposes Senate Bill 334 because it shifts the renewable resource's market risks from the asset owner to customers as all distribution customers would be responsible for the difference between the price the electric utility pays for the purchase of the renewable energy and associated RECs and the price the electric company received from the sale of the renewable energy and associated RECs. The risk for higher costs to customers, instead of the asset owner, burdens customers unnecessarily. The current REC and Solar REC markets are very liquid enabling the compliance to be satisfied at a reasonable cost for customers.

The final concern with the proposal is the length of contracts. The required 10-to-20-year contract lengths could result in imputed debt which would have a negative impact on financial credit, driving up costs further. Additionally, if prices for renewable energy decrease over a 10 to 20 year horizon, as is expected, customers would unnecessarily be paying the excess of the long term contract price over the market price for the same product.

BGE opposes Senate Bill 334 because we have a system in place that works effectively, enabling seamless compliance with the renewable portfolio standard requirements. Modifying the process, as proposed here, would risk higher costs to customers with no corresponding benefit. BGE recommends an unfavorable report from the Committee.

**SB 334\_Vistra\_UNF.docx.pdf**

Uploaded by: Katie Nash

Position: UNF

**Senate Finance Committee**

January 28, 2022

Vistra respectfully submits this testimony in **opposition to SB 334 –Electricity – Standard Offer Service – Renewable Energy**.

Vistra is a premier, integrated, Fortune 275 energy company with operations in Maryland that focuses on delivering an innovative, customer-centric approach to retail electricity and over 7,500 MW of electric generation in the PJM market.<sup>1</sup>

Vistra opposes SB 334 and would like to respectfully request this Committee to provide an unfavorable report on this legislation. While Vistra supports the general intent of the legislation, which is expanding renewable development, the methodology SB 334 uses to achieve this goal is market distortive and inappropriately shifts the risks of investment from the developer to captive Maryland ratepayers.

SB 334 short circuits the competitive procurement process that exists in the competitive PJM wholesale market to subsidize preferred renewable technologies. While Vistra shares the desire to expand renewable generation, particularly solar<sup>2</sup>, we believe that competitive market mechanisms can better deliver on the state’s renewable goals in a cost effective and efficient manner.

Furthermore, competitive markets ensure risk remains where it should, with the developers and investors. SB 334, as currently drafted, would shift that risk from the investors onto captive Maryland ratepayers, who would be locked into the 10–20-year procurement contracts negotiated by the utility, with no recourse should the costs become stranded. If developers are confident that

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<sup>1</sup> 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 owns and operates the 400-MW/1,600-MWh battery energy storage system in Moss Landing, California, the largest of its kind in the world.

<sup>2</sup> Vistra currently has 13 announced solar or solar & energy storage projects through our Vistra Zero brand: <https://vistracorp.com/vistra-zero/>

UNFAVORABLE  
VISTRA

consumers desire their technology to be part of the generation mix, then they should be willing to risk the capital investment required to bring that technology to market.

SB 334 also provides preference to solar development, picking a preferred technology, even though geographically solar may not be an ideal renewable / zero-carbon resource for the state. Locking in a preference technology that could be supplanted or surpassed over the 10-20 year duration of the purchase agreements is more likely to cost Maryland consumers over the long term than benefit them.

Finally, SB 334 would be distortive to the broader PJM market, introducing subsidized resources and Renewable Energy Credits into the market. While such subsidies may help Maryland reach its solar procurement and RPS goals, it would do so at the risk of reliability, potentially displacing needed dispatchable generation with intermittent solar.

While Vistra respects and shares the sponsor's desire to encourage renewable development, this legislation would likely lead to inappropriate risk shifting and market distortive effects impacting Maryland electric consumers and the broader PJM market. Vistra would prefer an approach that supplemented existing market mechanisms in a technology neutral manner to encourage private investors to risk capital to develop renewable / carbon neutral resources in the state.

Thank you for the opportunity to share our perspective on SB 334 and for the above reasons Vistra urges the Committee to give the bill an unfavorable report.



**FE Opposition Letter SB0334.pdf**

Uploaded by: Kim Mayhew

Position: UNF

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**OPPOSE – Senate Bill 0334**  
**SB0334 – Electricity - Standard Offer Service - Renewable Energy**  
**Finance Committee**  
**Tuesday, February 1, 2022**

Potomac Edison **opposes Senate Bill 334 – Electricity - Standard Offer Service - Renewable Energy**. SB 334 requires an electric company to contract for renewable energy credits and electricity generated from certain renewable sources, for a term of between 10 to 20 years, to meet at least 25% of the renewable energy portfolio standard for the electric company to serve its default service customers.

**Unfavorable**

Potomac Edison, a subsidiary of FirstEnergy Corp., serves approximately 275,000 customers in all or parts of seven Maryland counties (Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington Counties). FirstEnergy is dedicated to safety, reliability, and operational excellence. Its ten electric distribution companies form one of the nation's largest investor-owned electric systems, serving customers in Ohio, Pennsylvania, New Jersey, West Virginia, Maryland, and New York.

**FirstEnergy requests an Unfavorable report on SB 334 for the following reasons.**

Requiring electric utilities to enter into long term, 10 to 20 year, contracts to meet 25% of the renewable portfolio standard to serve its default service customers will result in higher costs for all electric utility customers. If electric utilities are required to enter into long-term contracts, the default service customers would not get the benefit of any lower market prices that occur during the 10 to 20-year term of the contract. Under SB 334, customers could get locked into high priced contracts, thus eliminating some of the benefits built into the multi-procurement process that exists today for default service customers. Non-default service customers would also be negatively impacted, as the financial community will factor the impact of this requirement into the cost at which utilities raise capital needed to serve its customers.

Unfortunately, Potomac Edison's customers have firsthand experienced with the negative situation SB 334 creates. Specifically, the renewable and qualifying cogeneration federal Public Utility Regulatory Policies Act ("PURPA") Surcharge that is on every Maryland customer's bill for the Warrior Run plant in Cumberland, MD. In general, PURPA required electric companies to enter into power purchase contracts with Qualifying Facilities. As of November 2021, the Warrior Run long term contract has cost Potomac Edison's customers an additional \$1.2 billion above market prices, and the contract still runs through the year 2030.

For the above reasons, Potomac Edison respectfully request an **Unfavorable** vote on House Bill 334.

# **SB 334\_MDCC\_Electricity-Standard Offer Service-Ren**

Uploaded by: Maddy Voytek

Position: UNF



**MARYLAND**  
Chamber of Commerce

**LEGISLATIVE POSITION:**

**Unfavorable**

**Senate Bill 334**

**Electricity – Standard Offer Service - Renewable Energy**

**Senate Finance Committee**

**Tuesday, February 1, 2022**

Dear Chairwoman Kelley and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 5,500 members and federated partners working to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

SB 334 would require electric companies to enter long-term (10 to 20 years) contracts for renewable energy credits and electricity generated from Tier 1 renewable sources to meet a portion of the renewable energy portfolio standard (RPS) for those electric companies.

The primary concern of Maryland Chamber members is the potential for Maryland businesses and consumers to pay unnecessarily high energy costs. If the market price for renewable energy were to decrease over the span of the 10-to-20-year contracted rate, consumers would be paying the difference between the long-term contract price and a potentially lower market rate. As more renewable energy sources come online the cost of renewable energy should decrease. Under current economic conditions where businesses are so focused on keeping their operations open, SB 334 could potentially lead to avoidable and unnecessary increased costs.

The Maryland Chamber of Commerce respectfully requests an **unfavorable report** on **SB 334**.

MDCHAMBER.ORG

60 West Street, Suite 100, Annapolis 21401 | 410-269-0642

# **SB 334 \_Electricity\_Standard Offer Service Renewab**

Uploaded by: William Kress

Position: UNF

Senate Finance Committee  
February 1, 2022

**Senate Bill SB 334** – Electricity - Standard Offer Service - Renewable Energy

**POSITION: UNFAVORABLE REPORT**

WGL Energy is a retail supplier with customers across multiple jurisdictions and strongly believes in the functionality of competitive electricity and natural gas markets. We are opposed to this bill for four main reasons.

**This is not really part of Standard Offer Service**

The long-term contracts proposed in SB 334 will not be linked to Standard Offer Service in any way other than setting the size target. The energy and the renewable credits from the contracts are to be sold into the spot market and any net costs (or credits, if any and see comments below) are to be recovered from ALL customers through a charge in the distribution rates. This proposal does not include any of the costs (or the 1% fee collected by the utility) in the Standard Offer Service rates. This proposal is simply a mandate for the utilities to sign contracts for 10 to 20 years with renewable energy projects and socialize the costs to all electric customers while also collecting an additional fee for accepting the obligation that will be covered in base rates.

**No Compelling Reason for 10 to 20 year Renewable Contracts to be forced on all electric customers**

Long-term PPAs are not necessary to achieve Maryland's renewable energy goals. The current RPS mandate in Maryland drives efficient, market-based growth in renewable generation by requiring suppliers to procure a percentage of their supply through renewable resources.

Because the state can achieve its desired renewable energy outcome most effectively and efficiently through the demonstrated, existing tool of renewable portfolio standards, long-term renewable energy PPAs are unnecessary and should be avoided.

The proposed bill aims to provide a solution to a problem that does not exist. Requiring long term PPAs for renewables will only shift the risk of those investments squarely back to ALL ratepayers and possibly lead to the creation of stranded costs, as discussed further above. The competitive marketplace can and should be relied upon to provide renewable energy offerings to consumers, consistent with consumer preferences and budgets.

Lastly, as proposed in the bill, the utilities are being given a 1% remuneration for committing to the long-term contracts along with accounting for the contracts as a regulatory asset that will be included in the distribution rate base. This is unnecessary and only adds costs to the proposal.

### **Ratepayer Risk**

While the legislation states the Maryland Public Service Commission can only approve power purchase agreements (PPAs) if they are cost-effective at the time of approval, we have previously seen the very real risks that long-term PPAs place on customers. As such when wholesale market prices deviate from the contract price, as they are certain to do, leaving ratepayers exposed to above-market prices.<sup>1</sup>

The cost of wind and solar has fallen as technology improvements have increased efficiencies—and this downward trend will continue. Because of this, ten-year contracts signed several years ago are above current market prices and leave ratepayers “holding the bag” on the higher costs. Project risk should fall on private companies instead of burdening ratepayers with the chance of landing on the short end of an out-of-market contract.

### **Moving Targets Create Confusion**

With customers across five states and the District of Columbia, we constantly see changing requirements, percentage carve-outs and resource eligibility in renewable portfolio standards. For example, DC passed a bill at the end of 2018 that moved their RPS from 50% to 100% while also altering the geographic eligibility for qualifying tier 1 generating assets. In 2020, Pennsylvania passed a bill establishing geographical limits on energy resources that qualify as Tier II resources under the Alternative Energy Portfolio Standards Act. These types of changes make compliance and tracking far more difficult. Long term contracts are not a good fit in markets that continue to have requirements that change.

Requiring electric companies to enter into long-term contracts exposes Maryland ratepayers to unnecessary risk and is not required for the development of new renewable generation throughout the state.

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<sup>1</sup> Pepco tells the cautionary tale of Atlantic City Electric, which entered into two statutorily-mandated PPAs in the mid-1990s, under which default service customers pay “tens of millions of dollars per year in above-market costs to support these PPAs.” Source: D.C. Public Service Commission. Formal Case No. 1017, Comments of the Potomac Electric Power Company. Pages 7-8. 11/9/18.



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We respectfully ask the Committee for an unfavorable report of SB 334.

Thank you for your consideration.

Phil Woodyard Chief Operating Officer  
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**SB0334 OPC Informational.pdf**

Uploaded by: Endia Montgomery

Position: INFO

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BRANDI NIELAND  
DIRECTOR, CONSUMER  
ASSISTANCE UNIT

**BILL NO.:** Senate Bill 334  
Electricity – Stand Offer Service – Renewable Energy

**COMMITTEE:** Finance

**HEARING DATE:** February 1, 2022

**SPONSOR:** Senator Feldman

**POSITION:** Informational

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The intent of Senate Bill 334 is to promote the development of renewable resources in a cost-effective manner. The Office of People's Counsel supports that goal. The bill would further that goal by requiring utilities to enter into long-term contracts to purchase the electricity and renewable energy credits from certain types of generation facilities. Certain bill provisions appear counter to that goal and potentially detrimental to customers, however.

As we understand it, the bill allows for double-counting of some renewable energy credits. This problem may be inadvertent. Bill section 7-703.1(c)(7) says that the RECs purchased by the utility would be resold by the utility. The difference in price between the long-term contract price and the price received by the utility when the RECs are resold would be passed on to all of the utility's distribution customers. The bill then says, in section 7-703.1(d)(1), that the RECs would be used to meet the renewable portfolio standard obligation of the utility's standard offer service customers. If the RECs are both sold and used to meet the obligations for customers, the RECs would effectively be double counted. This would lower the overall demand for RECs and tend to lower REC prices.

OPC has additional concerns with section 7-703.1(d)'s requirement that the RECs purchased by the utilities be used to satisfy the RPS obligations of SOS customers. This

provision appears to place the risk of these contracts on a limited number of customers. While there is a provision on the bill for the Public Service Commission to approve the contracts based on cost-effectiveness evaluation, a risk remains that the contract would impose a cost on customers at sometime during its term.

A higher percentage of residential customers are on standard offer service than other rate classes, so the impact on residential customers would be greater than on other classes. The number of customers on SOS changes over time. An increase in retail shopping for electricity would concentrate the risks of these contracts on a smaller number of customers. The risk posed by these contracts would be better borne by all customers than just SOS customers. Additionally, including the costs of these contracts in SOS prices would either lower or raise SOS prices compared to what they would be without these contracts. This could adversely impact the retail electricity supply market.

As we understand it, section (c)(8) of the bill intends to prevent these risks to SOS customers through a credit or charge for all distribution customers that cannot be bypassed, but that section must be interpreted in light of section (d), which provides that the long-term contracts must be used for at least 25% of that year's and each subsequent year's RPS standard for SOS customers.

The provision on Commission review and approval of the contracts lacks clarity. Section 7-703.1(c)(4)(ii) says that the Commission would determine the cost-effectiveness of the contracts based on a comparison of the contract price to "the long-term projection of renewable energy costs." The contracts required by this bill would purchase both the electricity from the renewable facilities and the RECs. A cost-effectiveness evaluation should consider not only the costs of the RECs but also the cost of the electricity itself. Otherwise, the Commission might be compelled to approve a contract where the REC prices were reasonable but the price for the electricity itself was unreasonably high. The language in the bill should be clarified so that both the cost of the electricity and the RECs would be considered in the evaluation of the contract.

Section 7-703.1(C)(1)(iii) would allow a utility to receive a fee from customers of 1% of the cost of the contract. While it is possible that a contract under this proposal would impose some financial risk on the utility that could result in higher costs for the utility's overall financing, the utility would be compensated for that risk through the usual ratemaking process. There is no need for the additional compensation for the utility and mandating that customers pay a fee to the utility for the contract would be necessary compensation for the utility.

# **SB0334 - LOI - Electricity - Standard Offer Servic**

Uploaded by: Landon Fahrig

Position: INFO



**TO:** Members, Senate Finance Committee  
**FROM:** Mary Beth Tung – Director, MEA  
**SUBJECT:** SB 334 - Electricity - Standard Offer Service - Renewable Energy  
**DATE:** February 1, 2022

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### **MEA POSITION: Letter of Information**

Senate Bill 334 makes significant changes to the way the Renewable Portfolio Standard (RPS) operates, codifying certain provisions that may adversely affect utility rates. The impacts of such significant changes should be studied and thoroughly considered prior to implementation.

SB 334 requires the procurement of long-term contracts to supply a portion of renewable energy credits (RECs) within the RPS. Long-term contracts are agreements of 10-20 years to purchase and continue purchasing RECs from a qualified source.

MEA notes that the bill makes certain determinations that should be, and typically are, considered by the Public Service Commission (the Commission). One of the most obvious examples of this within the bill is the guaranteed compensation for electric utilities equal to 1% of contract payments. Additionally, the costs of the changes prescribed by the bill would be considered regulatory assets. This would include these costs in the rate base that determines how much an electric utility can recover from its ratepayers. In the simplest of terms, the bill may raise electricity rates.

These decisions should rest with the Commission. It is the *only* appropriate body in the state to make determinations of utility rates and regulation. Even in statute, the need to defer to the Commission decisions to a greater degree than other state agencies is explicit, as the General Assembly has made it clear that PSC decisions are “prima facie correct” and are to be affirmed unless they are “clearly shown” to be defective.<sup>1</sup>

This language is not applied to other agencies in cases of judicial review under the Maryland Administrative Procedure Act (APA). This distinction is not unintentional, as the Commission’s statute, specifically provisions for judicial review, was enacted prior to the APA, and yet the General Assembly chose to exclude the Commission from the APA.

MEA thanks the Committee for its consideration of this information.

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<sup>1</sup> PUA § 3-203