



Senator Brian Feldman, *Chair*
Senate Education, Energy, and Environment Committee
11 Bladen Street, Miller Senate Office Building, 2 West
Annapolis, Maryland 21401

Re: *House Bill 914: Public Service Commission – Judicial Review – Proceedings - OPPOSE*

March 28, 2023

Dear Chairman Feldman and Committee Members:

On behalf of our client, the Maryland Retail Energy Supplier Association (MDRESA), I write this letter of opposition to House Bill 914, entitled *Service Commission – Judicial Review – Proceedings*.

The Retail Energy Supply Association (RESA) is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail electricity and natural gas markets deliver a more efficient, customer-oriented outcome than a regulated utility structure. RESA is devoted to working with all stakeholders to promote vibrant and sustainable competitive retail energy markets for residential and industrial consumers.

As written, HB914 alters the current law wherein a certain proceeding for judicial review of a final decision or order by the Public Service Commission may be instituted in a circuit court.

Under current Maryland law, a proceeding for judicial review shall be instituted in the circuit court in equity for any county in which the public service company *involved* in the proceeding *operates*; or in the Circuit Court in equity for Baltimore City.

This bill, put simply, is aimed at limiting fairness and choice, disguised as a legislation that provides necessary “clarification” and economic stewardship to ratepayers. The impetus for HB 914 stems from cases where the Public Service Commission has lost their motions to transfer venue following energy and gas suppliers filing judicial review in various circuit courts across Maryland.

As cited in the written testimony by the Office of People’s Counsel, jurisdictions such as Montgomery County, Anne Arundel County, and even Baltimore City have made “mixed” rulings on whether retail energy suppliers may properly see review of Commission decision in a court other than Baltimore City Circuit Court. As a result, the Commission is now making a unilateral power-play to override these rulings held in other circuit courts and dictating their own “ruling” by forcing a single jurisdiction to determine similar cases in the future.

Forum/venue shopping is a common practice in both criminal and civil cases – it’s a tactical option exercised by a party to leverage a positive outcome for their case. The current statute, at issue, is an example that gives a public services company the discretion to choose the venue to hear their petition of judicial review.

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We concede that retail suppliers are not defined as “public service company” under PSU article. However, public service companies deliver energy suppliers’ products to consumers through gas lines and wires. For these reasons, we maintain that suppliers have the same right to petition for judicial review in any county in which a public service company delivers the suppliers’ energy. As noted above, circuit courts in various jurisdictions across Maryland have recognized and agreed with the suppliers.

For these reasons, we oppose HB914 and respectfully urge this committee to give this legislation an **UNFAVORABLE** report.

Sincerely,

Richard J. Reinhardt, II

Richard J. Reinhardt, II, *Partner*
Percy Public Affairs, LLC