

**Senate Finance Committee**

February 1, 2023

Vistra respectfully submits this testimony in **opposition to SB 90 –Commercial Law – Consumer Protection – Telephone Solicitation (Stop the Spam Calls Act of 2023)**.

Vistra is a leading Fortune 500 integrated retail electricity and power generation 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 90 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 to prevent “Spam” calls to Maryland consumers, we have concerns that this legislation, taken in concert with the existing Maryland Telephone Solicitations Act (MTSA) regulations, could unduly hinder companies from providing useful, non-Spam, information to our customers and hinder normal course of business operations.

While Vistra does not believe that our current operations would be within the scope of the current legislation, there are details within the filed language of the legislation that raise concerns, specifically:

In 14-4504 (B) “*There is a rebuttable presumption that a telephone solicitation made to any area code in the state is made to a resident or a person in the state at the time the call is made.*” Vistra operations currently does not rely on area code to identify the location of the customer being contacted. Indeed, many customers retain their cell phone numbers when moving to a new state making area code an increasingly unreliable means for identifying a customer’s geographic location. Our preference would be for “area code” to be struck and the requirement generalized to “*There is a rebuttable presumption that a telephone solicitation made to a resident or a person who is reasonably presumed to reside or have a place of business within the state is in the state at the time the call is made.*”

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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. Serving nearly 4.3 million residential, commercial, and industrial retail customers with electricity and natural gas, Vistra is one of the largest competitive electricity providers 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 37,000 megawatts powered by a diverse portfolio, including natural gas, nuclear, solar, and battery energy storage facilities. In addition, Vistra is a large purchaser of wind power. The company owns and operates the 750-MW/1,600-MWh battery energy storage system in Moss Landing, California, the largest of its kind in the world.

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Vistra also has concerns that the framing of an “Automated System for the Selection or Dialing of Telephone Numbers” (ATDS) within the bill may not comport with the Telephone Consumer Protection Act (TCPA). Our preference would be that any legislation passed on this topic incorporate TCPA framing for products and services to ease compliance by impacted parties.

Thank you for the opportunity to share our perspective on SB 90 and for the above reasons Vistra urges the Committee to give the bill an unfavorable report.