

TESTIMONY IN **SUPPORT** HB267

Electricity and Gas-Retail Supply – Regulation and Consumer Protection
 Economic Matters Committee, Vice Chair, Delegate B. Crosby
 February 15, 2024

Good afternoon, Chairman Wilson and members of the House Economic Matters Committee. The Maryland Energy Advocates Coalition (MEAC) is pleased to provide written testimony in support of HB267. Our collaboration of nonprofits, foundations, partners, and volunteers works to ensure that limited-income families can afford their utility bills through advocacy, education, and reporting. MEAC is: AARP Maryland, National Consumer Law Center, Institute for Energy and Environmental Research, Climate Access Fund, GEDCO, Cancer Support Foundation, Chesapeake Physicians for Social Responsibility, and many partners. In addition, Elders Climate Action and Public

Employees for Environmental Protection (PEER) sign on.



MARYLAND'S RESIDENTIAL RETAIL ENERGY OVERPAYMENTS VS. REGULATED UTILITY ELECTRICITY RATES

YEAR	Residential Electricity +	Residential Gas =	E & G Overpayment
2014	\$77 M	\$53 M	\$130 M
2015	\$69 M	\$47 M	\$116 M
2016	\$50 M	\$41 M	\$91 M
2017	\$59 M	\$39 M	\$98 M
2018	\$73 M	\$44 M	\$117 M
2019	\$88 M	\$40 M	\$128 M
2020	\$106 M	\$36 M	\$142 M
2021	\$117 M	\$34M	\$151 M
2022	\$178 M	\$49 M	\$227 M
2014 - 2022 Overpayment Total	\$817 M	\$381 M	\$1.2 B

Electricity Data source is US D.O.E. EIA861. Gas is estimated at 25¢ markup for retail terms sold. EIA data reported every October.

HB267 provides the urgently needed market and consumer reforms to level the residential retail energy consumer playing field. HB267 is tactical and practical and reforms many of the issues and injustices happening with today's current marketplace. HB267 does not eliminate choice, but rather it provides the guardrails needed for all Maryland residential consumers to access affordable energy.

The 1999 Electric Choice Act opened the door for competitive energy suppliers to service residential customers and offer electricity and gas supply. The deregulatory energy bill clearly stated the goal was “economic benefits for all classes.”¹

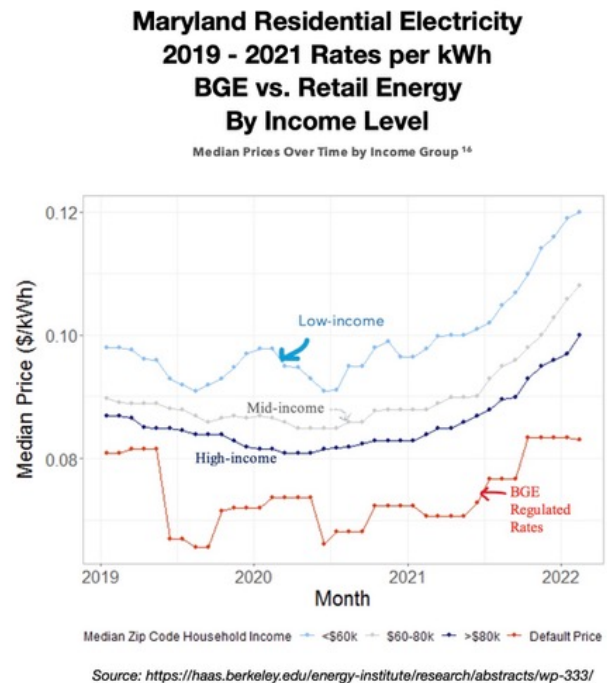
Yet the opposite has happened. Maryland's residential customers who chose a retail

¹ <https://mgaleg.maryland.gov/mgawebwebsite/Search/Legislation?target=/1999rs/billfile/hb0703.htm>

supplier have paid **\$1.2 billion more**² for home energy - an essential service.

Maryland's residential Retail Energy market negative outcomes have been highly reported and studied³. The data and facts are indisputable and clear that in its current form, Maryland's residential market did not meet its goals. From the Wall Street Journal's Page 1 investigative series⁴ featuring Baltimore residents, to many restructured states' reports, articles, radio, and TV shows, retail energy has been a hot topic for many years.

In 2022, important research based on 3 years' worth BGE retail energy billing records was published by a PhD candidate at UC Berkeley,⁵ The researcher asked a serious economic question: Why were low-income households in the US paying more for retail energy compared to regulated utility offers?



Her research concluded that over time, the retail industry realized it is more cost effective to send commission-based direct salespeople door-to-door or embed them in big box stores in Maryland's lowest income ZIP codes⁶. Suppliers charged low-income accounts higher rates at the door than online. When variable rates kick in (the report found the average fixed rate contract was only 2 months), rates can creep up to any level. **Maryland's retail energy market has no pricing oversight.** As the UC Berkeley report detailed, Spanish-speaking accounts, African American accounts, and immigrant families pay the highest rates.

Of real concern is that the report proved that the driver in this market's pricing discrimination is based on demographics. Found on page 13, the report concluded that the presence of a majority African American ZIP code explained nearly half (45%) the pricing discrimination.

² <https://www.energysupplierhelpdesk.org/>. Data source DOE EIA861 file

³ <https://www.energysupplierhelpdesk.org/reports-pres>

⁴ <https://www.wsj.com/articles/electricity-deregulation-utility-retail-energy-bills-11615213623>

⁵ <https://haas.berkeley.edu/energy-institute/research/abstracts/wp-333/>

⁶ PSC data reported in Baltimore Fishbowl <https://datawrapper.dwcdn.net/x4zeA/1/>

Since 2010 when purchase of receivables was integrated with utility consolidated billing ⁷, the Maryland residential market has seen significant overpayments compared to utility rates. And each year, per customer overpayments increased from \$161 in 2014 to \$483 per account in 2022 ⁸. As the residential retail energy market has shrunk, industry has increased rates on their remaining customers.

In addition to the low-income targeting, **“Eco-buyers” are wooed into retail energy with promises of clean electricity.** Retail energy “green power” offers are based on voluntary renewable energy certificates. Maryland currently has no standards or regulations regarding “green offers” and Maryland has no visibility into what types of RECs suppliers purchase on behalf of their clients. Research suggests most RECs are unbundled RECs from Texas wind farms. These RECs are very low cost (after broker fees, too) and offer no ‘environmental benefits’ for Maryland.

Eco-buyers assume they’re paying more for actual wind and clean energy. ⁹ Maryland’s eco-buyer retail energy segment is at least 25% of the retail energy base. In 2022, each “green offer” account paid on average \$725 more for electricity compared to regulated rates. Retail Energy “green offer” premiums are significant. In 2022, the average retail “green offer” account paid for an additional 8 RECs (~8,000 kWh) above the 25% RPS requirement. At an average \$725 premium, each retail supplier “green offer” RECs cost consumers an extra \$90. Voluntary RECs sell between \$2 to \$10 each.

Lastly, the in-person direct sales shenanigans are many, including that most sales agents ‘fudge the truth’ about retail energy offers. It’s a tough product to sell and the sales folks are, by and large, on commission per closed sale. Since 2010, per PSC data ¹⁰, about 2.8 million new residential contracts were sold. There are 2.3 million Maryland residential accounts. And 2.5 million contracts have cancelled. It’s a churn and burn marketplace relying heavily on direct sales.

On average, Retail Energy costs more for the roughly 10 million US customers. Yet even when the PSC “shot across the bow” from the bench and asked industry to “clean

2022 US Residential Retail Energy Results - Sorted by Overpay/Family

DEREG STATE	# RESIDENTIAL ACCOUNTS	AVG. EXTRA EA. FAMILY PAID	% ABOVE REGULATED KWH RATES
New Jersey	220,000	+\$500	+56%
Maryland	370,000	+\$485	+50%
Pennsylvania	1,150,000	+\$340	+37%
Massachusetts	325,000	+\$300	+33%
Illinois - MISO	218,000	+\$240	+33%
Texas	6,700,000	+\$220	+12%
New York	580,000	+\$210	+30%
Illinois - PJM	436,000	+\$185	+24%
2022 TOTAL	10 million	\$2.5 B	

⁷ Abell Foundation Report: Peltier & Makhijani <https://abell.org/publication/marylands-dysfunctional-residential-third-party-energy-supply-market/>

⁸ <https://www.energysupplierhelpdesk.org/1billion>

⁹ <https://www.energysupplierhelpdesk.org/greenpower>

¹⁰ <https://www.psc.state.md.us/electricity/electric-choice-monthly-enrollment-reports/>

up your act,” the retail industry chose to double-down on Maryland consumers (New Jersey, too) and charge Maryland families the highest 2022 premiums compared to other restructured states.

Our coalition, Maryland’s Office of Home Energy Programs, the Fuel Fund of Maryland and Maryland residents are left picking up the pieces. The net is that Section 8 vouchers are lost and home utility accounts are terminated. Energy burdens are high in Maryland and this market needs to be reformed.

HB267 solves many issues.

1. **RATE GUARDRAILS:** HB267 provides **first-ever rate oversight** that’s tied to regulated rate levels. Another key regulation is **eliminating “purchase of receivables.”** Combined with no rate oversight, POR as it’s called, is a PSC-regulation that when combined with “free market” rates has driven pricing discrimination, with little risk to retail suppliers. Known as a “moral hazard,” Maryland rate results support that retail suppliers fell into that trap. **Limiting contract lengths, fixing renewal terms at 1 year, and eliminating variable rates** is smart to ensure that consumers aren’t hooked into never-ending monthly variable.

2. **VULNERABLE POPULATION SAFEGUARDS:** With 20 years’ retail energy customer outcomes, HB267’s replacing compromised Choice Identification Numbers, “locking” a residential utility account on SOS, and eliminating retail choice for OHEP accounts are tactical and practical.
 - a. **Utility Choice ID Number Replacement:** When an account is compromised with an illegal sale, known as “slamming,” a minority of account holders file PSC complaints. If they win their case, the sales reps still have their account information and can re-enroll them without consent. This requirement would allow the Choice ID to be changed by the utility system to reduce the likelihood of further slamming. (Also, very few residents seem to know about the PSC, let alone the Consumer Affairs Division online complaint process.)

 - b. **Account SOS / Gas Lock:** It appears that older adults are often targeted by direct sales salesman. A Baltimore City senior, Ms. Ida’s experience (Figure 1 below) is an extreme example of this issue, yet illustrates the door to door sales issue with 23 switches over 30 months. HB267 would allow account holders and their caregivers to request that their distribution utility automatically keep their account on SOS. This one change will give seniors and their families peace-of-mind that their family’s utility account is on SOS.

- c. **Energy Assistance “OHEP” Change:** While 2021’s SB30/HB397 attempted to eliminate retail supplier overcharges for all accounts receiving energy assistance, the final solution was to offer a “guaranteed savings plan.” Retail suppliers commit to charge OHEP-coded accounts that same as regulated rates. The implementation has some flaws, and HB267’s requirement eliminates PSC labor and ensures that utility systems automatically protect OHEP-coded accounts.

Baltimore City (21218) OHEP Account: # Electric Switches: 23 # Gas Switches: 16

Year	Month	ELECTRIC	Yearly Use: 3,000 kWh	RED = SWITCH	GAS	Yearly use: 450 therms
	April	Atlantic Energy	to Spring Power		Atlantic Energy	to Spring Power
	May	Spring Power			Spring Power	
	June	Spring	to Liberty Power		Spring Power	
	July	Liberty Power	to Constellation		Spring Power	
	August	Constellation			Spring Power	to Constellation
	September	Constellation	to Smart Energy		Constellation	to Spring Power
	October	Smart Energy			Spring Power	
	November	Smart Energy	to Spark Energy.	to Spring Power	Spring Power	to Spark Energy
	December	Spring Power			Spark Energy	to Spring Power
2020	January	Spring Power	to Clearview		Spring Power	to Clearview
	February	Clearview			Clearview	
	March	Clearview			Clearview	
	April	Spark Energy			Clearview	to Spark Energy
	May	Spark Energy			Spark Energy	
	June	Spark Energy	to Clearview		Spark Energy	
	July	Clearview			Spark Energy	
	August	Energy Harbor	to Spring Power to	Clearview	Spark Energy	
Case Mgr start ->	September	Spring Power			Spark Energy	to Spring Power
	October	Spring power	to Park Power		Spring Power	
	November	Park power	to Spring Power to	CleanChoice	Spring Power	to Park Power
	December	CleanChoice	to Spring Power		Park Power	to Spring power
2021	January	Spring power	to MDGE-Vistra		Spring Power	
	February	MDGE	to Spring Power		Spring Power	to MDGE-Vistra
	March	Spring power	to		MDGE-Vistra	to Spring Power
	April	BGE			Spring Power	
	May	RPA Energy			BGE	
	June	RPA Energy			RPA Energy	
	July	RPA Energy	to BGE		RPA Energy	
	August	BGE			BGE	
	September	Clearview			Clearview	

Figure 1: Ms. Ida (first name) lives in Baltimore City, a GEDCO community center client. L. Peltier and Ms. Ida’s Healthcare for the Homeless Case manager began working in 9/20 to keep her on BGE supply. Unsuccessfully most of the time. The chart above lists the many suppliers that enrolled this elderly lady. 5



MARYLAND RETAIL ENERGY "100% RENEWABLE" 2022 RESULTS

Res. Supplier	# Customers	Xtra \$ Paid per Family	Revenues Above SOS
#1 Shell Oil's Inspire	35,000	\$470	\$ 16 million
#2 CleanChoice	27,000	\$1,000	\$ 27 million
#3 Shell's SmartEnergy	6,000	\$875	\$5 million
#4 CleanSky / Titan	6,600	\$485	\$3 million
#5 Clearview	4,000	\$885	\$3 million
#6 M Power	5,000	\$560	\$3 million
#8 NRG - Stream	5,200	\$519	\$4 million
#9 Indra / Palmco	4,000	\$1,060	\$4 million
#10 Tomorrow/Sperian	5,000	\$924	\$5 million
#11 NRG Green Mount	3,400	\$775	\$2 million
#12 Greenlight	3,500	\$775	\$3 million
#13 Vistra - Viridian	2,000	\$820	\$2 million
#14 Spring Energy	1,300	\$1,000	\$1 million
All "Green" Suppliers	108,000	\$725	\$78,000,000

Electricity Data source is US D.O.E. EIA861.

Figure 2: Nine "green power" residential retail brands that sell 100% renewable offers charged more than \$750 on average more. DOE EIA861 files. Nine brands

3. **GREEN POWER OFFERS:** HB267 requires retail suppliers to purchase PJM and /or PJM delivered generation voluntary RECs above the RPS levels. HB267 requires suppliers to report REC types, location, and generator. Lastly, HB267 requires clear a consumer disclosure on all marketing. If passed these changes will ensure Maryland's eco-buyers can more readily know what they're buying.
4. **INCREASED PSC, OFFICE OF PEOPLE'S COUNSEL AND ATTORNEY GENERAL OVERSIGHT:** MEAC supports every HB267 change suggested. The residential retail energy market is roughly a \$500,000,000 yearly market and has no dedicated staff. Recently, the PSC has spent considerably more labor hours on major Supplier Complaint Cases and has beefed up the

Consumer Affairs Department complaint group. Yet given that 50% of Maryland’s electricity is sold via retail suppliers, it’s astonishing how few labor hours are devoted to overseeing this market’s results. Stronger energy salesperson training and licensing, limiting retailer license timeframes, and expanding oversight are smart so that our regulatory agencies can regulate. Today’s lax regulations seem to trigger an automatic court case by industry because of outdated and vague laws.

5. **RESIDENTIAL RATE REPORTING:** A major reason HB267 has taken so long to come to fruition is our state’s lack of official reporting. Without reporting, the public had little insight into retail energy results. When MEAC (originally under the Energy Supplier Reform Coalition) began reporting results in 2016 using federal U.S Department of Energy EIA861 data, many were rightly skeptical because the data wasn’t “official.” For Maryland to effectively manage consumer utility bills in the years to come, we must know what retailers are charging, just as we do with regulated utilities.

The average rate charged in 2022 for 370,000 residential accounts was nearly \$500 more, a 50% premium. Since 2013, retail suppliers have on average charged higher and higher rates. Often retail supplier rates didn’t track with market wholesale trends, as regulated SOS rates do. This data is from the DOE EIA861 files.

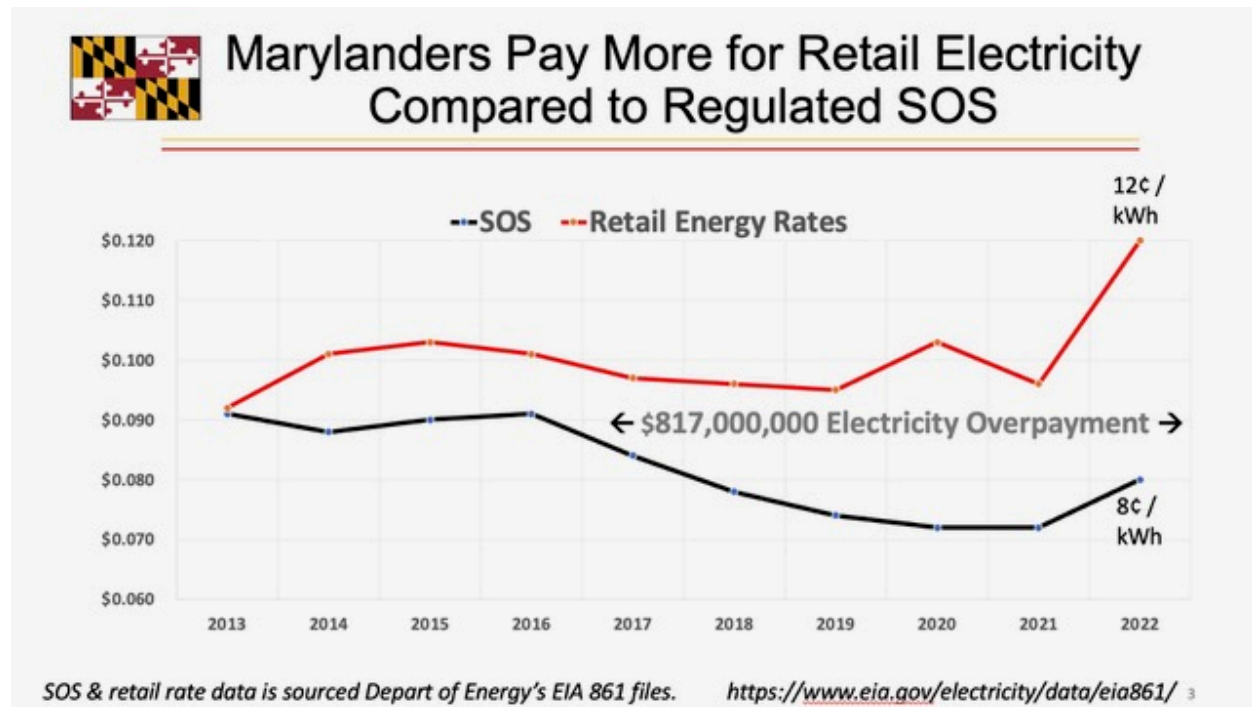


Figure 3: Historical regulated SOS per kWh rates compared to average retail energy rates from 2013 to 2022. The value of overpayments between the two lines is \$817 million more paid for retail energy electricity.

Figure 4: Maryland's 2022 residential retail energy results by regulated utilities compared to each supplier. Only 1 supplier charged less than a 20% premium in 2022. Twenty-five suppliers charged their customers on average more than \$500 more for electricity.

Market Share	Parent Company	Company Name	Customer Count	Avg Rate / kWh	% +/- SOS	Avg kWh usage / account	Extra Revenue Above SOS	Extra Each Family Paid Above SOS
		Regulated MD SOS 2022 Rate	1,970,755	\$0.080		11,432	\$0	\$0
		Retail Suppliers:						
1		Constellation	80,612	\$0.090	12%	17,927	\$ 14,103,694	\$175
2	NRG	Direct Energy Services	23,382	\$0.118	47%	11,154	\$ 9,798,372	\$419
2	NRG	NRG / Reliant	21,601	\$0.141	76%	11,493	\$ 15,049,530	\$697
2	NRG	XOOM	9,573	\$0.145	81%	10,900	\$ 6,794,760	\$710
2	NRG	Stream Energy	4,152	\$0.154	92%	11,640	\$ 3,558,729	\$857
2	NRG	Energy Plus Hold	2,022	\$0.147	83%	11,038	\$ 1,487,245	\$736
2	NRG	Green Mountain En.	2,682	\$0.155	93%	10,386	\$ 2,082,195	\$776
		NRG portfolio -->>	63,412	\$0.135	68%	11,227	\$ 38,770,831	\$611
3	Shell Oil	Inspire Energy	34,958	\$0.125	56%	10,402	\$ 16,415,562	\$470
4	Alta	WGL Energy	33,842	\$0.100	24%	10,121	\$ 6,628,368	\$196
5	Private	CleanChoice Energy	27,191	\$0.189	136%	9,156	\$ 27,174,159	\$999
6	Vistra	Ambit	8,199	\$0.102	27%	12,028	\$ 2,170,168	\$265
6	Vistra	MDGE- Energy Services	7,714	\$0.147	84%	9,881	\$ 5,111,616	\$663
6	Vistra	Public Power	2,870	\$0.115	44%	21,307	\$ 2,137,316	\$745
6	Vistra	Viridian	1,985	\$0.155	93%	10,940	\$ 1,626,579	\$819
	Now owns Energy Harbor 3/23	Vistra portfolio -->>	20,768	\$0.123	53%	12,409	\$ 11,045,680	\$532
7	Commerce	Just Energy	15,517	\$0.118	47%	10,497	\$ 6,160,892	\$397
8		SFE	10,640	\$0.118	47%	9,456	\$ 3,792,109	\$356
9	Renewable	Spark Energy	2,279	\$0.167	108%	9,695	\$ 1,919,127	\$842
9	Via	National Gas & E	1,272	\$0.171	113%	10,623	\$ 1,229,576	\$967
9	Via	Major Energy	3,252	\$0.146	82%	10,818	\$ 2,321,844	\$714
9	Via	Starion Energy	24	\$0.064	-20%	583	\$ (223)	-\$9
		VIA/ Sparkportfolio -->>	6,827	\$0.157	96%	10,371	\$ 5,470,325	\$801
10		CleanSky/Titan	6,575	\$0.120	49%	12,334	\$ 3,209,712	\$488
11		SmartEnergy	5,848	\$0.169	110%	9,906	\$ 5,120,288	\$876
12		IDT Energy, Inc.	5,364	\$0.174	118%	8,392	\$ 4,244,358	\$791
13		Mpower Energy NJ LLC	5,029	\$0.171	114%	6,212	\$ 2,852,112	\$567
14		Tomorrow Energy Corp.	4,907	\$0.168	109%	10,533	\$ 4,533,612	\$924
15		Indra (was Palmco)	3,932	\$0.239	198%	6,688	\$ 4,173,170	\$1,061
16		Clearview Electric Inc.	3,817	\$0.156	95%	11,613	\$ 3,378,029	\$885
17		Staterwise	3,751	\$0.119	49%	9,881	\$ 1,451,007	\$387
18		Greenlight Energy Inc.	3,496	\$0.158	97%	9,957	\$ 2,711,514	\$776
19		Star Energy Partners	3,189	\$0.116	44%	6,919	\$ 784,093	\$246
20		Energy Harbor Corp.	2,321	\$0.083	4%	13,710	\$ 97,562	\$42
21		Eligo Energy, LLC	2,309	\$0.175	118%	11,392	\$ 2,489,889	\$1,078
22		RPA Energy, Inc.	2,261	\$0.197	146%	6,768	\$ 1,794,936	\$794
23		Rushmore	2,242	\$0.111	39%	9,611	\$ 665,651	\$297
24		Park Power LLC	2,046	\$0.141	76%	7,610	\$ 953,846	\$466
25		AEP Energy	1,855	\$0.090	13%	14,682	\$ 279,952	\$151
26		North American Power	1,725	\$0.151	89%	12,643	\$ 1,550,061	\$899
27		IGS	1,696	\$0.132	65%	8,683	\$ 762,045	\$449
28		Alpha G&E	1,587	\$0.130	62%	8,103	\$ 641,140	\$404
29		Great American	1,471	\$0.104	30%	10,062	\$ 351,011	\$239
30		Spring Energy RRH	1,352	\$0.185	130%	9,552	\$ 1,348,430	\$997
31		Josco Energy	1,309	\$0.165	105%	7,065	\$ 781,205	\$597
		All Retail Suppliers	368,589	\$0.120	50%	12,005	\$178,148,071	\$483