



February 15, 2024

Delegate C.T. Wilson, *Chair*
Delegate Brain Crosby, *Vice-Chair*
House Economic Matters Committee
House Office Building, Room 231
Annapolis, Maryland 21401

Re: House Bill 236: Public Service Commission - Electricity Supply and Consumer Protections - Regulations and Orders – OPPOSED

Dear Chairman Wilson & Members of the House Economic Matters Committee:

On behalf of its membership, the Retail Energy Supply Association (RESA) submits this written letter of opposition to ***House Bill 236: Public Service Commission - Electricity Supply and Consumer Protections - Regulations and Orders***.

Founded in 1990 and headquartered in Harrisburg, Pennsylvania, RESA is a non-profit trade association representing the interests of its members, who are active participants in the retail competitive markets for electricity and natural gas in Maryland. RESA is a broad and diverse group of 16 retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. Several RESA member companies are licensed by the Maryland Public Service Commission (PSC) and serve the state's residential, commercial, and industrial customers.

Throughout our advocacy and support in Maryland, RESA has always maintained the position that consumer protection and industry accountability are paramount. The organization encourages all retail suppliers, RESA members, and retail energy suppliers serving Maryland to monitor business and sales activities and proactively report any concerns to the PSC's Consumer Affairs Division (CAD).

RESA's efforts to ensure consumer protection have extended well beyond public statements or internal policies. The Maryland General Assembly introduced House Bill 689, entitled *Public Utilities – Electricity and Natural Gas Suppliers – Information (2019)* and Senate Bill 603/House Bill 928, entitled *Public Service Commission - Electricity and Gas Suppliers - Training and Educational Program (2020)*. Both bills were enacted and received overwhelming support from RESA.

Our involvement and collaboration with state lawmakers on these important pieces of legislation are further testament to RESA's unwavering commitment to ensuring the protection of Maryland consumers in the Maryland energy marketplace.

RESA reaffirms similar concerns expressed in our position testimony (for Senate Bill 1/ House Bill 267) and respectfully summarizes the following areas of HB236 that require further discussions with the committee leadership and its members.

- The establishment of new licensing procedures and reporting for door-to-door sales representatives and electric suppliers, by the Public Service Commission is unnecessary, duplicative and unsustainable. Employee(s) of licensed supplier(s) are covered by the license held by the supplier (and the associated protection) and should not be required to separately and personally be licensed. Furthermore, any reporting mandates onto suppliers is another draconian cost of doing business in Maryland. Such reporting measures will require additional hiring of personnel or 3rd party contractors to satisfy all of the reporting requirements adopted through regulations by the PSC. Consequently, any new licensing procedures, fees and reporting will also unduly task more administrative and management responsibilities on the PSC – that have already been embattled with limited staff and resources.
- Prohibiting variable contracts and requiring all residential customers to be returned to standard offer services (SOS) at the end of those contracts completely goes against Maryland’s competitive energy marketplace that has existed for the last 25 years. Practically, it will result in customers automatically going back to SOS against their will. Such a requirement undermines not only the Electric Customer Choice & Competition Act of 1999, but also the customers’ preferences to continue their relationship with a supplier.
- Prohibition against variable rates. This provision would undermine customer preferences and impose unreasonable restrictions on supplier products. Furthermore, this is contrary to consumer protection because many customers prefer the option to choose a variety of products. It does not help customers to restrict product offerings when many homeowners and businesses place significant value on their energy needs to properly budget their energy expenses. Eliminating variable rates would be analogous to eliminating for example adjustable rate mortgages and only offer to consumers the choice of fixed interest rates over a specified period of time.
- Prohibition against salesperson commission or other incentive-based compensation to any energy salesperson. Removal of incentives for performance is certainly not consumer protection, is anti-competitive and serves no good purpose. It is not an uncommon practice in sales-related industries to adopt commission-based compensation for their employees. Commissions provide incentives but are generally the primary source of income for these employees and is the current business model held by many companies. Prohibiting the use of commission-based compensation will significantly impact sales representatives’ current means of financial stability and sustainability. Such a restriction would also impact certain retail suppliers’ ability to hire and maintain quality employees.
- Finally, HB236 would permit utilities to “market” standard offer/default service to customers in their territory by forcing retail suppliers to provide information in their own offers or contracts – this would result in an anticompetitive playing field for suppliers. In August 2021, the PSC launched its *MDEnergyChoice.com* landing page for its gas and electricity supply education and comparison- shopping pages. The website allows customers to explore available supply rates and easily compare them to their utilities’ standard offer service rates. Furthermore, the Public Utilities Article, §7-310 (g), established the Retail Choice Customer Education & Protection Fund. The fund may be used for the purpose of educating retail electric or gas customers on retail choice and improving customer protections for retail electric or gas customers. We aver that information on energy choice and rates is readily available to Maryland customers through these existing resources.

The PSC currently has well-established authority, jurisdiction, and tools it needs under current law and COMAR to deter and punish suppliers for deceptive practices. It has exercised this authority and broad discretion in the past to address issues with suppliers, assess fines and revoke licenses and there is nothing preventing the PSC from doing the same going forward.

On November 1, 2023, the Maryland Public Service Commission issued a report to the Maryland General Assembly regarding enforcement actions taken against third-party retail energy suppliers from calendar years 2010 – 2022. This report was prepared pursuant to the 2023 Joint Chairmen's Report submitted by the Senate Budget & Taxation Committee and the House Appropriations Committee.

As Contained in the report, the PSC stated, *“that enforcement actions tend to be effective in bringing an errant supplier into compliance, with the goal of deterring repeat violations.”* Moreover, last February 2023, the PSC launched the Maximum Enforcement Initiative in response to the influx of complaints against suppliers. As a result, PSC's Consumer Affairs Divisions' supplier complaint intake numbers *“returned to levels at or below its historic average.”*

According to the data included in PSC's report, there was a **61% decrease** in complaints against suppliers between Quarter 1 of the 2023 calendar year to Quarter 3. In addition, a reported **82% decrease** in complaints among the three suppliers incurring the most complaints between Quarter 1 and Quarter 3 (2023).

This information substantiates their conclusions that enforcement, non-compliance remediation, and educational outreach are working to reduce customer complaints and, more importantly, maintain accountability on energy retail suppliers in the Maryland marketplace.

Conclusion

If it truly is the will of the Maryland General Assembly to improve consumer protection, the recent data contained in the PSC's report indicates that increased staffing for enforcement, remediation, and educational resources are the best solutions to deter predatory practices by suppliers, while also expanding customer knowledge and interest in energy choice. In addition, the PSC should implement the long-awaited training and education program enacted under Senate Bill 603/House Bill 928 (2020).

RESA affirms its position to continue being a valuable and constructive partner with the state lawmakers to find reasonable and fair solutions to address issues and uphold industry accountability so long as those solutions do not jeopardize absolving competition and consumer choice in Maryland.

We recognize that the competitive energy market is not perfect, just like other markets in consumer goods and services are imperfect. At the same time, we believe strongly that choice and competition are vital to delivering innovation, economic benefits, consumer value, and a clean energy future to the citizens of Maryland.

Sincerely yours,



Tracy McCormick
Executive Director