



February 15, 2024

Bill: Electricity and Gas – Retail Supply – Regulation and Consumer Protection

Position: OPPOSE

Dear Committee Members:

The Retail Energy Advancement League (“REAL”) is a national advocacy organization dedicated to the expansion and modernization of American retail energy markets. Our members provide customers with access to a variety of products available on the electric grid, including 100% renewable energy, free home charging for electric vehicles, carbon offsets for gas products and fixed-rate products.

Our organization was founded by a coalition of companies that believe smart regulation and consumer protections are the foundation for a healthy market where states can capitalize on the innovations and customer demand driving our transition to a clean energy economy.

Industry-Led Consumer Protection Reform

We believe a well-functioning and efficient competitive retail market must include robust consumer protections, as outlined in our Consumer Bill of Rights. REAL’s initiative-taking consumer protection reform efforts include hosting retail market forums and engaging commissioners and regulators from over 10 states, including Maryland. These forums equip participants with tools to enhance existing retail markets, focusing on areas such as consumer education, as well as complaint recording and recordkeeping.

We believe reporting complaints and identifying bad actors, as they exist in any industry, is important, and we encourage the Maryland Public Service Commission (“PSC”) to implement complaint reporting that includes the number of complaints found against each supplier so consumers can make informed decisions. Although complaint outcomes are unknown in Maryland, REAL is encouraged that the number of total complaints or inquiries reported by the PSC over the last five years equates to a monthly average of less than 1 in 10,000 customers, or one tenth of 1%.

REAL Supports Consumer Education

There are significant opportunities for consumers to achieve substantial savings on their energy bills through retail supply options. A recent analysis by REAL as of December 31, 2023, identified 273 retail supply options in Maryland, including 110 fixed-priced offers lower than the default utility rate, resulting in immediate savings. Additionally, 98 offerings provided 100% renewable energy, with 35 of them being both environmentally friendly and cheaper than the

default utility rate. The potential savings for Maryland residents are \$59,831,935 this month alone by enrolling with a retail supplier.

Current supply rates show that retail suppliers offer considerable savings. For instance, while BGE's supply rate is 11.85¢ / kWh, the lowest fixed rate offer in the same territory is 9.59¢/kWh, and the lowest 100% renewable offer is 10.19¢/kWh. Similar savings opportunities exist across service territories held by Delmarva MD, Potomac Edison, and Pepco MD. Exploring cost-effective alternatives from retail suppliers can benefit customers.

Beyond cost savings, consumers can access value-added products that enhance their overall energy experience. For example, Vistra customers receive a 50% discount on energy supply charges through time-of-use and demand response products. CleanChoice energy customers receive smart home technology, and NRG customers receive electric vehicle chargers. Our review of HB 267 finds it lacking in meaningful consumer protections and education, as described below.

Regulating Price Is Harmful and Does Not Add Consumer Protections

The Maryland General Assembly restructured the energy supply market in 1999, after significant stakeholder engagement, study and agency reporting. As a result, the PSC has no authority to regulate the price of competitive supply.

The Public Utility Article and Code of Maryland Regulations authorize the PSC to oversee consumer protections. Licensing and fair/transparent marketing practices should be our collective focus.

No other product in the competitive marketplace is price regulated. State regulation of product pricing is a significant shift in state policy that will lead to unknown and potentially harmful consequences for the market and consumers.

Furthermore, restrictions on product price will remove incentives for innovation within our industry and will prevent suppliers from taking risks and offering tailored products to Maryland residents. This is contrary to the General Assembly's recent efforts to incentivize innovation to meet the State's decarbonization goals.

Unlike the regulated utilities, the competitive supply market inherently promotes innovation in the areas of energy efficiency, energy and grid demand reductions, and electric vehicle charging rates to promote transportation electrification. Currently, the resource mix fueling standard offer service (SOS) in Maryland is mostly fossil fuels.

Interference with Legislative and Regulatory Efforts

The State is already acting on concerns that HB 267 aims to address, making many of its provisions unnecessary, duplicative, and at risk of straining resources that are already strapped.

- First, the PSC has initiated a docket and [requested comments](#) to identify and implement additional consumer protections and examine the purchase of receivables policy. The legislation's attempt to remove an operational mechanism used by suppliers and utilities has

no connection with protecting the consumer. We look forward to working with the PSC on these initiatives as appropriate.

- Second, the General Assembly required the PSC to promulgate protections to ensure that consumers who receive energy assistance funds do not pay more than the SOS price. The new regulations took effect in July 2023. To date, no supplier in Maryland is marketing to customers on energy assistance.
- Third, the General Assembly passed a law mandating a salesperson training program. We encourage the PSC to implement these requirements immediately to prevent fraud and deceptive practices by individual salespersons.

The Legislation is Overly Broad

The proposed licensing scheme that applies to individual salespeople creates workforce barriers and bureaucracy, rather than enhanced consumer protections. This includes a periodic renewal fee and the elimination of sales commissions, which does not apply to any other industry in Maryland. Eliminating sales-based commissions wipes out in-person sales channels and in-state jobs.

Suppliers are currently responsible for the actions of their salespeople. Creating an additional licensed entity raises questions of who is responsible for sales activities, the supplier, or the individual. Finally, the capacity of the PSC to license and regulate each salesperson is unknown.

The Legislation Gives Monopoly Utilities an Unfair Advantage

The law prohibits regulated utilities from marketing alternative products to customers because they are the default option and enjoy monopoly power as the distribution company. No competitive market can exist where a single entity has that type of market advantage. Utilities also earn a rate of return on SOS, creating an unlimited revenue opportunity for the utility. HB 267 would allow the utilities to market alternative products – such as green products sold at a premium – which is exactly what the legislation attempts to prohibit for competitive suppliers. The potential impact to ratepayers is unknown.

For these reasons, as drafted, we respectfully request an unfavorable vote on HB 267 at this time. However, REAL appreciates the opportunity to participate in the dialogue around best policies for Maryland's competitive energy market and for consumers. We are confident that we can find language that complements what the PSC has done and will do in this space.

Sincerely,



Christopher Ercoli
President and Chief Executive Officer
Retail Energy Advancement League