Utility Transparency & Accountability Act (SB682)
Senate Education, Energy, and the Environment Committee
February 22, 2024
Position: FAVORABLE

Dear Chairman Feldman and Members of the Committee,

The undersigned 33 organizations urge you to pass the Utility Transparency & Accountability Act to restrict how investor-owned utility companies can spend ratepayer money and establish important transparency requirements.

Investor-owned utility companies have a state-granted monopoly, so the Maryland legislature and Public Service Commission (PSC) regulate their distribution rates and spending. This unique arrangement is meant to ensure that ratepayers are only charged for the costs of maintaining infrastructure and distributing energy to homes and businesses via our monthly utility bills.

However, **utilities regularly try to foist expenses onto ratepayers that should be charged to shareholders.** This leaves ratepayers on the hook for utility spending that is not in the public interest nor necessary for the provision of safe, affordable, and reliable utility service.

- For example, Washington Gas attempted to charge ratepayers $419,000 in promotional advertising and certain expenses charged to ratepayers for Washington Gas's membership in the American Gas Association.[1] The PSC rejected this request in the Washington Gas rate case, but clarifying the law would make the PSC's job easier and help ensure future regulators continue to protect customers.
- In another example, FirstEnergy charged Potomac Edison customers in Maryland for lobbying, corporate sponsorships, advertising, and other expenses that it made in relation to its central role in an Ohio bribery scandal, and admitted it owes $1.7 million in refunds to its customers.[2]

Utilities and their trade associations regularly lobby and engage in political influence activities to alter policies that are part of the state's plan to meet its climate goals. Therefore, it is important that legislation is passed that puts into law the complete disallowance of dues and expenses paid to trade associations and other utility membership groups along with the utility lobbying expenses at the state, county, and municipal levels of government.

- BGE and Washington Gas lobbied against policies in Howard and Montgomery Counties in 2023 to transition homes and buildings off polluting fossil fuels to clean, renewable electric power.[3]

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[1] Maryland Office of People's Counsel, "Washington Gas rate case decision gives company $10.1 million of $42.5 million requested rate increase." December 15, 2023. https://content.govdelivery.com/accounts/MDOPC/bulletins/3804269
[2] Energy and Policy Institute, "Potomac Edison faces Maryland audit after admitting it charged customers for FirstEnergy's bribes and lobbying." October 26, 2023. https://energyandpolicy.org/firstenergy-maryland-audit/
[3] Energy and Policy Institute, "Maryland utilities lobbying against adoption of local electrification policies." September 18, 2023. https://energyandpolicy.org/maryland-utilities-lobby-against-electrification-policies/

- Additionally, according to documents filed with the PSC, utilities have wanted to recover hundreds of thousands of dollars, annually, paid to trade associations, including the Edison Electric Institute (EEI) and American Gas Association (AGA).[4]

Customers should not be forced to subsidize trade associations, which are inherently political organizations. In recent years, these trade associations have operated training camps to teach lobbyists and executives from utilities how to run winning political campaigns, and orchestrated nationwide attacks on building electrification.[5] Utilities argue that they remove the "lobbying" portion of their dues to these organizations from rate recovery, but they employ an overly narrow definition of lobbying that does not cover advocacy expenses. When utilities charge ratepayers for membership dues at these trade associations, they are in effect forcing ratepayers to pay for political activities that they may not agree with. Utilities will still be free to pay dues to trade associations or membership groups of their choosing - they just will have to use their profits, not customer money to do so.

Maryland law already bars utility companies from charging ratepayers for their direct lobbying efforts, but the law needs to be strengthened and clarified to close loopholes and provide more protections for ratepayers.

- The Utility Transparency and Accountability Act more clearly defines lobbying and how utility companies can use ratepayer money, closing loopholes that are being exploited by utility companies.
- It stops utilities from using ratepayer dollars for lobbying and other attempts to influence public opinion and elected officials and appointees; trade association dues; advertising; board member expenses; and gifts.
- It also requires utility companies to submit an annual report outlining all expenses related to these activities, increasing transparency and equipping regulators with the information necessary to enforce the law. These reports will relieve the burden on consumer advocates and state agencies, and ensure utility political influence activity spending across the board is transparent. Last year, Colorado, Connecticut, and Maine passed similar legislation.[6]

The Utility Transparency and Accountability Act also requires all utilities to be part of a regional transmission organization (RTO) and to make all RTO votes cast by utility companies public. RTOs are important bodies to help coordinate electricity generation and transmission across state lines. Maryland is one of 13 states and D.C. served by the largest RTO in the US, known as PJM.

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[4] Examples: Case No. 9704, Washington Gas Light Company's Application for Authority to Increase Rates, Post-Hearing Brief of Office of People's Counsel, showed $271,865 of AGA dues WGL allocated to customers; Case No. 9645, Application of Baltimore Gas and Electric Company for an Electric and Gas Multi-Year Plan, Supplemental Info Sections 1 thru V, showed $1,000,000 in memberships charged above-the-line; Case No. 9655, Application of Potomac Electric Power Company's Application for an Electric Multi-Year Plan, Supporting Data Section III M, showed $1,257,677 to membership organizations; Case No. 9490, Application of the Potomac Edison Company For Adjustments To Its Retail Rates, Supporting Data Section III M, showed $143,990 to membership organizations; Case No. 9681, Delmarva Power & Light Company's Application for an Electric Multi-Year Plan, Supporting Data Section III M, showed $421,807 to membership organizations.

[5] Vox, "An "attack on American cities" is freezing climate action in its tracks," September 29, 2021. https://www.vox.com/22691755/gas-utilities-fight-electrification-preemption; Energy and Policy Institute, "EEI used anti-clean energy campaigns as role models in political boot camp for utility execs," August 27, 2020. https://energyandpolicy.org/eei-campaign-institute/

[6] Washington Post, "Three states just barred utilities from charging customers for lobbying," June 21, 2023.https://www.washingtonpost.com/politics/2023/06/21/three-states-just-barred-utilities-charging-customers-lobbying/#

- Utilities are currently paid a bonus to encourage them to join RTOs. If utilities in Maryland are required to join PJM, then ratepayers will no longer have to pay for this bonus.
- After California passed a law requiring its utilities to join an RTO, ratepayers saved $40 million annually.[7]
- While decisions made at PJM significantly affect rates and our state's ability to meet our climate goals, the decision making process is not transparent. By requiring a public record of all votes cast by utility companies at PJM along with a description of how each vote benefits the public interest, the public and lawmakers will know what our utility companies are advocating for or opposing at this critical body.

This legislation will ensure that policy makers have enough information to regulate utility companies and the public has confidence in the regulatory process. We strongly urge a favorable report on this bill.

Sincerely,

350.org
ACQ Climate
Baltimore 350
Baltimore City Councilmember Zeke Cohen (District 1)
Blue Water Baltimore
Cancer Support Foundation
Cedar Lane Unitarian Universalist Environmental Justice Ministry
Chesapeake Climate Action Network Action Fund
Clean Water Action
Climate Communications Coalition
Climate Law & Policy Project
Climate Reality Greater Maryland
Coal Free Curtis Bay
Concerned Citizens Against Industrial CAFOS (CCAIC)
Elders Climate Action Maryland
Energy and Policy Institute
Green Sanctuary, Unitarian Universalist Church of Silver Spring
Howard County Climate Action
Indivisible Howard County MD
Institute for Market Transformation
Interfaith Power & Light (DC.MD.NoVA)
Maryland Energy Advocates Coalition
Maryland Latinos Unidos (MLU)
Maryland Legislative Coalition Climate Justice Wing
Maryland PIRG
Mobilize Frederick
Montgomery County Faith Alliance for Climate Solutions
Nuclear Information and Resource Service
Oakland Mills Interfaith Green Team
Potomac Riverkeeper Network
Progressive Maryland
Rebuild Maryland Coalition
Solar United Neighbors

[7] "Accordingly, we find that, by virtue of the recently enacted California statute, PG&E is required to participate in CAISO and cannot unilaterally withdraw from CAISO. As such, PG&E's participation in CAISO is no longer voluntary. Thus, we find that PG&E is no longer eligible for the RTO Adder." Southwestern Elec. Power Co., 2023 FERC LEXIS 1734, *31, 185 F.E.R.C. P61,243, 2023 WL 9020647 (F.E.R.C. December 29, 2023)