

Committee: Senate Education, Energy, and the Environment
Bill: SB682 – Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act)
Submitted by: Deborah A. Cohn
Position: FAVORABLE
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Dear Chairman Feldman and Members of the Committee:

As a ratepayer concerned that the rates I pay for gas and electric service to regulated utilities does not include costs for services rightfully borne by utility shareholders, and a resident concerned about ensuring that our state meets its ambitious greenhouse gas reduction goals, I 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 arrangement is intended to ensure that through our monthly utility bills ratepayers are charged only for the costs of maintaining infrastructure and distributing energy to homes and businesses.

Utilities, however, all too frequently try to foist onto ratepayers expenditures 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 providing us safe, affordable, and reliable utility service. Washington Gas, for example, tried to charge ratepayers \$419,000 in promotional advertising and also for its membership in the American Gas Association. Although the PSC rejected these requests, SB682 would clarify the law, making it easier for the PSC to protect customers in the future against these charges that should not be borne by ratepayers. 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. Again, charging these expenses to ratepayers would have been egregious. FirstEnergy admitted it owes \$1.7 million in refunds to its customers, but better to clarify the law to make such egregious attempts to charge ratepayers more difficult.

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. 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. 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 with which they may not agree. 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 difference between education of customers and lawmakers, which can appropriately be charged to customers, and lobbying lawmakers to promote utility company self-interested policy objectives needs to be clarified.

I witnessed this directly in meetings of the Montgomery County Council during which gas and electric utility representatives claimed that the power grids would not be able to handle the increased electrification of buildings under proposals to increase building energy efficiency or construction of all-electric new commercial buildings. In each case the utilities urged delayed implementation of bills or regulations and more exceptions to their scope, notwithstanding the cogent testimony of Council and executive agency staff. Clearly, accelerated electrification of building space heating would be detrimental to the shareholder interests of gas utilities. Elected officials can easily be cowed by such testimony due to the technical nature of utility operations. Clarifying the difference between education and lobbying at all levels of government is important for ensuring good public policy.

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.

The bill 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.

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. 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.

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. I urge a favorable report on SB682.

Thank you.

Deborah A. Cohn