

Committee: Education, Energy, and the Environment
Testimony: Utility Transparency and Accountability Act
Position: Support
Hearing Date: February 22, 2024

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On behalf of the Chesapeake Climate Action Network Action Fund, we strongly support the Utility Transparency and Accountability Act (HB 0505/SB 0682), endorsing its transparency provisions for public service companies in impactful decisions affecting utility customers. This legislation aims to restrict ratepayer money spending by investor-owned utility companies, introduce vital transparency measures, and furnish policymakers with essential information for effective regulation, fostering public confidence in the regulatory process.

Utility companies employ various political spending methods, including campaign contributions, lobbying at local and state levels, advertising, and contributing to trade associations.¹ They often seek to shift costs, meant for shareholders, onto ratepayers. Although Maryland restricts direct lobbying costs passed on to ratepayers, there's a need to fortify and clarify the law to eliminate potential loopholes.²

During the 2023 Maryland General Assembly session, Baltimore Gas and Electric (BGE) reported spending over \$338,000 on lobbying efforts;³ Pepco reported spending over \$358,000;⁴ and Washington Gas reported spending over \$165,000.⁵ **During the sole 2023 Maryland Legislative session, these three utilities collectively spent over \$856,000.**

Enhancing Accountability: Clear Guidelines, Closed Loopholes, and Transparent Reporting in Utility Fund Usage

¹ 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.

² Maryland Code, Public Utilities § 4-103 <https://codes.findlaw.com/md/public-utilities/md-code-public-util-sect-4-103/>

³ Maryland State Ethics Commission, Lobbying Report Totals, Summary totals for November 1, 2022 through October 31, 2023 <https://ethics.maryland.gov/wp-content/uploads/filebase/Employer-Expenditures-11-1-22-to-4-30-23.pdf>

⁴ *Id* at Page 25

⁵ *Id* at Page 32

This involves clearly defining lobbying and acceptable uses of ratepayer funds by utility companies, closing current loopholes. The goal is to prohibit utilities from using ratepayer funds for lobbying, influencing public opinion, and interacting with officials, encompassing trade association dues, advertising, board member expenses, and gifts. Mandatory annual reports will ensure transparency on all associated expenses.

In a recent rate case involving Washington Gas, the company sought to pass on \$419,000 in promotional advertising costs to ratepayers.⁶ While the Maryland Public Service Commission (PSC) rejected this request during their rate case, refining the law would streamline the PSC's responsibilities and contribute to consistent decisions by future PSCs.

Mandatory Participation in Regional Transmission Organizations: Alleviating Ratepayer Burden

Maryland, along with 13 states and the District of Columbia, is within the jurisdiction of PJM, the largest Regional Transmission Organization (RTO) in the US, serving 65 million people.⁷ PJM oversees Maryland's entire electricity flow through its regional transmission grid, managing grid operations, ensuring reliability, maintaining the transmission system, and facilitating the integration of new energy sources.

FERC grants electric utilities an additional profit, known as an "adder," on their return on equity (ROE) for transmission rates when they voluntarily join a Commission-approved regional transmission organization, such as PJM. FERC justifies the adder by acknowledging the benefits of voluntary membership. However, if state law mandates RTO membership and the utility cannot unilaterally withdraw, FERC has ruled that the utility is not eligible for the profit adder.

California's 2022 law, compelling utilities to join the CA Independent System Operator, resulted in a FERC order removing the ROE adder for Pacific Gas & Electric, saving California ratepayers about \$40 million annually.⁸ Mandating RTO membership for Maryland electric utilities could yield substantial long-term savings, potentially reaching tens of millions of dollars.

⁶ 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>

⁷ PJM, About PJM, Who We Are. <https://www.pjm.com/about-pjm>

⁸ "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)



Democratizing Decision-Making: Advocating for Public Transparency in Utility Companies' RTO Votes

PJM's regulations, overseen by FERC, are shaped by its members, which include utility companies and electricity generators. The voting process, often conducted through secret ballots, poses challenges in understanding the individual decisions made by PJM members, hindering transparency in the decision-making process. The voting details in the ongoing lower-level standing committees of PJM are not publicly accessible; only overall vote percentages for each proposal are available.⁹

The Utility Transparency and Accountability Act aims to mandate the disclosure of all RTO votes by utility companies, providing descriptions of how each vote serves the public interest. Currently confidential, this lack of transparency prevents the public and lawmakers from discerning the positions advocated or opposed by utility companies in this crucial decision-making body.

Decisions made at PJM have a big impact on rates and our state's efforts to reach our climate goals. However, the decision-making process lacks transparency. To address this, we propose requiring PJM to publicly record all votes cast by utility companies, along with explanations of how each vote serves the public interest. This way, both the public and lawmakers can understand what positions utility companies are taking at this important institution.

This legislation aims to provide policymakers with the necessary information to effectively regulate utility companies, while also fostering confidence in the regulatory process among the public. We strongly encourage support for this bill.

Thank you for your time and consideration.

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⁹ PJM - Market and Operations, Voting. <https://www.pjm.com/markets-and-operations/etools/committee-voting>