

DOEE support for HB505 SB682 PJM transparency.pdf

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Position: FAV

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Energy and Environment

February 22, 2024

Committees: Senate Education, Energy, and the Environment Committee and
House Economic Matters Committee

Bill: SB682/HB505 - Utility Transparency and Accountability Act

Position: Support

Reason for Position:

The District of Columbia Department of Energy and Environment (DOEE) supports SB682/HB505, which would require utility members of the Regional Transmission Organization (PJM) to disclose votes taken on policy matters.

This commonsense transparency and accountability measure would directly benefit the District of Columbia because PJM decisions affect the District's ability to meet goals related to the sustainability, reliability, and affordability of our electric grid. The Potomac Electric Power Company (PEPCO) is a member of PJM and serves both Maryland and the District of Columbia with a distribution system that transcends state lines. Just as the actions of PEPCO before the District's Public Service Commission are a matter of public record, so should its activities at PJM.

FOR MORE INFORMATION CONTACT:

Daniel Conner, Chief of Staff, District of Columbia Department of Energy and Environment

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SB 682_LWVMD_FAV.pdf

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Position: FAV



**TESTIMONY TO THE SENATE EDUCATION, ENERGY, AND THE ENVIRONMENT
COMMITTEE**

**SB 682 - Limitations on Cost Recovery by Public Service Companies and Reports on
Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and
Accountability Act)**

POSITION: Support

By: Linda T. Kohn, President

Date: February 22, 2024

Since the emergence of the environment movement in the 1970's, the League of Women Voters has advocated for policies that protect our planet and promote public health. The League believes in increasing transparency and accountability. These are both critical for ensuring the protection of utility customers and holding Maryland accountable to meeting its climate goals.

The League of Women Voters of Maryland **supports SB 682**, which would prohibit utility companies from spending ratepayer money on certain activities - like lobbying, entertainment, and gifts - and implement critical transparency and accountability measures. **SB 682** would mandate annual reporting to the Public Service Commission on these expenses, and require the publication of votes cast by utility companies on Regional Transmission Organization issues.

Utility companies shouldn't be using ratepayer money to advance their own self interests. Ratepayer dollars should be used for what they're paying for - the provision of safe, efficient energy to their homes and buildings. Customers shouldn't have to foot the bill when utilities lobby for policies that work against the interests of Marylanders and impede progress towards the state's climate goals.

The League of Women Voters of Maryland **strongly urges a favorable report on SB 682.**

SB0682_Utility_Transparency_and_Accountability_Act

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0682

Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act)

Bill Sponsor: Senator Hester

Committee: Education, Energy, and the Environment

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0682 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

There have been many pieces of legislation passed and rules enacted to try to get governmental agencies in Maryland to be transparent. There are rules about meeting notifications and rules about releasing information on websites and other mediums. But transparency remains a problem.

The Public Service Commission (PSC) is a key regulatory agency that controls the buildout of fossil fuel infrastructure in the state. Given the fact that fossil fuels are killing us and our planet, the state has moved decisively and strongly in the direction of phasing out fossil fuels. And yet there are members of the Public Service Commission who do not see the wisdom of phasing out fossil fuel infrastructure, and based on decisions made in the last year, are very much in favor of continuing to support the fossil fuel industry and build out even more fossil fuel infrastructure.

The bill will require the Public Service Commission to do two things –

- Provide transparency into the voting on projects bought before the PSC
- Provide the reasoning behind how the votes are in the best interest of the public that they serve
- Prohibit them from using funds received from ratepayer dollars for trade association dues, advertising, board member expenses, and gifts, and to provide reports on costs incurred

Passing this bill will provide much-needed transparency into the process, and hopefully through that transparency, ensure that the PSC is actually working in the best interests of the public.

We strongly support this bill and recommend a **FAVORABLE** report in committee.

SB682 MRSC FAV.pdf

Uploaded by: Chelsea Farrell

Position: FAV



February 22, 2024

The Honorable Brian J. Feldman
Chair, Senate Education Energy & Environment Committee
2 West Miller State Office Building
Annapolis, Maryland 21401

RE: Senate Bill 682: Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act)
FAVORABLE

Dear Chairman Feldman and Members of the Committee,

Maryland Rooftop Solar Coalition (MRSC) appreciates the opportunity to provide testimony in support of Senate Bill 682. MRSC is comprised of a group of companies operating in Maryland whose business models are focused on promoting our State's clean energy policies through the installation and operation of rooftop solar systems.

This legislation represents a step forward in ensuring transparency, accountability, and responsible cost management within Maryland's public service companies. SB 682 aims to address the issue of cost recovery by public service companies by prohibiting them from passing on certain costs to consumers through rate adjustments. This provision is essential in safeguarding consumers from unjustified rate increases.

Additionally, the requirement for public service companies to submit annual reports relating to costs and activities is a crucial accountability measure. These reports will enhance transparency and enable regulatory bodies to assess the justification for cost recovery, promoting fair and equitable practices within the industry.

I urge your support to SB 682. Together, we can ensure that Maryland's public service companies operate in the best interest of consumers. Thank you to Senator Hester for sponsoring this legislation and we look forward to this bill's passage.

Respectfully submitted,

Chelsea Farrell, Executive Director
Maryland Rooftop Solar Coalition

Cc: Rick Abbruzzese

Summers SB 682 testimony.pdf

Uploaded by: Clara Summers

Position: FAV

SB 682 - SUPPORT
Clara Summers
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SB 682 -Utility Transparency and Accountability Act

Education, Energy, and the Environment Committee
February 22, 2024

Dear Chair Feldman, Vice Chair Kagan, and Members of the Education, Energy, and the Environment Committee:

My name is Clara Summers and I am the Consumers for a Better Grid Campaign Manager for the Citizens Utility Board of Illinois (CUB). I am testifying today in support of SB 682. CUB is a nonprofit, nonpartisan consumer group. Similar to the Maryland Office of People's Counsel, we advocate for utility customers. The Consumers for a Better Grid campaign is a watchdog holding grid operators, like PJM, accountable to consumers, states, and a clean, affordable energy future.

The vast majority of people are not familiar with the PJM Interconnection, but the decisions that are made through its stakeholder processes impact the affordability and reliability of our electricity and can make or break the transition to clean energy. PJM is the nation's largest Regional Transmission Organization (RTO) and manages the flow of electricity to 65 million people in 13 states and the District of Columbia, from the Midwest to the East Coast. PJM rules affect grid reliability, the cost of electricity, and the integration of new energy sources. These rules are decided through a voting process by PJM's members, including electricity generators, transmission owners, and distribution utility companies.

SB 682 is a sunshine bill creating better transparency and accountability for how utilities under Maryland jurisdiction vote in our shared electric markets.

The PJM stakeholder process is opaque. Proposals are designed and first voted on in the lower-level committees before they can be considered in the upper-level committees. The voting record of individual firms is not public—we only know the percentage of yeses, no's, and abstentions. The lower levels act as a gatekeeper for what solutions will be presented to the upper level, which has the final word. To provide a comparison, imagine if all the committee votes here in the Maryland General Assembly were secret, and only the votes of the State Senate were reported in full. Such a process would lack critical transparency and be undemocratic.

What's more, there is the potential for abuse of market power in PJM. Holding companies may be able to vote several times on an issue through their affiliates, which can vote in lower-level committees. That increases the potential of certain companies to influence which proposals advance. For example, Exelon, the parent company for 3 Maryland utilities, has one vote at the upper level, but controls 7 affiliate votes at the lower level.

SB 682 would shine a much-needed light on the votes by electric utilities at PJM. It would require each utility to submit a report to the Public Service Commission regarding votes cast in any PJM meeting in the prior calendar year, as well as a brief description of how that vote was in the public interest. Utilities are monopolies that provide a vital service. The public has a right to see if electric utilities are voting against our interests in PJM proceedings on issues that matter to reliability, rates, and the clean energy transition.

Similar legislation has also been introduced in Illinois, Pennsylvania, Virginia, and West Virginia.

Thank you, Sen. Hester, for your leadership on this issue. We urge a favorable report on SB 682.

SB0682_ Utility Transparency and Accountability Act

Uploaded by: Dave Arndt

Position: FAV

Committee: Education, Energy, and the Environment Committee
Testimony on: SB0682 - Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act)
Submitting: Dave Arndt
Position: Favorable
Hearing Date: February 22, 2024

Dear Chair and Committee Members:

Thank you for allowing our testimony today in support of SB0682. My name is Dave Arndt, a Baltimore resident, a chemical engineer, a former Marketing Director for BP Solar in Frederick MD, retiree of the National Institutes of Health.

SB682 will address important issues of transparency in decision making at our “PJM” regional transmission operator and ensure that ratepayers are not subsidizing utility costs for lobbying, advertising, and association dues that are not in the public interest, and which undermine Maryland’s climate goals. The bill will not prevent utilities from lobbying, advertising, and paying association dues. Rather, it will ensure shareholders, not ratepayers, bear those costs.

PJM Transparency

SB0682 requires utilities’ votes at PJM to be made public and requires utilities to be members of PJM. PJM decisions have a significant impact on Maryland’s ability to transition to renewable energy over the timeframe codified in the Climate Solutions Now Act of 2022 (i.e., 60% by 2031 and net zero by 2045). In addition, these decisions affect the cost of electricity in Maryland by passing along to ratepayer’s investments in new transmission, extra capacity for peak energy demand, and other costs. Unfortunately, these and other key decisions are being made in the dark without any transparency for Maryland’s Public Service Commission (PSC), Office of People’s Counsel, or environmental and consumer protection groups. SB0682 also requires Maryland utilities to join PJM as members. Currently, utilities get a bonus to join. If PJM membership is required, then Maryland ratepayers will no longer pay for this bonus as a pass-through from PJM. After a similar requirement was adopted in California, ratepayers saved \$40 million annually.

Ratepayer Costs for Lobbying, Advertising, and Dues

Utilities in Maryland are investor-owned monopolies regulated by the Maryland PSC. While current law prohibits utilities from passing the cost of lobbying on to ratepayers, the language is vague and the reporting is inadequate to ensure it isn’t happening. SB0682 will address this problem by more clearly defining “lobbying or political activities” to include influencing

legislation, elected officials, or elections. It also restricts the use of ratepayer dollars for membership dues to a business or industry trade association (like the American Gas Association or Edison Electric Institute); lobbying or political activities such as policy research and analysis; advertising or marketing to affect public opinion (not approved by the PSC); or travel, lodging, food/beverage, or entertainment expenses for a utility's board of directors and officers

SB0682 will provide the transparency and regulatory guardrails needed to protect Maryland ratepayers and ensure utilities are helping rather than impeding Maryland achieve our ambitious climate goals. I strongly support SB0682 and urge a **FAVORABLE** report in Committee.

SB0682 OPC Testimony.pdf

Uploaded by: David Lapp

Position: FAV

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BILL NO.: Senate Bill 0682 – Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act)

COMMITTEE: Education, Energy, and the Environment Committee

HEARING DATE: February 22, 2024

SPONSOR: Senator Hester

POSITION: Favorable

The Office of People’s Counsel (“OPC”) respectfully requests a favorable report on Senate Bill 682, the Utility Transparency and Accountability Act. As the title of the bill suggests, SB 682 would bring needed transparency and accountability to the operations of public service companies regulated by the Maryland Public Service Commission (“PSC”).

Public service companies¹ are provided with State-granted monopolies in order to perform important public functions and are required to operate “in the interest of the public.”² At the same time, Maryland’s largest public service companies are private companies with fiduciary obligations to earn profits for their investors. In competitive markets, the risk of losing customers incentivizes such private companies to balance the interests of their investors with those of their customers. Because they are insulated from competition by their monopoly status, this discipline is absent for public service companies. For these monopolies, “extensive government control” over prices, services,

¹ The term “public service company,” as defined in Public Utilities Article (“PUA”) § 1-101(z) is functionally synonymous with the term “utility” in this context.

² PUA § 2-113(a) requires the Commission to “supervise and regulate the public service companies subject to the jurisdiction of the Commission to ... ensure their operation in the interest of the public.”

and operations “takes the place of competition and furnishes the regulation which competition cannot give.”³

SB 682 furnishes the regulation necessary to protect the captive customers of public service companies in four primary ways: by (1) adding important clarity on the prohibition against public service companies recovering from customers certain costs that are not directly beneficial to ratepayers or in the public interest; (2) requiring public service companies to report annually on any such costs; (3) requiring each electric company to be a member of a regional transmission organization (“RTO”); and (4) requiring each electric company to submit an annual report to the PSC of any recorded vote cast at a meeting of an RTO.

I. Limitations on cost recovery from customers

Section 4-504 of the Act prohibits a public service company from recovering, through customer rates, any costs associated with (1) membership in an industry trade association, group, or related entity; (2) lobbying or political activities; (3) advertising, marketing, or communications that seek to influence public opinion or create goodwill toward the public service company; (4) travel, lodging, or food and beverage expenses for the board of directors of the public service company or its parent company; (5) entertainment or gifts; (6) any owned, leased, or chartered aircraft for the board of directors of the public service company or its parent company; or (7) investor relations.⁴

Although current law and regulations already prohibit public service companies from recovering certain of these costs from customers,⁵ OPC is concerned that captive customers may be paying for corporate expenses that have no public or ratepayer benefit and are meant only to influence public opinion or engender good will toward the company. For example, in Washington Gas’s recent rate case, the company sought to recover from customers roughly \$419,000 in promotional advertising expenses by arguing that the promotional advertising was “in the public interest and directly beneficial to ratepayers”⁶ The reason: the promotional advertising, Washington Gas argued,

³ *Delmarva Power & Light Co. v. Pub. Serv. Comm'n of Md.*, 370 Md. 1, 6 (2002).

⁴ We understand the sponsors are considering amendments that would allow recovery of certain of these costs that can be shown to benefit customers.

⁵ See PUA § 4-103 (providing that “a public service company may not charge off lobbying expenses against its ratepayers”); COMAR 20.07.04.08B (providing that “[c]haritable contributions, penalties, and lobbying expenses ... will not be allowed for rate making purposes”); COMAR 20.07.04.08C (providing that “[e]xpenditures for advertising and promotion other than that classified as informational will not be allowed for rate making purposes unless it is demonstrated to the satisfaction of the Commission in a subsequent rate proceeding that the expense is of direct benefit to the rate payer and in the public interest”).

⁶ *Washington Gas Light Company’s Application for Authority to Increase Rates and Charges for Natural Gas Services* (PSC Case No. 9704), Direct Testimony of Robert E. Tuoriniemi at 60, lines 4-5 (describing the views of Washington Gas’s marketing department).

“produces new business” for the company, driving “cost-effective” gas line extensions to new, previously unserved locations.⁷ While OPC and PSC Staff successfully challenged customers paying for those expenses, it required that we litigate the outcome. We had to first identify those costs in discovery and then argue that the promotional activities did not benefit customers. They included ads replete with vague statements, such as “Enjoy the benefits of natural gas”⁸ while failing, according to OPC’s expert witness, to demonstrate the advertising results in cost-effective gas line extensions.⁹ Importantly, the utility sought recovery of those costs, despite the presumption against recovery.

Another category of promotional efforts OPC opposed in this rate case was the company’s dues to the American Gas Association. The PSC accepted OPC’s proposed disallowance, stating, “There is a thin line between activities of trade associations in regard to providing education to its members (and the public) and advocacy in support of programs that mostly benefit the utility industry as a whole and utility shareholders.”¹⁰

Practically, this spending is a challenge to identify in rate case litigation, where such expenses are small relative to the hundreds of millions of dollars often at issue relating to large capital projects, which our office must prioritize. Further, we are aware of examples in other states where utilities have categorized what amount to lobbying expenses as something else—such as “education”—and charged them to ratepayers.¹¹ We suspect, but do not know, that there could be similar situations in Maryland, but they are hard to identify. OPC strongly supports the necessary clarity SB 682 provides about what costs are not recoverable to ensure that a public service company’s captive customers are not, in fact, forced to pay for corporate activities that have no ratepayer or public benefit.

II. Annual reporting on corporate costs

Section 4-505 of the Act requires a public service company to make transparent its spending on the costs associated with the activities described in § 4-504, requiring that

⁷ *Id.* at 60, lines 12-21 through 61, lines 1-2.

⁸ Md. Pub. Serv. Comm’n Order No. 90943 at 54, citing Direct Testimony of Staff witness Bion C. Ostrander at 49 (PSC Case No. 9704).

⁹ Direct Testimony of OPC witness Jerome D. Mierzwa at 17-20 (PSC Case No. 9704).

¹⁰ Md. Pub. Serv. Comm’n Order No. 90943 at 68.

¹¹ *Newman v. FERC*, 27 F.4th 690, 697 (D.C. Cir. 2022) (vacating FERC’s decision to allow two PJM member utilities to recover from ratepayers more than \$6 million spent on public relations and advocacy activities to secure certificates of public convenience and necessity to build a new transmission line because “expenditures for the purpose of *indirectly* as well as directly influencing the decisions of public officials” are unrecoverable); *Application of Northern States Power Co.*, Minn. Pub. Util. Comm’n, Docket No. E-002/GR-21-630 at 76 (July 17, 2023) (denying utility’s cost recovery of more than \$1 million for activities of “Carbon-Free Future MN Coalition” after finding they were improperly allocated to utility customers as education costs and the activities “appear similar to lobbying activities directed at the [Utility] Commission and the Legislature” and the utility failed to demonstrate the activities were “necessary to provide service to customers”).

any public service company with more than 75,000 customers in the State submit an annual report to the PSC itemizing the relevant costs, including costs spent by the public service company’s parent company or affiliate and directly billed or allocated to the public service company. The required report must include a list of employees—of the public service company itself, the parent company, or affiliate—who performed work associated with the relevant activities; and a list of payments to third-party vendors for associated expenses.

These costs are not often big-ticket items in the context of complex rate cases, which can make them difficult to identify, particularly when they are included within large buckets of costs, as is often the case. An affirmative requirement to report and itemize lobbying, advertising, and other relevant expenses will help to protect the captive customers of a public service company from paying for activities that are not to their benefit or contrary to State policy.

III. Required membership in a regional transmission organization

In 2006, the Federal Energy Regulatory Commission (“FERC”) adopted a series of incentives to encourage investment in the interstate transmission grid, including a financial incentive for electric companies joining a regional transmission organization (“RTO”), known as the “RTO adder.”¹² Under FERC precedent, however, public service companies whose membership in an RTO is required by state law—and, therefore, not voluntary—are ineligible to receive extra unwarranted profits in the form of the RTO adder.¹³

Although most all Maryland’s electric companies are currently voting members of PJM, they are not currently required by law to join an RTO and are, therefore, entitled to the RTO adder. Section 7-108(b) of the Act would require that each electric company be a member of an RTO, which should render them ineligible to receive these extra unwarranted profits. We estimate that a state-law requirement for RTO membership could save customers about \$20 million per year.

¹² *Promoting Transmission Investment through Pricing Reform*, Order No. 679, 116 FERC ¶ 61,057 (2006).

¹³ See e.g. *id.* at ¶ 331 (explaining that the basis for the RTO adder incentive is, in part, “a recognition of ... the fact continuing membership is generally voluntary”); *Office of the Ohio Consumers’ Counsel v. American Electric Power Service Corp.*, 181 FERC ¶ 61,214 (2022) (finding two Ohio utilities ineligible for the RTO adder because Ohio law mandates participation in PJM); *Pacific Gas and Electric Company*, 185 FERC ¶ 61,243 (2023) (finding that by virtue of a recently enacted California statute requiring Pacific Gas & Electric to participate in its RTO, participation was no longer voluntary, and the company was no longer eligible to receive its RTO adder).

IV. Annual reporting on votes cast at RTO meetings

Section 7-108(c) of the Act requires that each electric company submit an annual report to the PSC of any recorded vote cast by the electric company or an affiliate of the electric company at a meeting of any committee, user group, task force, or other part of an RTO, including a vote tabulated individually or as part of a sector, for any purpose, regardless of whether the vote represented a final position or the decision-making authority of those voting. The required report must include all recorded votes cast by the electric company—or its affiliate if the electric company itself does not vote—regardless of whether the vote is otherwise disclosed; and a brief description explaining how each vote cast is in the interest of the public.

Currently, certain high-level votes are disclosed by PJM Interconnection, LLC (“PJM”), the regional transmission organization for Maryland. But there are numerous lower-level committees and task forces where transmission planning protocols and market rule changes are developed and where the votes are not disclosed. These lower-level votes determine the policies that advance at PJM and are eventually adopted. Stated otherwise, a policy that fails to gain enough votes at the lower levels—where votes are not disclosed—does not advance to a high-level vote where it may be publicly disclosed.

Requiring public service companies to report on “*any* recorded vote” would provide additional needed transparency for votes on proposals that ultimately result in hundreds of millions of dollars in costs for utility customers. For example, there are currently task forces at PJM—the Deactivation Enhancements Senior Task Force and the Long-term Regional Transmission Planning Workshop—that are working on the compensation for deactivating generating stations and the planning protocols to determine whether new transmission is needed as a result of power plant closures. A report on the utilities’ advocacy in these task forces would provide important transparency on whether the utilities’ positions support the least-cost solutions to potential reliability issues with the regional grid or more expensive transmission solutions.

OPC also supports the requirement for public service companies to explain “how each vote cast by the electric company or its affiliate is in the interest of the public.” Unless effectively regulated, public service company votes at PJM have the potential to result in serious misalignments with the public interest. Requiring companies to explain “how each vote . . . is in the interest of the public” is minimally burdensome and will help regulators—and other parties such as OPC—understand the companies’ positions on the issues and assess whether the companies’ votes do, in fact, serve the public interest, and not just the companies’ private interests.

Recommendation: OPC requests a favorable Committee report on SB 682.

Testimony SB682.pdf

Uploaded by: Debbie Cohn

Position: FAV

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
Date: February 22, 2024

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

Utility Transparency and Accountability Act _Writt

Uploaded by: Ernesto Villasenor

Position: FAV

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

Ernesto Villaseñor, Jr., J.D
Chesapeake Climate Action Network Action Fund

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.

CONTACT
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Chesapeake Climate Action Network Action Fund
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310-465-6943

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

SB 682 - MoCo DEP - Fitzgerald_FAV (GA 24).pdf

Uploaded by: Garrett Fitzgerald

Position: FAV



Montgomery County

Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

SB 682

DATE: February 21, 2024

SPONSOR: Senator Hester

ASSIGNED TO: Education, Energy, and the Environment Committee

CONTACT PERSON: Garrett Fitzgerald (garrett.fitzgerald@montgomerycountymd.gov)

POSITION: Favorable (Department of Environmental Protection)

Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act)

This legislation would impose important ratepayer protections and require appropriate transparency of regulated utilities serving Maryland customers.

This bill would prohibit utility companies from recovering through rates certain costs related to lobbying, political campaigns, corporate marketing, investor relations, and trade group participation. Utilities would be required to disclose such activities to the Maryland Public Service Commission (PSC) to enable appropriate oversight by the PSC.

This bill would also require electric companies to report to the PSC on votes cast at meetings of PJM Interconnection, the regional transmission organization responsible for planning and managing the regional electric grid serving Maryland along with all or portions of a dozen other states and the District of Columbia. These are appropriate and important disclosures to enable transparency into how the interests of Maryland ratepayers are being represented in decisions that can significantly affect customer utility bills and the speed of the clean energy transition, which in turn impacts the speed at which we are able to achieve our climate goals.

We respectfully request that the Education, Energy, and the Environment Committee issue a favorable report on Senate Bill 682.

Utility Transparency and Accountability Act Factsh

Uploaded by: Katie Fry Hester

Position: FAV

SB 682

Utility Transparency and Accountability Act

This bill will increase transparency and accountability for utility companies in Maryland and ensure that ratepayer funds are not used for lobbying expenses. This bill:

- ✓ **Strengthens existing state law that bans utility companies from charging customers for lobbying via our monthly utility bills** by banning utilities from also using ratepayer dollars for 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.
- ✓ **Requires all utilities to be part of a regional transmission organization (RTO).** Utilities currently receive additional funds from rate-payers on each transmission project as an incentive to join an RTO. If they are required to join, ratepayers will no longer be saddled with paying these additional costs for joining.
- ✓ **Require a public record of all PJM votes cast by public utility companies.** This information is currently private, so the public has no way of knowing what their state-regulated, public utility companies are advocating for or against at PJM.

Frequently Asked Questions

What is PJM and how does it affect Maryland energy issues?

Maryland is one of 13 states and the District of Columbia served by the Regional Transmission Organization (RTO) [known as PJM](#). PJM is the largest RTO in the US and serves 65 million people. All of Maryland's electricity flows through PJM's regional transmission grid. PJM manages our grid, ensures grid reliability, maintains the transmission system, and prepares the grid for new energy sources. PJM is comprised of 1,090 member organizations including electricity generators, transmission owners, and utility companies.

Overall, having an independent regional entity overseeing the grid provides efficiencies that benefit Maryland consumers. However, decisions made at PJM can significantly impact our utility rates and determine how quickly progress is made in meeting our climate goals. PJM's authority over our grid and electricity transmission system is complicated by its opaque decision-making process that lacks an accountability structure for those who make the decisions.

PJM's past decisions have kept fossil fuel generators running longer, slowed down the transition to renewables, and unnecessarily increased costs for our ratepayers.

How will these changes affect ratepayers in Maryland?

The Federal Energy Regulatory Commission (FERC) gives electric utilities an extra profit—through an “adder” to its return on equity (ROE) for transmission rates—to voluntarily become a member of a Commission-approved regional transmission organization (like PJM). FERC has said the profit adder recognizes “the benefits that flow from membership in such organizations and the fact [that] continuing

membership is generally voluntary.” But where RTO membership is required by state law and the utility cannot unilaterally withdraw its membership, FERC has ruled that a utility is not entitled to the profit adder.

California, for example, passed a law in 2022 requiring its utilities to be part of an RTO (the CA Independent System Operator), thereby triggering a recent FERC order removing the ROE adder for Pacific Gas & Electric and saving California ratepayers an estimated \$40 million annually.

Over time, the savings to Maryland ratepayers from similarly mandating RTO membership for Maryland electric utilities, and thus eliminating the need for the ROE adder, would amount to tens of millions of dollars. If returns on equity for projected 2025 transmission rates of all four of Maryland's investor-owned utilities were reduced by the amount of the adder, the savings would be nearly \$20 million.

In addition, ratepayers will be assured that they are not paying for lobbying or influencing legislation.

What are the PJM committees and what information is currently available about PJM voting results?

There are four ongoing lower-level standing committees: [Operating Committee](#), [Planning Committee](#), [Risk Management Committee](#), and [Market Implementation Committee](#). It is difficult to fully account for all of PJM's lower-level committees, however, since some are subcommittees or exist temporarily for specific processes. None of the individual voting data at the lower committee levels is public; the only information publicly available is the overall percentages of votes each proposal received.

There are two upper-level committees that vote on the proposals presented by the lower committees: [Markets and Reliability Committee](#) and [Members Committee](#). These upper-level committees are slightly more transparent. The Markets and Reliability Committee reports votes by sector, but not the votes of individual firms. Only the Members Committee reports individual firm votes in addition to sector-weighted votes.

What types of issues go through the lower-level committees?

The lower-level committees are responsible for designing the proposals that advance to the upper-level committees. Recent issues have included developing [a clean energy-only market](#) (considered by the [Clean Attribute Procurement Senior Task Force](#)), and [a new methodology for dispatching renewables](#) (recently finalized by the Operating Committee).

Recently, the Market Implementation Committee, which is responsible for developing proposals related to competitive wholesale market prices, designed the proposal for the most recent Minimum Offer Price Rule (MOPR). If enacted, this rule [would have artificially priced renewables out](#) of the capacity market.

Utility Transparency and Accountability Testimony

Uploaded by: Katie Fry Hester

Position: FAV

KATIE FRY HESTER
Legislative District 9
Howard and Montgomery Counties

Education, Energy, and
Environment Committee

Chair, Joint Committee on
Cybersecurity, Information Technology
and Biotechnology



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony in Support of SB 682 - Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act)

February 21, 2024

Chairman Feldman, Vice-Chair Kagan, and members of the Education, Energy, and Environment Committee:

Thank you for your consideration of Senate Bill 682, **Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations** (the Utility Transparency and Accountability Act).

Maryland is one of 13 states and the District of Columbia that are members of the Regional Transmission Organization (RTO) known as PJM. PJM is the largest RTO in the US, serving over 63 million people and comprised of many utility companies and electricity generation facilities. PJM serves important functions such as ensuring grid reliability. Overall, having an independent regional entity overseeing the grid provides efficiencies that benefit Maryland consumers.

However, decisions made at PJM can significantly impact our utility rates and determine how quickly progress is made in meeting our climate goals. PJM's authority over our grid and electricity transmission system is complicated by its opaque decision-making process that lacks an accountability structure for those who make the decisions. Currently, the votes cast at the lower committee level are private, so the public has no way of knowing what their state-regulated, public utility companies are advocating for or against at PJM. This lack of transparency is important because PJM's past decisions have kept fossil fuel generators running longer, slowed down the transition to renewables, and unnecessarily increased costs for our ratepayers.

The purpose of this bill is to increase transparency and accountability for utility companies in Maryland and ensure that ratepayer funds are not used for lobbying expenses. This bill strengthens existing state law that bans utility companies from charging customers for lobbying

using our monthly utility bills by banning utilities from also using ratepayer dollars for 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.

This legislation also requires all utilities to be part of a regional transmission organization (RTO). Utilities currently receive additional funds from rate-payers on each transmission project as an incentive to join an RTO. If they are required to join, ratepayers will no longer be saddled with paying these additional costs for joining. Lastly, the bill requires a public record of all PJM votes cast by public utility companies.

This bill is an essential step forward to increase transparency and accountability for utility companies in Maryland. For this reason, I respectfully request a favorable report on SB 682.

Sincerely,

A handwritten signature in black ink that reads "Katie Fry Hester". The signature is written in a cursive, slightly slanted style.

Senator Katie Fry Hester
Howard and Montgomery Counties

SB682 - MDLCV Support - Utility Transparency and A

Uploaded by: Kristen Harbeson

Position: FAV



Kim Coble
Executive Director

February 22, 2024

2024 Board of
Directors

Support SB 682 - Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act)

Lynn Heller, Chair
The Hon. Nancy Kopp,
Treasurer
Kimberly Armstrong
Candace Dodson-Reed
Verna Harrison
Melanie Hartwig-Davis
Charles Hernick
The Hon. Steve Lafferty
Patrick Miller
Bonnie L. Norman
Katherine (Kitty)
Thomas

Dear Mr. Chairman and Members of the Committee:

Maryland LCV supports SB 682 - Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act), and we thank Senator Hester for her leadership on this issue.

The Maryland PSC regulates investor-owned utility charges through cost of service ratemaking. The process determines just and reasonable rates for a utility to charge in order to recover a reasonable return on “the fair value of the public service company’s property used and useful in providing service to the public”.¹ Political activities, corporate sponsorships, advertising, trade association dues, and other costs unrelated to service provided to ratepayers are not “used and useful in providing service to the public.”

SB 682 also develops a more efficient regulatory environment for ratemaking by no longer requiring customers bear the cost of utility participation in a regional transmission organization (RTO). The benefits of this are two-fold. Participation in PJM, our RTO, is essential to 21st century inter-state electricity generation and transmission planning, and should be required of Maryland utilities without ratepayers bearing the cost.

By clarifying these expenses are not the responsibility of utility customers, SB 682, provides ratepayer protection against higher rates due to unreasonable costs and inefficient spending on such activities. This puts Maryland in line with similar legislation passed in other states last year and introduced in 3 others this year.² The bill also requires reporting of PJM votes and political spending. This increased transparency will keep Maryland on track to meet electrification and climate targets, and improve the PSC’s ratemaking process.

Future proofing our grid and saving ratepayer dollars will require improved transparency and accountability of utilities as they set rates and aid in Climate Solutions Now Act implementation. SB 682 facilitates this.

Maryland LCV urges a favorable report on this important bill.

¹ https://www.psc.state.md.us/wp-content/uploads/MD-PSC-Ratemaking-Overview-House-ECM_01102019.pdf

² Similar bills were passed last year in Colorado, Connecticut, and Maine. Arizona, California, Illinois, New York, Virginia, and Ohio have also proposed similar bills this year.

SB0682_ Utility Transparency and Accountability Act

Uploaded by: Laurie McGilvray

Position: FAV



Committee: Education, Energy and the Environment
Testimony on: SB0682 - Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act)
Organization: Maryland Legislative Coalition Climate Justice Wing
Submitting: Laurie McGilvray, Co-Chair
Position: Favorable
Hearing Date: February 22, 2024

Dear Chair and Committee Members:

Thank you for allowing our testimony today in support of SB0682. The Maryland Legislative Coalition Climate Justice Wing, a statewide coalition of nearly 30 grassroots and professional organizations, urges you to vote favorably on SB0682.

SB0682 will address important issues of transparency in decisionmaking at our “PJM” regional transmission operator and ensure that ratepayers are not subsidizing utility costs for lobbying, advertising, and association dues that are not in the public interest, and which undermine Maryland’s climate goals. The bill will not prevent utilities from lobbying, advertising, and paying association dues. Rather, it will ensure shareholders, not ratepayers, bear those costs.

PJM Transparency

SB0682 requires utilities’ votes at PJM to be made public and requires utilities to be members of PJM. PJM decisions have a significant impact on Maryland’s ability to transition to renewable energy over the timeframe codified in the Climate Solutions Now Act of 2022 (i.e., 60% by 2031 and net zero by 2045). In addition, these decisions affect the cost of electricity in Maryland by passing along to ratepayers investments in new transmission, extra capacity for peak energy demand, and other costs. Unfortunately, these and other key decisions are being made in the dark without any transparency for Maryland’s Public Service Commission (PSC), Office of People’s Counsel, or environmental and consumer protection groups. SB0682 also requires Maryland utilities to join PJM as members. Currently, utilities get a bonus to join. If PJM membership is required, then Maryland ratepayers will no longer pay for this bonus as a pass-through from PJM. After a similar requirement was adopted in California, ratepayers saved \$40 million annually.

Ratepayer Costs for Lobbying, Advertising, and Dues

Utilities in Maryland are investor-owned monopolies regulated by the Maryland PSC. While current law prohibits utilities from passing the cost of lobbying on to ratepayers, the language is vague and the reporting is inadequate to ensure it isn't happening. SB0682 will address this problem by more clearly defining "lobbying or political activities" to include influencing legislation, elected officials, or elections. It also restricts the use of ratepayer dollars for membership dues to a business or industry trade association (like the American Gas Association or Edison Electric Institute); lobbying or political activities such as policy research and analysis; advertising or marketing to affect public opinion (not approved by the PSC); or travel, lodging, food/beverage, or entertainment expenses for a utility's board of directors and officers

Given past abuses, these guardrails are critical. For example, Washington Gas tried to influence customers by including deceptive language in their bills, stating "Natural gas is a clean, efficient, and reliable energy. Converting an all electric home to natural gas is the equivalent of planting 2.75 acres of trees or driving 26,520 fewer miles each year. In addition, natural gas cost[s] 1/3 less than electric, which makes it a smart decision for the environment and your wallet." The statement falsely implied that gas does not result in significant greenhouse gas emissions and confused customers by overstating the environmental and cost-saving benefits of gas. The bill language has been challenged by the Maryland Office of People's Counsel. Additionally, Washington Gas tried to charge ratepayers \$419,000 in promotional advertising and membership in the American Gas Association. In their recent rate case, the PSC rejected the request, but urged the General Assembly to clarify the law to help future regulators protect customers. Finally, SB0682 includes annual reporting requirements for utilities to file with the PSC disclosing expenses covered by the bill.

SB0682 will provide the transparency and regulatory guardrails needed to protect Maryland ratepayers and ensure utilities are helping rather than impeding Maryland achieve our ambitious climate goals. We strongly support SB0682 and urge a **FAVORABLE** report in Committee.

350MoCo

Adat Shalom Climate Action

Cedar Lane Unitarian Universalist Church Environmental Justice Ministry

Chesapeake Earth Holders

Chesapeake Physicians for Social Responsibility

Climate Parents of Prince George's

Climate Reality Project

ClimateXChange – Rebuild Maryland Coalition

Coming Clean Network, Union of Concerned Scientists

DoTheMostGood Montgomery County

Echotopia

Elders Climate Action
Fix Maryland Rail
Glen Echo Heights Mobilization
Greenbelt Climate Action Network
HoCoClimateAction
IndivisibleHoCoMD
Maryland Legislative Coalition
Mobilize Frederick
Montgomery County Faith Alliance for Climate Solutions
Montgomery Countryside Alliance
Mountain Maryland Movement
Nuclear Information & Resource Service
Progressive Maryland
Safe & Healthy Playing Fields
Takoma Park Mobilization Environment Committee
The Climate Mobilization MoCo Chapter
Unitarian Universalist Legislative Ministry of Maryland
WISE

SUN SB 682 Feb2024.pdf

Uploaded by: Liz Veazey

Position: FAV



Support Utility Transparency & Accountability Act: SB 682

Committee: Education, Energy, and the Environment

Testimony: Utility Transparency and Accountability Act

Position: Support

Hearing Date: February 22, 2024

Dear Mr. Chairman and Members of the Committee:

Solar United Neighbors strongly supports the Utility Transparency and Accountability Act (HB 505/SB 682).

Solar United Neighbors is a non-profit organization dedicated to creating a clean, equitable, resilient energy system that benefits everyone. Solar United Neighbors (SUN) has helped more than 1,000 Marylanders add 8.6 MW of solar to their homes and businesses and represents more than twenty-eight thousand solar owners and supporters across the state. These comments are on behalf of SUN.

Electric utilities have been given monopolies and we need to hold them accountable to ratepayers who have no choice in who provides their electricity. Investor-owned electric utilities should have shareholders pay for lobbying, public relations, and trade association dues. There are already rules set up by the Maryland Public Service Commission (PSC) that limit utility use of ratepayer funds for lobbying and promotional advertising. This bill will add clarity and transparency to this existing foundation. Washington Gas recently tried to pass on \$419,000 to ratepayers that was for promotional advertising. The PSC prevented these costs from going to ratepayers, but we need transparency to ensure that costs like these are not passed on to ratepayers. We need to pass SB 682, to further limit the use of ratepayer funds for these activities that are often not in ratepayers' interest and to ensure transparency and accountability for utility spending. Increasing transparency and providing annual data publicly will allow organizations like Energy and Policy Institute and others to dig into these records and ensure that ratepayers are not on the hook for unnecessary expenses.

Please support SB 682 and increase utility accountability and transparency in Maryland!

SB682_MDSierraClub_fav 22Feb2024.pdf

Uploaded by: Mark Posner

Position: FAV



P.O. Box 278
Riverdale, MD 20738

Committee: Education, Energy and the Environment

Testimony on: 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)”

Position: Support

Hearing Date: February 22, 2024

The Maryland Chapter of the Sierra Club urges a favorable report on SB682. This bill provides greater transparency regarding decisions and actions undertaken by Maryland utilities in their role as providers of electricity to Maryland residents. The bill also clarifies existing law which requires utility shareholders, not utility ratepayers, to cover direct utilities’ lobbying expenses by specifying other, similar utility expenses that must be paid out of shareholder funds and may not be included when calculating the rates paid by utility customers.

Transparency

The bill will help illuminate the role Maryland utilities play in a multistate, quasi-governmental electricity organization known as PJM Interconnection (PJM). PJM exerts significant control over the electricity sector, including decisions as to what new large electricity generation facilities are built in Maryland.¹

PJM policies, procedures, and actions are decided upon by its members, which include utility companies and electricity generators. PJM procedures include several levels of member voting, and votes often are not disclosed. Consequently, it is difficult to know how Maryland utilities are exercising their discretion. Although PJM policies and procedures are regulated by the Federal Energy Regulatory Commission (FERC), Maryland retains regulatory authority over its utilities and thus the manner in which they participate in PJM.

¹ PJM is one of several multistate and single-state organizations that regulate electricity grids within the United States. Stated broadly, PJM “coordinates the movement of wholesale electricity in all or parts of 13 states and the District of Columbia,” including Maryland. <https://www.pjm.com/about-pjm>.

This coordination involves several essential tasks, including decisions on what new large electricity generation facilities (including offshore wind turbines and utility-scale solar fields) may interconnect with the electricity grid, thus influencing whether these facilities are built. PJM rules regarding electricity markets also may impact distributed energy resources, energy efficiency, and demand response, and can affect the amount that Maryland residents pay for electricity. [https://en.wikipedia.org/wiki/Regional_transmission_organization_\(North_America\)](https://en.wikipedia.org/wiki/Regional_transmission_organization_(North_America)). In sum, PJM is a key gatekeeper regulating Maryland’s efforts to significantly expand its homegrown, clean electricity generation.

PJM’s significance is highlighted by the long processing delays that have arisen for approving interconnections by new generation facilities. This logjam has resulted in a significant slowdown in bringing online new clean energy generation throughout the PJM area, including Maryland. PJM is taking steps now to attempt to rectify this problem.

Founded in 1892, the Sierra Club is America’s oldest and largest grassroots environmental organization. The Maryland Chapter has over 70,000 members and supporters, and the Sierra Club nationwide has over 800,000 members and nearly four million supporters.

The bill simply requires that Maryland utilities disclose their recorded votes at PJM meetings by filing reports with the PSC. The reports will need to include brief explanations of how the utilities' PJM votes served to advance the public interest. This will enable Maryland's public officials, regulators, and residents to know more about how Maryland utilities are carrying out their responsibilities, while maintaining utilities' discretion to decide how to cast their PJM votes.

Utility Lobbying and Similar Expenses

Current state law provides that “[a] public service company may not charge off lobbying expenses against its ratepayers.” MD Pub. Util. Code, sec. 4-103(b). The rationale for this is that ratepayers should pay for the services provided by their utility, but utility shareholders should pay for expenses unrelated to the provision of safe and reliable electricity.

Experience with this prohibition indicates that it is unduly narrow, and allows utilities to seek to charge ratepayers for similar expenses unrelated to the provision of electricity. The bill, accordingly, further defines lobbying expenses, and specifies additional categories of expenses that shareholders should take responsibility for, including advertising aimed at shaping public opinion, entertainment, and gifts.

Conclusion

For these reasons, the Maryland Chapter of the Sierra Club urges a favorable report on SB682.

Mark Posner
Clean Energy Legislative Team
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Josh Tulkin
Chapter Director
Josh.Tulkin@MDSierra.org

IMT testimony on MD 0682 - Utility Transparency an

Uploaded by: Marshall Duer-Balkind

Position: FAV



Testimony by Marshall Duer-Balkind, Institute for Market Transformation

on SB0682 - Limitations on Cost Recovery by Public Service Companies and Reports on Votes
Cast at Meetings of Regional Transmission Organizations
(Utility Transparency and Accountability Act)

February 22, 2022

Senate Education, Energy, and the Environment Committee
Position: FAVORABLE

Dear Chairman Feldman and Members of the Committee,

The Institute for Market Transformation (IMT) is pleased to file written comments in support of SB0682, the *Utility Transparency and Accountability Act*, though I regret we cannot be there in person. IMT is a nonprofit that focuses on innovative and pragmatic solutions that fuel greater investment in high performing, energy-efficient buildings, with a strong focus on improving equity and helping communities at the front lines of the climate crisis. Our utility team is also actively involved in utility policy issues in multiple states, including Maryland. IMT is headquartered in Washington, DC, and I am a resident of Mount Rainier, Maryland, represented by Senator Augustine and Delegates Fennel and Ivey.

IMT supports SB0682 - the Utility Transparency and Accountability Act and encourages its passage. SB0682 would prohibit utilities from charging ratepayers for lobbying, political spending, advertising and other expenses unrelated to providing safe and reliable energy service, and increase accountability for their participation in decisions made by the regional transmission organization, PJM.

Utility companies have a state-granted monopoly, and the legislature and Public Service Commission (PSC) regulate their rates and spending. This arrangement is meant to ensure that ratepayers are only charged for the costs of maintaining infrastructure and distributing energy. However, utilities regularly try to foist expenses onto ratepayers that are not necessary for safe, affordable, and reliable utility service.

Utility customers across the country have unknowingly been paying millions through their monthly bills to fund utilities' efforts to lobby against climate policies, bail out failing fossil fuel plants, and attack clean energy solutions like rooftop solar and building electrification. In egregious cases like Ohio's FirstEnergy scandal, utilities have even used ratepayer money for

outright bribery of elected officials. FirstEnergy then charged Potomac Edison customers in Maryland for advertising, corporate sponsorships, advertising and other expenses related to that scandal. All while households are struggling with rising energy costs.

This is an unacceptable misuse of customers' money. Ratepayers should not be forced to bankroll lobbying and political advocacy that may run directly counter to their own interests in addressing climate change and promoting clean energy. The proposed legislation provides common sense protections by clearly defining lobbying and political spending and prohibiting utilities from charging customers for these activities. It will close loopholes that utilities exploit to charge ratepayers for attempts to influence public opinion and elected officials, and require transparency through annual reporting on these activities.

The legislation would also require public transparency of votes by the utility companies at PJM, the Regional Transmission Organization (RTO). PJM plays a critical role in the dispatching of electricity generation resources and the funding of energy efficiency and renewable energy investments—PJM can be an important partner for achieving Maryland's climate goals, or an obstacle. This bill would require a public record of all RTO votes cast by utility companies along with a description of how each vote benefits the public interest. This information is currently private, meaning that the public and lawmakers have no way of knowing what our utility companies are advocating for or opposing at this critical body.

Utilities and their trade associations often lobby against policies that support Maryland's climate goals. Customers should not be forced to subsidize these inherently political organizations. This bill clarifies that utilities must use their profits, not customer money, to pay trade association dues. Other states like Colorado, Connecticut, and Maine have already passed similar laws. It's time for Maryland to join them in standing up for ratepayers and stopping utilities from taking advantage of a captive customer base to fund their special interest agendas.

In summary, this bill will protect ratepayers from subsidizing utilities' political influence activities, increase transparency, and provide regulators with the information they need to enforce the law. We urge a favorable report on this important legislation.

Thank you for your consideration.

Sincerely,

Marshall Duer-Balkind
Director of Policy Programs
Institute for Market Transformation

SB682_FAV_Energy and Policy Institute.pdf

Uploaded by: Matthew Kasper

Position: FAV



SB682 - SUPPORT

Matt Kasper

Energy and Policy Institute

matt@energyandpolicy.org, 630-908-9615

**SB 682 - Limitations on Cost Recovery by Public Service Companies and Reports on
Votes Cast at Meetings of Regional Transmission Organizations (Utility
Transparency and Accountability Act)**

Education, Energy, and the Environment Committee

February 22, 2024

Dear Chair Feldman, Vice Chair Kagan, and Members of the Education, Energy, and the Environment Committee:

My name is Matt Kasper and I'm the Deputy Director of the Energy and Policy Institute (EPI). EPI is a national utility research and watchdog organization. EPI has documented how electric and gas utilities use the money they collect from customers' monthly bills to fund political machines that aim to push legislation, curry favor with regulators, and alter the outcomes of elections, sometimes even breaking the laws in the process.¹

EPI joins a coalition of over two dozen organizations supporting SB 682, including 350.org, Chesapeake Climate Action Network Action Fund, Maryland PIRG, and Progressive Maryland. I am going to expand on that written testimony to further explain why this legislation will protect customers and help Maryland achieve its emission reduction goals.

First, by prohibiting utilities from spending customer money on political influence activities, along with other costs that do not help these companies serve customers, we can ensure that ratepayers are not funding utility advocacy - including actions that slow down the clean energy transition. One specific instance that is happening right now is that Maryland utility customers contribute to the budgets of the American Gas Association (AGA) and the Edison Electric Institute (EEI). Both AGA and EEI are inherently political organizations. AGA organization expenses and staff efforts have gone towards fighting state efforts to reduce emissions from the building sector, weakening building codes and efficiency standards, and funding misinformation

¹ EPI, "Getting Politics Out of Utility Bills." January 2023. <https://energyandpolicy.org/utility-political-machines/>.

campaigns centered around electric heat pumps.² EEI operated a training camp to teach utility lobbyists and executives from utilities how to run political campaigns. One camp specifically held up examples of two companies that ran campaigns that overturned or prevented clean energy-supportive policies, one of which became the basis of a federal corruption prosecution.³

Second, HB 505 will allow legislators, regulators, intervenors, and customers to easily and efficiently ensure with their own eyes that their utilities are not spending money on political influence activities. Connecticut passed a similar policy last year, and the required disclosures and disallowances there have helped the Office of Consumer Counsel include in its direct testimony recommendations to remove \$319,685 from being charged to customers in an ongoing rate case.⁴ Without these reforms, consumer advocates and other intervenors can only pry open utilities' books using an expensive, time-consuming discovery process during rate cases. Years can go by between these opportunities for accountability, and even when rate cases do occur, utilities fight against or ignore discovery questions that they don't want to answer.

This bill will not prohibit a utility company from engaging in political activities. The bill instructs utilities and regulators to ensure that certain expenses should come from their profits, not customer accounts.

We urge a favorable report on SB 682.

² NPR, "As Cities Grapple With Climate Change, Gas Utilities Fight To Stay In Business," February 22, 2021. <https://www.npr.org/2021/02/22/967439914/as-cities-grapple-with-climate-change-gas-utilities-fight-to-stay-in-business>; Huffington Post, "A Battle Over Building Codes May Be The Most Important Climate Fight You've Never Heard Of," March 3, 2022. https://www.huffpost.com/entry/building-codes-climate_n_621e4b69e4b0afc668c68e59; AGA comments in Notice of Proposed Rulemaking, *Energy Conservation Program: Energy Conservation Standards for Consumer Water Heaters*, September 26, 2023; Slate, "The Gas Lobby Is Slowing Climate Progress," December 19, 2023. <https://slate.com/technology/2023/12/american-gas-association-gas-stove-health-risks-environment.html>. AGA IRS Form 990s, <https://projects.propublica.org/nonprofits/organizations/130431590>.

³ EPI, "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/>.

⁴ Docket No. 23-11-02. Office of Consumer Counsel of the State of Connecticut Director Testimony, p.12-17. February 8, 2024.

2024 SB682HCCAFavorableTestimony 02142024 logo Cop

Uploaded by: Paul Verchinski

Position: FAV



HCCA

Howard County Citizens Association

Since 1961... The Voice of the People of Howard County

FAVORABLE – Senate Bill 682

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)

Education, Energy, and the Environment Committee

Thursday, February 22, 2024

Greetings Chairman Brian Feldman, Vice Chairman Cheryl Kagan and members of the Education, Energy, and the Environment Committee

My name is Paul Verchinski. I am testifying for The nonprofit Howard County Citizens Association (HCCA). Founded in 1961, HCCA testifies on draft legislation affecting the residents of Howard County and the State of Maryland. This written testimony has been authorized by the HCCA Board.

Favorable

The Howard County Citizens Association requests a Favorable report on SB682 for the following reasons:

Defining “lobbying or political activities” expenses is critical to excluding those expenses from the rate base. Requiring a Report of those expenses is vital to transparency.

Requiring transparency is always in the Public Interest.

Utilities are a public monopoly. Public monopolies must be accountable; accountable for their lobbying expenses and on their voting. Voting can lead to decisions that do not benefit the citizens of Maryland and Howard County. For example, rules adopted or dismissed by PJM Interconnection LLC (the regional transmission organization with operations across 13 states and DC) that are initiated at subcommittee levels influence eventually transmission costs to Maryland and Howard County electric customers. On average, Maryland residents spend about \$218 per month on electricity. That adds up to **\$2,616 per year**. Up to 50% of each KWH is comprised of transmission costs attributed to PJM transmission. Currently, how Maryland utilities vote is opaque. There are massive financial implications for Maryland electric customers.

Maryland utility representatives are already assigned to PJM Committees and Subcommittees and they already would be reporting to their management on how they voted and the reason for their votes. An Annual Report to the Public Service Commission would just provide information and accountability to the public through the Public Service Commission. The representation by the utilities is that they are

acting in the public interest of Maryland customers when in fact their first allegiance is to stock holders of the respective publicly traded companies.

Requiring a report on Lobbying Costs and voting provides a definitive account of what PJM is doing to benefit the public interest as is required by a public monopoly. (delete: what is meant by “lobbying” and replaces a general reference. This is a reasonable update.

We ask that the committee report out the bill Favorably.

Paul Verchinski
HCCA Board Member
PO Box 89
Ellicott City, MD 21041

Testimony in support of SB0682.pdf

Uploaded by: Richard KAP Kaplowitz

Position: FAV

SB0682_RichardKaplowitz_FAV
2/22//2024

Richard Keith Kaplowitz
Frederick, MD 21703

TESTIMONY ON SB#/0682 – FAVORABLE

Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act)

TO: Chair Feldman, Vice Chair Kagan, and members of the Education, Energy and the Environment Committee

FROM: Richard Keith Kaplowitz

My name is Richard K. Kaplowitz. I am a resident of District 3. I am submitting this testimony in support of SB#0682, Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act)

This bill is another step in Maryland’s transition to a clean energy environment in which fossil fuels and their usage in electricity generation can be more carefully monitored and controlled. It works to strengthen our state electrical grid by mandating that every electric company in Maryland support and connect to a regional transmission company to share power. It adds a layer of transparency to the deliberations in which rates and costs are discussed and how those costs will be passed on to consumers. The votes taken in which that activity occurs will be required to be reported to the Public Service Commission to provide them additional guidance in accepting or rejecting proposals from public service companies on their costs and cost recovery strategies.

We have seen rate increases requests be filed without a full explanation of why a company feels that cost is necessary and justified. This bill will make the reasoning behind any request more visible to the public and thus to residents’ testimony in favor of or opposed to that financial arrangement. It will assist Maryland in managing and affecting how electricity is made available to people in our state.

I respectfully urge this committee to return a favorable report on SB#0682.

SB0682_Utility_Transparency_Accountability_Act_EEE

Uploaded by: Ruth White

Position: FAV



HoCoClimateAction.org
Howard County, Maryland

SB0682: Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act)

Hearing Date: February 22, 2024

Bill Sponsor: Senator Hester

Committee: Education, Energy, and the Environment Committee

Submitting: Liz Feighner for HoCo Climate Action

Position: Favorable

[HoCo Climate Action](#) is a [350.org](#) local chapter and a grassroots organization representing approximately 1,400 subscribers. It is also a member of the [Climate Justice Wing](#) of the [Maryland Legislative Coalition](#).

We urge you to **vote favorably on SB0682** which restricts how investor-owned utility companies can spend ratepayer dollars and adds important transparency requirements. This bill addresses several issues: the widespread use of ratepayer dollars to lobby to oppose electrification, and Maryland utilities the lack of transparency on policy positions they take at PJM.

HoCo Climate Action has been [advocating for decarbonizing buildings since October 2020](#) and soon after spearheaded a campaign to electrify all new buildings in Howard County. We supported the Climate Solutions Now Act of 2022 (CSNA) and were frustrated when it passed with only a study for all-electric new buildings. We believe the utilities used their influence in Annapolis with an army of lobbyists to weaken the bill. The utilities have a right to lobby, but our concern is that in many cases they are using ratepayers dollars to lobby against landmark climate policies essential to the public interest and meeting the State's climate goals.

For example, not only did the utilities lobby against the CSNA, Energy & Policy Institute [documented](#) how BGE, the state's largest gas and electric utility, **lobbied against electrification policies** in Howard in 2023. Records highlight BGE's involvement in providing testimony and talking points for a county council member against the passage of CB5. Several other groups provided testimony in opposition to CB5 that also hold connections to BGE. Eventually, the Howard County Council passed the Clean New Buildings Climate Act (CB5-2023) to put the county on the pathway to all-electric new buildings despite BGE's lobbying.

As others are probably testifying, the Office of the People's Counsel's post-hearing brief on [Case No. 9704](#) indicates Washington Gas spent \$633,476 on **membership dues** to the

American Gas Association (AGA) in 2022, and \$271,865 of that came from Maryland ratepayers. AGA regularly engages in lobbying efforts to stop the expansion of renewable energy and pad their profits. [Pepco](#), [BGE](#), [Delmarva Power](#), and [Potomac Edison](#) also each request hundreds of thousands of dollars for trade association dues to be paid for by ratepayers.

Last year, [Colorado](#), [Connecticut](#), and [Maine](#) passed similar legislation to prevent utility companies in those states from using ratepayer money for political activities.

During the [2023 state legislative session](#), Baltimore Gas and Electric (BGE) reported spending over \$338,000 on lobbying efforts, Pepco reported spending over \$358,000, and Washington Gas reported spending over \$165,000.

Finally, we are concerned about the lack of transparency for electrical grid policy decisions made by our regional transmission organizations (RTO) known as PJM. 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 and votes by utilities are not public.

SB0682 will:

- More clearly defines lobbying and how utility companies can use ratepayer money, closing loopholes that are being exploited by utility companies.
- Requires all utilities to be part of a regional transmission organization and requires public disclosures of policy decisions votes made by utilities at the PJM.

Transparency is good governance and does not cost much to utilities or the state. For these reasons, we ask for a favorable report for SB0682.

Howard County Climate Action

Submitted by Liz Feighner, Steering and Advocacy Committee

www.HoCoClimateAction.org

HoCoClimateAction@gmail.com

SB0682UTILITY_ClimateCC_Favorable.pdf

Uploaded by: Sonia Demiray

Position: FAV



Testimony SB0682 Utility Transparency and Accountability Act

Position: FAVORABLE

February 22, 2024

My name is Sonia Demiray, I am the co-founder of the Climate Communications Coalition, a member of the Mid-Atlantic Justice Coalition, and a resident in Frederick County. Our group wholeheartedly endorses the Utility Transparency and Accountability Act.

Rate payers should not be paying for Utility Companies' advertising, marketing, sales, or lobbying expenses. We already pay more than we should for electricity including hidden fees such as the incentives for questionable 'clean and renewable energy sources' – most of which we absolutely disagree with - through the Renewable Portfolio Standard scheme. The share-holders of the utilities, who are making considerable profits of rate payers like you and me, should carry the expenses – they can afford them.

As we engage in a much needed transition to 100% clean energy for all, transparency is key. We know that utilities regularly lobby against policies that are part of the state's plan to meet its climate goals – literally lobbying against what we want and need. Marylanders are already suffering from climate change and the aberrant weather patterns it has caused, including extreme heat. We need electricity to keep us cool in the summer and warm in the winter – we have no choice.

We are fully aware that only 100% clean energy – to be clear: wind, solar, and geothermal- are the only sources that will save us from the worst of the dual climate and extinction crises we're facing. Yet, the utilities who serve us are using the fees we are made to pay to engage lobbyists, pay trade associations and questionable climate groups' dues, in order to help them cut costs or propose false solutions in the transition to clean energy for all. This adds insult and cost to existing climate injury.

Rate payers do not want to be forced to pay for political or sales activities that we don't agree with. It is time for full transparency, for accountability, and an accelerated transition to 100% clean energy for all. We 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.

Thank you.

###

350 Testimony SB682.pdf

Uploaded by: Taylor Smith-Hams

Position: FAV



February 22, 2024

Utility Transparency & Accountability Act (SB682)

Position: FAVORABLE

Dear Chairman Feldman and Members of the Education, Energy, and the Environment Committee,

350.org is a global nonprofit organization dedicated to ending our dependence on fossil fuels by ushering in a fast and just transition to renewable energy. We write today in strong support of the Utility Transparency & Accountability Act (SB682), which will restrict how investor-owned utility companies can spend ratepayer money and establish important transparency requirements in Maryland.

Utilities can and need to be part of the solution to the climate crisis. But many of their actions, such as charging ratepayers for dues to fossil fuel trade associations like the American Gas Association¹ and the Edison Electric Institute,² demonstrate the need to hold utilities accountable for blocking the transition to renewable energy while raising rates on working families.

Last year, Colorado, Connecticut, and Maine passed legislation to prohibit utility companies from charging ratepayers for their political activities in those states.³ Maryland should join this growing trend to protect ratepayers and hold utilities accountable for their spending by passing the Utility Transparency and Accountability Act.

This legislation will bar investor-owned utilities from passing certain costs onto Maryland ratepayers, including the costs of their lobbying and other attempts to influence public opinion, elected officials, and appointees; trade association dues; advertising; board member expenses; and gifts. Instead, the utilities would be required to pay for these expenses out of shareholder profits. The Utility Transparency and Accountability Act will also require utility companies to submit an annual report outlining these expenses to increase transparency and compliance and relieve the burden on consumer advocates and state agencies.

We strongly urge a favorable report on this bill.

Sincerely,
Taylor Smith-Hams
US Senior Organizer

¹ Jeff Brady and Dan Charles. As Cities Grapple With Climate Change, Gas Utilities Fight To Stay In Business. NPR. 22 February 2021. <https://www.npr.org/2021/02/22/967439914/as-cities-grapple-with-climate-change-gas-utilities-fight-to-stay-in-business>

² Benjamin Storrow and Timothy Cama. Utility group taps Trump official as next CEO. Is it backsliding on climate? E&E News. 7 September 2023. <https://www.eenews.net/articles/utility-group-taps-trump-official-as-next-ceo-is-it-backsliding-on-climate/>.

³ Akielly Hu. Connecticut bans utilities from billing customers for lobbying efforts. Grist. 3 July 2023. <https://grist.org/politics/connecticut-bans-utilities-from-billing-customers-for-lobbying-efforts/>.

Coalition Sign-on Testimony-SB682.pdf

Uploaded by: Taylor Smith-Hams

Position: FAV

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

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.

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)

utility_transparency_witness.pdf

Uploaded by: TJ Butler

Position: FAV

To whom it may concern:

My name is Thomas Butler and I live in the Remington neighborhood of Baltimore city, zip code 21211. I want to thank the committee for hosting this hearing and for listening to public comment during the legislative process. I also want to thank my Senator, Senator Mary Washington, for her hard work and dedication to serving us as an elected official.

I am writing in regards to SB0682, which will close loopholes in what kinds of charges utility companies can charge to ratepayers. I am strongly in favor of this bill for several reasons.

First, I think that as the price of energy continues to go up but wages do not, we will continue to struggle to make household energy affordable for people like me. I am afraid of rising rates especially due to the climate changes occurring that will raise energy costs in a variety of ways such as more expensive infrastructure maintenance, cost of installing 'green' energy (I do support green energy and also want to acknowledge that this is a more expensive, if resilient, way of providing energy than easily extracted fossil fuels). If we don't control extra spending on the part of investor-owned utility companies, then shareholders will get a free ride off of the profit of a monopoly business without the government intervention needed to advocate on behalf of ratepayers like me. Against them, my only recourse is what you, the State Legislature of Maryland, do on my behalf. Please do not let me down.

I have heard cases about BGE and Washington Gas lobbying against policies in Howard and Montgomery county to transition homes and buildings to cleaner energy. I also heard of how FirstEnergy charged Potomac Edison customers in Maryland for lobbying and bribes and was required to pay \$1.7 million in refunds to Marylanders in 2023. My utility company, BGE, also charges for membership to the American Gas Association. I do not want my money going to their efforts to lobby, as I have absolutely no say in this matter. My only say is what the Maryland State Government authorizes itself on my behalf, which should definitely be a tighter scrutiny of how ratepayer money is spent.

Colorado, Connecticut, and Maine passed similar legislation last year, so Maryland would not be a first in doing this. I think it is time for Maryland to protect ratepayers amid rising energy prices, and help bring transparency to investor-owned utilities. I am sure that the companies and investors would argue that there is no need for Maryland to shoulder the cost of such oversight, and they will police themselves. This is always a recipe for selfish behavior on behalf of the investor-owned utilities: if they do mean that their spending is justifiable, then being required to show justification will not harm them, it will only legitimize their position even more. If they intend to hide where ratepayer money goes, then this bill will clearly harm their ability to do so. Either way, I see clear benefits and little downsides to incentivizing good investor-owned utility behavior through the oversight proposed in SB0682.

Sincerely,

Thomas Butler

SB0682_IndivisibleHoCoMD_LizFeighner_FAV .pdf

Uploaded by: Virginia Smith

Position: FAV



SB0682

Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act) Testimony before Education, Energy, and the Environment Hearing February 22, 2024

Position: Favorable

Dear Chair Feldman, Vice Chair Kagan, and members of the committee, my name is Liz Feighner, and I represent the 700+ members of Indivisible Howard County. Indivisible Howard County is an active member of the Maryland Legislative Coalition (with 30,000+ members).

We are providing written testimony today **in support of SB0682**, which would restrict how investor-owned utility companies can spend ratepayer dollars and adds important transparency requirements. **SB0682** addresses several issues: the widespread use of ratepayer dollars to lobby to oppose electrification, and Maryland utilities the lack of transparency on policy positions they take at PJM.

Indivisible Howard County supported the Climate Solutions Now Act of 2022 (CSNA) and joined a campaign to electrify all new buildings in Howard County. We were frustrated when the portion of the CSNA to electrify all new buildings was turned into a study. We believe the utilities used their influence in Annapolis with an army of lobbyists to weaken the bill. The utilities have a right to lobby, but our concern is that in many cases they are using ratepayers dollars to lobby against landmark climate policies essential to the public interest and meeting the State's climate goals.

For example, not only did the utilities lobby against the CSNA, Energy & Policy Institute [documented](#) how BGE, the state's largest gas and electric utility, **lobbied against electrification policies** in Howard in 2023. Records highlight BGE's involvement in providing testimony and talking points for a county council member against the passage of CB5. Several other groups provided testimony in opposition to CB5 for which BGE is a member or has connections to BGE. Eventually, the Howard County Council passed the Clean New Buildings Climate Act (CB5-2023) to put the county on the pathway to all-electric new buildings despite BGE's lobbying.

For the post-hearing brief on [Case No. 9704](#), the Office of the People's Counsel indicated Washington Gas spent \$633,476 on **membership dues** to the American Gas Association (AGA) in 2022, and \$271,865 of that came from Maryland ratepayers. AGA regularly engages in lobbying efforts to stop the expansion of renewable energy and pad their profits. [Pepco](#), [BGE](#), [Delmarva Power](#), and [Potomac Edison](#) each request hundreds of thousands of dollars for trade association dues to be paid for by ratepayers.

During the [2023 state legislative session](#), Baltimore Gas and Electric (BGE) reported spending over \$338,000 on lobbying efforts, Pepco reported spending over \$358,000, and Washington Gas reported spending over \$165,000.

Last year, [Colorado](#), [Connecticut](#), and [Maine](#) passed similar legislation to prevent utility companies in those states from using ratepayer money for political activities.

Finally, we are concerned about the lack of transparency for electrical grid policy decisions made by our regional transmission organizations (RTO) known as PJM. 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 and votes by utilities are not public.

Specifically, the bill:

- **More clearly defines lobbying and how utility companies can use ratepayer money, closing loopholes that are being exploited by utility companies.** Stops utilities from using ratepayer dollars for lobbying and attempts to influence public opinion and elected officials and appointees; trade association dues; advertising; board member expenses; and gifts. Requires utility companies to submit an annual report outlining all expenses related to these activities.
- **Requires all utilities to be part of a regional transmission organization.** RTOs are important bodies to help coordinate electricity generation and transmission across state lines. Utilities are currently paid a bonus to encourage joining RTOs. If they are required to join, then ratepayers will no longer have to pay for this bonus.
- **Requires a public record of all RTO votes cast by utility companies along with a description of how each vote benefits the public interest.** This information is currently private, meaning that the public and lawmakers have no way of knowing what our utility companies are advocating for or opposing at this critical body.

Transparency is good governance and does not cost much to utilities or the state. Thank you for your consideration of this important legislation.

We respectfully urge a favorable report for SB0682.

Liz Feighner
Laurel, MD 20723

SB682.pdf

Uploaded by: brian quinn

Position: UNF



February 22 2024

HOUSE ECONOMIC MATTERS COMMITTEE

SB 682 – Limitations on Cost Recovery by Public Service Companies and Reports on Voes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act)

Statement in Opposition

Chesapeake Utilities Corporation (“Chesapeake Utilities”) respectfully **OPPOSES** certain provisions contained in SB 682. Among other things, SB 682 establishes an expanded definition of the term “lobbying” (to include the undefined term 'political activities') and then prohibits any public service company from recovering certain costs through rates – including all costs for membership in any trade association and other costs for undefined and vague items such as seeking to influence public opinion or generate goodwill toward the public utility.

SB 682 is unnecessary. Under current law, a public service company is already prohibited from recovering lobbying expenses through rates. See PUA § 4-103(b) (“a public service company may not charge off lobbying expenses against its ratepayers”). For decades, the Public Service Commission (the “Commission”) has exercised its authority to thoroughly review all expenses for which a utility seeks recovery and to prohibit the recovery of lobbying expenses. SB 682 adds a significant number of undefined terms intended to expand the definition of “lobbying expenses” far beyond the law that the Commission has enforced for decades. In addition, SB 682 prohibits the recovery of all costs for the undefined term “investor relations” – it is unclear what costs these include. SB 682 will simply create uncertainty and encourage disagreement and unnecessary litigation.

SB 682 inappropriately prohibits cost recovery for membership in any trade association. SB 682 incorrectly assumes that all utility trade association activity is “lobbying.” Utility trade associations provide many services that benefit utility ratepayers including the dissemination of consumer safety information, Federal law updates, advice concerning emergency planning / preparedness, and providing a platform to share best practices / lessons learned. Simply put, there is no basis to prohibit a utility from recovering all dues paid for trade association membership. Moreover, in the event that the facts in a particular case demonstrate that a trade association is actually “lobbying” on the behalf of a public service company - the Commission already possess the authority to exclude the appropriate portion of the related expenses from rates.



Respectfully, SB 682 appears to be aimed at chilling the free speech rights of public service companies in relation to their interactions with elected officials and government personnel. It is important for public service companies to interact with elected officials and provide feedback on legislation and other matters that directly impact utility ratepayers (who also happen to be constituents). On behalf of Chesapeake Utilities Corporation, and our thousands of employees and their families who deliver energy safely and contribute every day in the communities where they live, work and serve, we respectfully request an unfavorable vote on SB 682.

Sincerely,

Chesapeake Utilities Corporation
Steve Baccino, Governmental Affairs Director
Contact: sbaccino@chpk.com

MD 2024 SB 682 Columbia Gas Testimony FINAL.pdf

Uploaded by: Carville Collins

Position: UNF

OPPOSE – Senate Bill 682
Limitations on Cost Recovery by Public Service Companies
Senate Education, Energy and Environment Committee

Columbia Gas of Maryland, Inc. (Columbia) respectfully opposes Senate Bill 682 which among other items prohibits public service companies from recovering through rates certain costs.

Currently, the Maryland Public Service Commission (PSC) prohibits lobbying costs from being recovered from rate payers and the PSC has the ability to challenge the appropriateness of any utility cost sought for ratepayer recovery during a rate case proceeding. The PSC is the proper forum to determine rate recovery by utilities for their expenses.

Columbia's primary concern related to SB 682 is the provision that a public service company may not recover through rates any costs associated with membership, dues, sponsorships or contributions to a business or industry trade association or group.

A public service company's trade association dues can and do benefit customers and, therefore, should continue to be recoverable. Most trade or business association activities are not lobbying and these groups provide a variety of diverse services to a member that benefit both the member and its customers. In fact, many trade groups and associations highlight the percentage of their membership dues that are attributed to lobbying so members are prevented from taking any tax benefit for such expenses.

Utility trade groups provide programs and services directly related to improving safety, operational reliability and efficiencies, security, environmental stewardship and operator knowledge.

Specifically, Columbia's membership in the American Gas Association, for example, provides:

- The ability to participate in more than 50 committees, councils and task forces to exchange information with peer companies to enhance safety, address operational issues, reduce costs and better serve customers
- Federal regulatory updates, industry studies, surveys and technical papers that illuminate best practices
- Program "clearinghouse" services in safety, operational excellence, customer relations and satisfaction, cybersecurity protection, workforce training and development, and environmental sustainability
- Mutual assistance programs and emergency planning resources
- A large number of manuals and technical papers for the day-to-day operations of gas utilities
- Consumer safety pamphlets, fact sheets, bill stuffers and other customer communications
- Financial, accounting and insurance activities and support
- A database of performance metrics on customer service functions such as call centers, energy assistance programs, billing, and meter reading; and
- Litigation alerts, legal forums and workshops.

The services provided by business or industry trade groups ultimately benefit rate payers through enhanced safety and best practices that reduce costs.

Columbia is also concerned with the provision preventing investor relations costs from being recovered through rates. Utility companies are an extremely capital-intensive business and utilities must compete for capital from the investment community. Capital can be supplied by private participants in public equity and debt capital markets or by government or other entities.

Investor relations is a key function for any utility in managing its cost of debt and equity and differentiating risk-adjusted return potential versus alternative investments. Investor relations communicates with investors directly, attracts and maintains existing capital and works to minimize volatility in the performance of the investment. Investor relations is a critical function for utilities benefiting customers through competitive financing and access to funds for infrastructure replacement projects and other work to ensure reliable and safe utility service. It should remain a rate recoverable expense.

The requirements of SB 682 are problematic and consequently Columbia Gas cannot support SB 682 as appropriately crafted policy related to costs that may be recovered through rates by a public service company. We therefore urge an unfavorable report.

February 22, 2024

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2024-SB682-Exelon- OPP.pdf

Uploaded by: Jennifer Walker

Position: UNF



February 22, 2024

112 West Street
Annapolis, MD 21401

OPPOSE – Senate Bill 682: Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act)

Exelon and its utility delivery companies, Baltimore Gas and Electric (BGE), Potomac Electric Power Company (Pepco), and Delmarva Power & Light Company (Delmarva Power) oppose Senate Bill 682- Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act). Senate Bill 682 requires each electric company in Maryland to be a member of a regional transmission organization (RTO) and provide the Maryland Public Service Commission (PSC) with an annual report on votes cast by the electric company and its affiliates at a meeting of the RTO, including a brief description explaining how each vote cast by the electric company and its affiliates is in the best interest of the public. Additionally, Senate Bill 682 prohibits public service companies from recovering through rates various costs such as lobbying costs, membership dues/contributions or sponsorships associated with certain activities in Maryland and directs public service companies to report those costs to the PSC. Senate Bill 682 unfairly places additional burdens on Maryland utilities that are not applicable to other industries and conflicts with the Maryland Public Ethics Law’s definition and reporting of lobbying.

Regional Transmission Organization Membership

Senate Bill 682 is unconstitutional because it is pre-empted by the federal law that governs the transmission of electricity across the United States, including the operations of RTOs such as Pennsylvania-New Jersey-Maryland Interconnection (PJM). Senate Bill 682 requires each electric company in Maryland to be a member of PJM which is preempted on both a field and conflict preemption basis. Congress has preempted the field by granting FERC exclusive jurisdiction over all facilities for the transmission of electricity in interstate commerce under Section 201(b) of the Federal Power Act, 16 U.S.C. § 824(b). For questions of field preemption, the Supreme Court has emphasized “the importance of considering the target at which the state law aims in determining whether that law is pre-empted.” By requiring Maryland utilities to join an RTO, Senate Bill 682 requires the utilities to surrender operational control of their transmission assets to that RTO. Operating the transmission system operates is a defining characteristic of an RTO. The “target” of the legislation, then, is the operation of the transmission grid in Maryland, an activity exclusively regulated by FERC.

Second, Senate Bill 682 is also subject to a constitutionality challenge via conflict preemption. Congress and FERC created a carefully crafted balance relating to RTO membership. For example, Section 202(a) of the Federal Power Act authorized FERC “to divide the country into regional districts for the voluntary interconnection and coordination of facilities for the generation, transmission, and sale of electric energy.” The D.C. Circuit has concluded that this statutory language bars even FERC from mandating RTO membership under the Federal Power Act. Congress has made clear that joining an RTO is desirable and that it should be encouraged. Under Section 291(c), FERC is required “to the extent within its jurisdiction,

provide for incentives to each transmitting utility or electric utility that joins” an RTO. Senate Bill 682 contradicts this federally created careful balance of voluntary but encouraged RTO membership.

Additionally, Exelon believes this legislation violates the commerce clause. Pepco and Delmarva Power’s operations and systems cross state lines and their transmission assets cannot be easily disentangled. This extra-jurisdictional impact likely leads to a separate preemption argument under the Commerce Clause. The Commerce Clause limits the ability of states to enact legislation with impacts outside their boundaries. “[A] statute that directly controls commerce occurring wholly outside the boundaries of a State exceeds the inherent limits of the enacting State's authority and is invalid regardless of whether the statute's extraterritorial reach was intended by the legislature.

Finally, a requirement that Pepco and Delmarva Power join an RTO forces transmission assets in both Delaware and the District of Columbia into an RTO. Moreover, because these two utilities are the only FERC-jurisdictional transmission providers in Delaware and the District of Columbia, the Maryland law functionally forces an entire state and D.C. into an RTO. Because the transmission service is provided entirely outside the state of Maryland, there is a strong argument that this extra-jurisdictional effect means the statute violates the Commerce Clause and is preempted.

As discussed further below, it is worth noting that Ohio enacted a similar provision into law requiring a utility to be a member of PJM and that law is currently being challenged in the United States Court of Appeals for the Sixth Circuit. At a minimum, Maryland should consider postponing action on this legislation so that it can leverage the opportunity to be better informed by imminent actions of the federal appellate courts as opposed to inviting potentially unnecessary and duplicative litigation for no benefit to the citizens of Maryland.

Transparency in Utility Rate Setting

Senate Bill 682 is based on a predicate that is untrue—that utility expenditures and recovery of utility expenditures are not transparent. The very nature of being in a highly regulated industry, such as the utility industry, means utility expenditures and whether they are recoverable are highly scrutinized every time the utility goes in for a rate case. The PSC has the jurisdictional responsibility for setting distribution rates for utilities in Maryland. As the regulator, they have the authority to ask for all financial information when deliberating potential rate increases and make the determination of whether costs are considered above the line and recovered from customers or below the line and recovered from shareholders. In fact, the first bullet on the Public Service Commission’s website description of its mission statement is the following:

- Ensure that rates, terms, and conditions established for public service companies are just, reasonable, and transparent.

The PSC holds public hearings to allow utility customers and other interested persons the opportunity to provide comments or concerns on a pending case and the Maryland electric companies routinely get data requests from intervening parties, including PSC Staff and OPC, on our expenditures, including many of the items included within Senate Bill 682. The PSC thoroughly reviews these expenditures and in carrying out its mission, determines whether those expenditures are just and reasonable and should be recovered from customers.

Additionally, the prescriptive categories of expenditures that cannot be recovered compromises the regulated rate-making process and presents unintended risks that should be carefully scrutinized by the Commission. For example, investor relations play a significant role in securing and maintaining capital, which strengthens our ability to secure competitive financing to benefit customers. This funding is essential as we expand and strengthen the electric systems to achieve the aggressive goals of the Maryland Climate Solutions Act. Limiting the recovery of expenditures relating to the part of our organization that is directly responsible for assuring we can obtain the lowest cost of financing available is harmful to customers and harmful for the health of our utilities. In addition, to the extent we are unable to finance the amounts needed cost-effectively, our infrastructure investments may be reduced, adversely impacting third-party vendors throughout the supply chain as well as union and non-union labor.

These proposed provisions seem to usurp the Commission's authority over utility ratemaking, as set forth above, and purportedly prejudice prudence. Not allowing utilities the opportunity to recover all expenses associated with justly and reasonably provided distribution service to customers is inconsistent with the regulatory compact. For example, Senate Bill 682 improperly re-defines what constitutes lobbying for the utility industry. Lobbying costs, as defined by Maryland Ethics Law (Section 5-702 of the General Provisions Article), are currently not recoverable from customers. Re-defining what constitutes lobbying for a limited group of companies is inequitable and unnecessary. Many companies doing business in Maryland are the recipients of state funding, which is essentially paid for by all Maryland residents through taxes. Yet these companies are not subject to the much broader definition of lobbying included within Senate Bill 682.

Finally, SB682 requires public service companies to provide confidential information on employee salaries and contractor information, including for costs that are already excluded from recovery under existing precedent. Exelon has significant privacy concerns on behalf of its employees regarding this provision.

PJM Processes

PJM is a regional transmission organization, formed at the approval of the federal Energy Regulatory Commission (FERC), that coordinates the movement of wholesale electricity in all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and the District of Columbia. As a member of PJM, there are regular meetings that are integral to developing and refining PJM's rules, policies, and processes. PJM is therefore federally regulated. The purpose of an RTO is to promote economic efficiency, regional energy grid reliability, and non-discriminatory wholesale energy markets. PJM holds over 400 stakeholder meetings annually. These meetings are open to the general public and are accessible both in person (for those meetings with an in-person option) and virtually. At the lower-level PJM committees and groups which are available for the public to watch and participate in, individual company votes are not recorded, but the votes are indicative only and non-decisional. Votes are taken purely to inform and encourage consensus building and brainstorming. This component of the stakeholder process is explicitly codified in PJM's governance manual referred to as Manual 34. All PJM processes and procedures are set forth in the PJM governing documents over which FERC has ultimate oversight. Final votes are taken at the Members Committee, which is the senior most standing committee, and their votes are recorded by company and are publicly available and published by PJM.

Requiring a utility to submit information to the PSC on every vote taken at PJM's lower-level committee meetings, subcommittees and task forces would subvert the collaborative process, stifle innovation and participation, and be a significant administrative burden and cost for little to no incremental benefit to the PSC for it to exercise its state regulatory jurisdiction and authority. Such a requirement would harm Maryland's voice in the PJM stakeholder process because it would undoubtedly have a chilling effect on

how Maryland utilities engage in looking for opportunities for consensus amongst the diverse entities that comprise the PJM stakeholder process. Exelon believes that companies would be unwilling to offer innovative or nascent proposals for discussion for fear of retribution on a vote taken and recorded at that level. Consequently, utilities and other entities from other PJM states that do not have such burdens would have an advantage over the utilities from Maryland in promoting the interests of their states, investors, municipalities, and cooperatives. Senate Bill 682 also directly conflicts with the FERC-jurisdictional PJM rules and code of conduct regarding the stakeholder process.

Furthermore, because Senate Bill 682 requires disclosure of BGE, Pepco, and Delmarva's affiliate activities, Senate Bill 682 overreaches by attempting to seek information from non-Maryland regulated companies in states in which they operate outside of Maryland. Finally, because PJM votes concern Exelon's transmission activities in the PJM region, which are subject to federal regulation, Senate Bill 682 seeks to control federally regulated activities that the state of Maryland cannot regulate.

Senate Bill 682 is unnecessary, overbroad, interferes with our ability to deliver reliable power safely and affordably, is administratively overburdensome and intrudes upon activity that is exclusively federally regulated. Exelon respectfully requests that the Committee issue an unfavorable report on Senate Bill 682.

WG Written Testimony - SB 682 - Oppose FINAL.pdf

Uploaded by: Manuel Geraldo

Position: UNF



1000 Maine Avenue, SW | Suite 700 | Washington, DC 20024 | www.washingtongas.com

COMMITTEE: EDUCATION, ENERGY, AND THE ENVIRONMENT

TESTIMONY ON: SENATE BILL 682 LIMITATIONS ON COST RECOVERY BY PUBLIC SERVICE COMPANIES AND REPORTS ON VOTES CAST AT MEETINGS OF REGIONAL TRANSMISSION ORGANIZATIONS (UTILITY TRANSPARENCY AND ACCOUNTABILITY ACT)

POSITION: OPPOSE

HEARING DATE: FEBRUARY 22, 2024

Washington Gas respectfully submits this statement in **OPPOSITION** to **Senate Bill 682**.

Washington Gas provides safe, reliable natural gas service to more than 1.2 million customers in Maryland, Virginia, and the District of Columbia. Washington Gas has been providing energy to residential, commercial, government, and industrial customers for more than 175 years, and currently serves more than 500,000 Maryland customers in Montgomery, Prince George's, Charles, St. Mary's, Frederick, and Calvert Counties.

Currently, the Maryland Public Service Commission prohibits lobbying costs from being recovered from rate payers. Washington Gas' primary concern related to SB 682 is the provision that a public service company may not recover through rates any costs associated with membership, dues, sponsorships or contributions to a business or industry trade association or group.

A public service company's trade association dues can and do benefit customers and, therefore, should continue to be recoverable. Most trade or business association activities are not related to lobbying and political activity. Trade organizations provide a variety of diverse services to a member that benefit both the member and its customers. Any dues paid to an association that are used for political advocacy are already disallowed, and therefore are not recovered from utility ratepayers, as the Commission reaffirmed in Case No. 9704 in December 2023. Utility trade groups provide programs and services directly related to improving safety, operational reliability and efficiencies, apprenticeship programs, critical infrastructure and cyber security, environmental stewardship and operator knowledge.

Specifically, Washington Gas' membership in the American Gas Association, for example, provides:

- The ability to participate in more than 50 committees, councils and task forces to exchange information with peer companies to enhance safety, address operational issues, reduce costs and better serve customers;

- Federal regulatory updates, industry studies, surveys and technical papers that illuminate best practices;
- Program “clearinghouse” services in safety, operational excellence, customer relations and satisfaction, cybersecurity protection, workforce training and development, and environmental sustainability;
- Mutual assistance programs and emergency planning resources;
- A large number of manuals and technical papers for the day-to-day operations of gas utilities;
- Consumer safety pamphlets, fact sheets, bill stuffers and other customer communications;
- Financial, accounting and insurance activities and support;
- A database of performance metrics on customer service functions such as call centers, energy assistance programs, billing, and meter reading; and
- Litigation alerts, legal forums and workshops.

The services provided by business or industry trade groups ultimately benefit rate payers through enhanced safety and best practices that reduce costs.

One of the biggest concerns with SB 682 are the First Amendment implications. SB 682 does more than limit recovery of certain costs. Rather, the bill imposes an expansive definition of “lobbying and political activities” that will have a chilling effect on utilities’ protected speech. The definition includes “any attempts to influence the general public, or segments thereof, with respect to elections, legislative matters, executive agency decision or referendums.”

In particular, the addition of “executive agency decisions” could be broadly construed to include rulemaking before the Public Service Commission or other state agencies. It is improper for a company to be permitted to participate in agency rulemaking processes but unable to recover those costs.

Additionally, the bill prohibits recover for marketing and advertising that “seek to influence public opinion or create goodwill towards the utility.” Utilities regularly engage in community service or charitable activities in the areas they serve. Communications about these activities may have the effective of creating goodwill for the utility. Parties may seek to have these costs excluded on this basis and this is contrary to decades of established practice and an important role of Maryland’s regulated utilities.

Despite prohibiting utilities from recovering for a wide variety of speech-related activities, the bill would require the companies to provide very detailed itemizations for all of the costs associated with these activities. Collectively, the expansive provisions in SB682 will prohibit utilities from engaging in protected speech on matters of important public interest. Political advocacy is protected under the First Amendment. See, e.g., *Bd. of Trustees of Leland Stanford Jr. Univ. v.*

Sullivan, 773 F. Supp. 472 (D.D.C. 1991). To the extent the bill chills a utility's political advocacy it is potentially unconstitutional in scope.

Finally, Washington Gas is also concerned with the provision preventing investor relations costs from being recovered through rates. Long-established Maryland precedent holds that utilities are allowed to recovery costs of service that are reasonably and prudently incurred and that are in the public interest. The Commission already reviews all costs in base rate cases and must reach an evidence-based decision before accepting or rejecting costs of service as a part of rates. This bill may therefore contravene U.S. CONST., amend. V, XIV (due process and taking clauses); and MD. CONST. DECL. OF RTS. art. 24.

Washington Gas respectfully requests that the Committee issue an unfavorable report on Senate Bill 682.

Contact:

Manny Geraldo, State Government Relations and Public Policy Manager
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SB682_Information_PSC.pdf

Uploaded by: Frederick Hoover

Position: INFO

FREDERICK H. HOOVER, JR.
CHAIR

MICHAEL T. RICHARD
ANTHONY J. O'DONNELL
KUMAR P. BARVE
BONNIE A. SUCHMAN



PUBLIC SERVICE COMMISSION

February 21, 2024

Chair Brian J. Feldman
Education, Energy, and the Environment Committee
2 West, Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 682 – Information - Limitations on Cost Recovery by Public Service Companies and Reports on Votes Cast at Meetings of Regional Transmission Organizations (Utility Transparency and Accountability Act)

Dear Chair Feldman and Committee Members:

Senate Bill 682 notably has two main provisions for which the Public Service Commission (PSC) shall provide information. This bill establishes limitations and reporting requirements on the specific costs that can be recovered through distribution base rates by public service companies as reviewed and approved by the PSC. In addition, SB 682 creates a reporting requirement for public service companies to report their individual voting results at meetings held by the PJM Interconnection (the Regional Transmission Organization (RTO) of which Maryland is a part). The Commission provides these informational comments for your consideration.

First, the proposed legislation specifies seven categories of costs, that “a public service company may not recover through rates.” These seven categories include costs associated with: 1) membership to an industry trade organization, 2) lobbying or political activities, 3) advertising or marketing, 4) travel, lodging, or food and beverage for the board of directors or officers of the parent company, 5) entertainment or gifts, 6) owned, leased, or chartered aircraft for the board of directors or officers of the parent company, and 7) investor relations.

The Commission notes that there are already existing laws, regulations, and orders limiting a public service company’s recovery of costs related to the above-mentioned categories. Related to lobbying and political activities, COMAR 20.07.04.08 B prohibits the inclusion of charitable contributions, penalties, and lobbying expenses in a rate case proceeding. Related to advertising and marketing activities, COMAR 20.07.04.08 C prohibits the inclusion of expenditures used for advertising and promotion other than informational material, unless it is deemed by the Commission to benefit ratepayers and be in the public interest. Related to utilities’ membership in trade organizations, the Commission recently issued an order in a utility rate case which

greatly reduced the amount of association dues that the public service company can include in a base rate case. This decision was made to prevent ratepayers from financing activities that run counter to the State's climate goals, while still allowing a public service company to partake in educational materials provided by such associations.

Additionally, the proposed legislation includes a requirement that all public service companies submit a report itemizing the various costs that are being prohibited from inclusion in a utilities' base rate case. The Commission notes that a portion of the proposed prohibited costs are already required to be reported by the public service companies in compliance with Section 5 Subtitle 7 of the Maryland Public Ethics Law. This section of the law requires that lobbyists be registered and trained by the State, and subject to the annual reporting requirements as laid out in 5-705 of the Maryland Public Ethics Law. This section specifically outlines that a lobbyist shall report total expenditures in connection with influencing legislative or executive action including: salary compensation, meals and beverages provided, lodging and scheduled entertainment, and any additional expenses.

Second, the proposed legislation requires all electric companies to be a member of an RTO, and requires that each electric company submit an annual report to the Commission reporting on the specific votes cast by each electric company and an explanation on the votes cast. It is the Commission's understanding that all of the regulated electric companies within the State are already voting members in the PJM Interconnection's various meetings, based on PJM's website.

The Commission asks that you consider these comments when reviewing the language proposed in Senate Bill 682. Please direct any questions you may have to Christina Ochoa, Director of Legislative Affairs, at christina.ochoa1@maryland.gov

Sincerely,

A handwritten signature in cursive script that reads "Frederick H. Hoover". The signature is written in dark ink and is positioned below the word "Sincerely,".

Frederick H. Hoover, Chair
Maryland Public Service Commission