

FREDERICK H. HOOVER, JR.
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KUMAR P. BARVE
BONNIE A. SUCHMAN



PUBLIC SERVICE COMMISSION

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

RE: HB1419 - Information - Electric Distribution System Support Services – Cost Recovery and Data Use

Dear Chair Feldman and Committee Members:

HB1419 provides that a person or company participating as an aggregator of distributed energy resources (DERs)¹ in DRIVE Act² Pilot programs may not be considered an electric company or electricity supplier solely because of the person's or company's participation in these programs. The Public Utilities Article (PUA) § 7-1001(e)(1)(ii), *Annotated Code of Maryland* currently specifies that "electric distribution support services" include aggregators that perform services at the direction of an electricity company." In PUA § 1-101(2), "Electricity supplier" currently includes an electric company, an aggregator, a broker, and a marketer of electricity. PUA § 7-507 currently prohibits a person from engaging in the business of an electricity supplier in Maryland without first obtaining a license from the Public Service Commission. There is also precedent for the licensing of similar aggregators, such as Curtailment Service Providers (CSPs). In Case No. 9241 the Commission found that the services CSPs in Maryland fall within the definition of electricity supply services.

The Commission is already proceeding to define a process to license aggregators of DERs in Case No. 9761 to implement the DRIVE Act. HB1419 would prohibit licensing these aggregators and would therefore prevent aggregators participating in DRIVE Act programs from being regulated by the Commission. The launch of the initial DRIVE Act programs will be tightly controlled and monitored by both the Commission and electric companies because they are pilot programs, which presumably could allow for the absence of a licensure process initially. However, as these pilot programs scale up and transition to permanent programs and tariffs, they will involve more risk to customers than the initial pilot programs. This risk—as these programs scale up—is recognized and addressed in the recommendations for policy makers referenced in the Department of Energy (DOE) DER Aggregator

¹ DER aggregation involves combining the capabilities of multiple small-scale, decentralized energy resources (like rooftop solar, battery storage, and EVs) to act as a single entity, enabling them to participate in energy markets and provide grid services.

² During its 2024 session, the Maryland General Assembly enacted Senate Bill 959 (SB959), the Distributed Renewable Integration and Vehicle Electrification ("DRIVE") Act. The DRIVE Act requires Maryland's investor-owned electric companies to file with the Commission temporary tariffs and certain reports for time-of-use rate (TOU), vehicle-to-grid (V2G), and virtual power plant (VPP) pilot programs by certain deadlines, among other things.

Code of Conduct³ as there is the potential for abusive practices. Therefore, removing the Commission's regulatory authority for DRIVE Act pilot programs now will create the potential for future issues as these programs scale up and transition to permanent programs which will require future licensure.

HB1419 also requires, on the request of an electric company, that the Commission authorize the use of usage data and production data collected from customer-owned DERs for the administration of DRIVE Act programs or tariffs. While the Commission agrees that utilities need this data for their DRIVE Act pilot programs, this provision would be unnecessary if the Commission is allowed to retain licensing and regulatory authority over pilot program DER aggregators in order to require that this data be provided under this authority.

HB1419 further states that the DRIVE Act may not be construed to prohibit an electric company, private entity, or aggregator of DERs from offering energy storage to residential customers separate from the DRIVE Act pilot programs or temporary tariffs. The Commission's Maryland Energy Storage Program Workgroup has already submitted a report to the Commission on October 1, 2024, that provides an energy storage design framework that allows behind-the-meter (BTM) programs applicable to residential customers. In addition, energy storage regulations in the RM85⁴ rulemaking proceeding on February 5, 2025, that have already been approved by the Commission. These RM85 regulations allow BTM residential energy storage programs to be proposed, making this bill provision unnecessary. This is exemplified in that the Maryland Exelon Joint Utilities⁵ have already proposed a permanent BTM program⁶ in Case No. 9715 which will be considered by the Commission in hearings scheduled April 15-17, 2025.

The Public Service Commission appreciates the opportunity to provide informational testimony on HB1419. The Commission continues to work with the bill sponsor to strengthen the bill. Please contact the Commission's Director of Legislative Affairs, Christina M. Ochoa, if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Frederick H. Hoover". The signature is fluid and cursive, with the first name being the most prominent.

Frederick H. Hoover, Chair
Maryland Public Service Commission

³ See DOE DER Aggregator Code of Conduct, A Reference for Consumer Engagement, November 2023. The DER Aggregator Code of Conduct Reference for Consumer Engagement contains recommendations for policy makers regarding consumer enrollment representations, DERA sales staff training, consumer protection, DERA proposals to customers, contracts, operations, complaint resolution, privacy, cybersecurity and DERA record keeping, among other things.

⁴ See RM85, Maryland Energy Storage Initiative COMAR 20.50.14

⁵ Baltimore Gas and Electric Company, Potomac Electric Power Company and Delmarva Power & Light Company.

⁶ See Mail Log Nos. 316129 and 316131. The Maryland Exelon Joint Utilities proposed an initiative for residential customers that would allow eligible customers to have utility-owned and utility-controlled battery storage devices installed on their property. Each BESS will be commissioned to provide, at minimum, load management through PJM's demand response market and distribution system support while also having the ability to provide the customer with home backup power during service interruptions.