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BILL NO.:	Senate Bill 716 – Public Utilities - Nuclear Energy - Renewable Energy Portfolio Standard and Procurement (Decarbonization Infrastructure Solutions Act of 2025)
COMMITTEE:	Education, Energy, and the Environment
HEARING DATE:	March 6, 2025
SPONSOR:	Senators Brooks, McKay, Rosapepe, and West
POSITION:	Informational

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The Office of People's Counsel ("OPC") respectfully provides the following informational comments on Senate Bill 716, the Decarbonization Infrastructure Solutions Act of 2025. SB 716 seeks to incentivize the development of new nuclear energy generation in Maryland by (1) adding nuclear energy as a qualifying Tier 1 renewable source under Maryland's renewable portfolio standards ("RPS") and requiring an escalating percentage of retail electric sales be derived from new nuclear energy;[1] (2) enabling new nuclear energy reactors located in the State to generate nuclear renewable energy credits ("NRECs"), valued at $50-75 per megawatt-hour; and (3) establishing a procurement mechanism for new nuclear energy generation to be run by the Public Service Commission ("PSC").

Our comments below (1) describe the pros and cons of long-term, ratepayer-backed procurements for generation projects, (2) discuss provisions in the legislation intended to protect utility customers; and (3) provide context explaining that Maryland is not facing immediate needs for significant expansion of in-State generation to maintain reliable service.

[1] By 2040, SB 716 would require that 100% of all qualifying retail electricity sales in the State come from Tier 1 renewable sources, with at least 50% derived from new nuclear energy.

I. Ratepayer-backed procurements

SB 716 seeks to promote the development of new nuclear energy generation in Maryland in part by establishing a procurement mechanism, which would function similarly to the State's existing offshore wind ("OSW") renewable energy credit, or OREC, program. These long-term procurements would—like ORECs—be backed by utility ratepayers. Under the OREC model, the price ratepayers will pay for the output of the facility is set before the plant goes into service. If the OREC price is below market prices when the power is delivered, Maryland customers benefit. But ratepayers take on significant risks that the prices locked-in through long-term procurements will exceed market prices when the power is delivered. Whether long-term procurements increase or decrease costs for customers largely depends on whether the solicitation procures energy and capacity at prices that end up being above or below market rates. A procurement during times of high prices could benefit customers if prices remain high over the 20-30 years following the date of commercial operation of the plant—which itself could be more than 10 years from the procurement date. But if the solicitation process locks in prices that are higher than actual market prices in future years, customer bills will be higher than they otherwise would be. This risk for ratepayers exists under any long-term, fixed-price arrangement, and the further out in time the arrangement lasts, the more difficult it is to speculate on future generation markets.

II. Protections for utility customers

While there are risks inherent to locking in energy prices through long-term, ratepayer-backed procurements, these risks can be mitigated to some degree. SB 716 includes several provisions to mitigate these risks, some of which could be strengthened, as follows:

- *Requiring the PSC to determine net rate impact thresholds for the nuclear energy generation projects procured as a result of the bill.* As in the OSW statute, these thresholds can put an upper limit on resulting increases in customer bills. Instead of setting a specific threshold in statute, as the General Assembly did in the case of ORECs, however, SB 716 directs the PSC to determine the relevant thresholds. Although the intent of leaving specific thresholds out of the statute appears to be to keep project applicants from "bidding to the cap," the bill as drafted provides the PSC with no guidance about how to determine an appropriate ratepayer impact threshold, leaving open the potential for an excessively high threshold in order to meet the goals of the bill. As an additional, minimum ratepayer protection, the bill should provide the PSC with some guidance on the level of the allowable ratepayer impact for nuclear procurements. For example, the bill could direct the PSC to base the threshold on its determination of the procurement's value in

mitigating customer exposure to future high wholesale market prices, taking into account best estimates of future prices in the capacity, energy, and ancillary service markets.

- *Requiring that a PSC order approving a proposed nuclear project provide that ratepayers and the State be held harmless for any cost overruns associated with the project*. This provision is particularly important given the recent history of nuclear power development in the United States. The most recent completed reactors in the United States— Vogtle units 3&4 in Georgia—were significantly behind schedule and cost $36.8 billion: $22 billion more than the initially projected cost of $14 billion. In December 2023 and May 2024, the Georgia Public Service Commission approved on aggregate a 23.7 percent rate increase and a 47.3 percent expansion in utility rate base, in exchange for only a 7.51 percent expansion in generating capacity for Georgia Power.[2] The electricity from Vogtle is, therefore, the most expensive in the world at $10,784/kW; typical generation prices for wind, solar, or natural gas range from $1,000 - $1,500/kW.[3] Recent developments with small modular nuclear reactors ("SMRs") have not fared any better. In November 2023, NuScale, the developer of a SMR that had been the project closest to reaching commercialization, cancelled its project after significant delays and costs increased from initial estimates of $3 billion in 2015 to $9.3 billion at the time of cancellation in 2023.
- *Barring payments under a long-term pricing schedule until electricity supply is generated by the project*. This provision appears to protect customers from paying for nuclear generation if the project never goes into operation. It should be noted, however, that when a project is completed, it could mean a substantial increase in utility rates at the time of commercialization, depending on market prices.

OPC appreciates these efforts to limit ratepayer exposure to the risk of cost overruns and to prevent customers from paying for projects until the project generates energy.

III. No need for immediate action on significant expansion of generation in Maryland

Important context to any legislation that increases risks to Maryland utility customers is that the State does not need to take immediate action to encourage the

[2] Georgia Pub. Serv. Comm'n, *Order Adopting Stipulation*, Docket No. 29849, Document Filing No. 217284 (Jan. 31, 2024), https://psc.ga.gov/search/facts-document/?documentId=217284, at 13 (allowing for recovery of financing costs and capital costs).
[3] Patty Durant, Kim Scott, and Glenn Caroll, *Plant Vogtle: The True Cost of Nuclear Power in the United States*, Cool Planet Solutions (May 2024), https://truthaboutvogtle.com/wp-content/uploads/2024/06/Truth-about-Vogtle-report.pdf, at 23.

development of large power plants in the State. Under conservative assumptions, Maryland has sufficient resource adequacy—ability to "keep the lights on"—in the near term to meet the peak demands on its system. Specifically, sufficient transmission and generation resources currently exist to meet the resource adequacy needs for every part of the State through at least 2029.[4] For additional information and context, please see the attached FAQs, also available on OPC's website.

Further out into the future, PJM is not forecasting significant load growth in Maryland. Load growth is forecasted in the Frederick area due to data center projects; however, that area has not historically been transmission-constrained, meaning that there is sufficient existing transmission capacity to allow that area to be served by all the resources in PJM. PJM's forecasts of average annual demand growth through 2045 for the other Maryland zones that have historically been transmission-constrained—including the BGE zone—are modest, ranging from 0.37 percent to 0.67 percent.[5]

Even if new generation—even new *clean* energy generation specifically—is needed, the high prices in PJM capacity market are providing incentives to existing generation—though not limited to clean energy generation—to remain online and to new generation to come online. These resources would be backed by private investors—without the set-prices created by the procurement mechanism in SB 716 that are backed by utility customers. No Maryland laws preclude new generation of any sort from building in Maryland, provided they meet siting and other local requirements. Moreover, any new nuclear energy generation would take many years before commencing operations, likely more than 10-15 years and potentially much longer, extending further out in time the uncertainty of calculating an appropriate cost to which ratepayers would be committed.

OPC appreciates the opportunity to provide these comments on SB 716.

[4] *See* Office of People's Counsel Comments, Public Service Commission Admin Doc. No. PC66, Submission No. 31 (explaining results of technical analysis). Beyond 2029, additional planned transmission capacity is needed. PJM has already approved construction of transmission—scheduled to come online in 2028—to fill this need. *Id.*

[5] https://www.pjm.com/-/media/DotCom/library/reports-notices/load-forecast/2025-load-report.pdf.

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(January 28 2025)

Maryland Resource Adequacy FAQs

What is resource adequacy?

Resource adequacy requires having enough electricity generation to serve peak demand—including a "reserve margin" buffer for uncertainty—along with enough room on the transmission system to reliably deliver the power to customers.

Who is responsible for ensuring resource adequacy in Maryland?

PJM Interconnection, LLC (PJM), the regional transmission organization (RTO) for Maryland and 13 other jurisdictions in the region, is responsible for ensuring resource adequacy in Maryland. RTOs like PJM operate the transmission system and the wholesale energy markets and are regulated by the Federal Energy Regulatory Commission (FERC). Subject to FERC's oversight, PJM sets the reserve margin necessary to meet the reliability and resource adequacy criteria established by the North American Electric Reliability Corporation and the regional entity to which it delegates authority, the Reliability First Corporation, to determine and assess electric reliability, including resource adequacy, for PJM.

PJM evaluates resource adequacy for the region as a whole, as well as smaller zones within the region (called Locational Deliverability Areas or LDAs).

How is resource adequacy achieved in Maryland?

PJM runs auctions for "capacity" in which generation companies commit to being available to run when needed to meet demand. The capacity auctions (in PJM parlance, the Base Residual Auction, or BRA) are run annually and have the goal of ensuring sufficient generation to meet power needs for the region as a whole (PJM's regional territory) and—based on the ability of the transmission system to import power—for the smaller zones within the region. The auction is designed to enable the procurement of sufficient resources to satisfy the resource adequacy criteria applicable to PJM and Maryland.

What is the resource adequacy situation now?

PJM ran its latest capacity auction in July 2024. That auction secured enough capacity to meet anticipated customer peak power demands and a sufficient reserve margin for the PJM region as a whole and for most zones in Maryland for the 2025/2026 delivery year—which runs from June 1, 2025, to May 31, 2026. In that auction, the capacity bids to meet PJM's requirements in Baltimore Gas & Electric's service territory zone—called the "BGE LDA"—fell just short because the Brandon Shores and Wagner power plants, having announced an intention to retire, did not bid into the auction. Although these results *do not* indicate expected outages in the BGE LDA, the results *do* indicate a need for more generation or transmission.

PJM ensured reliability in the BGE LDA for the 2025/2026 delivery year by entering into "reliability must-run," or "RMR" arrangements with Brandon Shores and Wagner. RMR arrangements keep the plants online past their intended retirement date and obligate the plants to generate power until planned transmission enhancements add new capabilities to import power into the area. It is reasonable to conclude that the BGE LDA will not have resource adequacy—or reliability—issues for the foreseeable future because of the RMR arrangements and the planned transmission enhancements that will replace the generation lost by these plants' retiring.

Under RMRs, generators commit not to retire their power plants at their announced retirement date and are guaranteed payment at a regulated rate which is almost always much higher than the market rate. They are paid that higher rate even if their exclusion from the capacity market increases the clearing price for the capacity market.

Following the summer 2024 auction, OPC and many others challenged PJM's policy of excluding Brandon Shores and Wagner from the auction, and PJM is now seeking to change that policy to include RMR units in the auction. Doing so should reduce the costs for ratepayers in the region, who currently functionally pay for the capacity of the power plants twice: once through the inflated capacity market prices, and again through the RMR arrangement that also ensures the units act as capacity.

OPC released a report on the 2024 capacity market auction, the RMR arrangements and their impacts on customers in August 2024.[1]

What are the future prospects for resource adequacy in Maryland?

Maryland appears to have sufficient resource adequacy in the near term to meet the peak demands on its system.[2] Any assessment of Maryland's resource adequacy should include an assessment of both generation resources located within each of the LDAs in Maryland

[1] Bill and Rate Impacts of PJM's 2025/2026 Capacity Market Results & Reliability Must-Run Units in Maryland, OPC (August 2024).
[2] Public Service Commission PC66, Comments of the Office of People's Counsel (Jan. 17, 2025).

and an assessment of the power transfer capacity into the LDAs in Maryland using the transmission system. It should also include other measures such as demand response and energy storage, accounting for existing tools the Public Service Commission has to mitigate resource adequacy issues. The contribution to resource adequacy from Maryland-located generation depends, in part, on finalizing RMR arrangements for the Brandon Shores and Wagner power plants near Baltimore—which appears imminent—and the continued availability of the Calvert Cliffs Nuclear Plant to serve existing customers.

Based on information received from Maryland utilities, PJM is not forecasting significant data center growth in Maryland. Some data center growth in the Frederick area will occur, but that area is not transmission-constrained, which means that existing and planned transmission for those data centers will ensure resource adequacy there. PJM's forecasts of average annual demand growth through 2045 for the other Maryland zones—including the BGE zone—are modest, ranging from 0.37% to 0.67%. PJM's transmission solutions for planned power plant retirements intend to address the resource-adequacy impacts of those retirements. Further, all of Maryland's coal-fired power plants have already retired or announced plans to retire. Higher capacity market prices across PJM also are incentivizing plants to remain online or come out of retirement.[3]

PJM is scheduled to run its next auction in June 2025 for the 2026/2027 delivery year that runs June 1, 2026, to May 31, 2027. Some analysts are predicting that there will not be enough capacity to meet the expected demand and reserve margins for PJM as a whole in that auction. These predictions are due to forecasts of data center growth mostly outside of Maryland and present issues largely beyond Maryland's control.

Does Maryland's status as a "net importer" of generation mean more in-State generation is needed for resource adequacy?

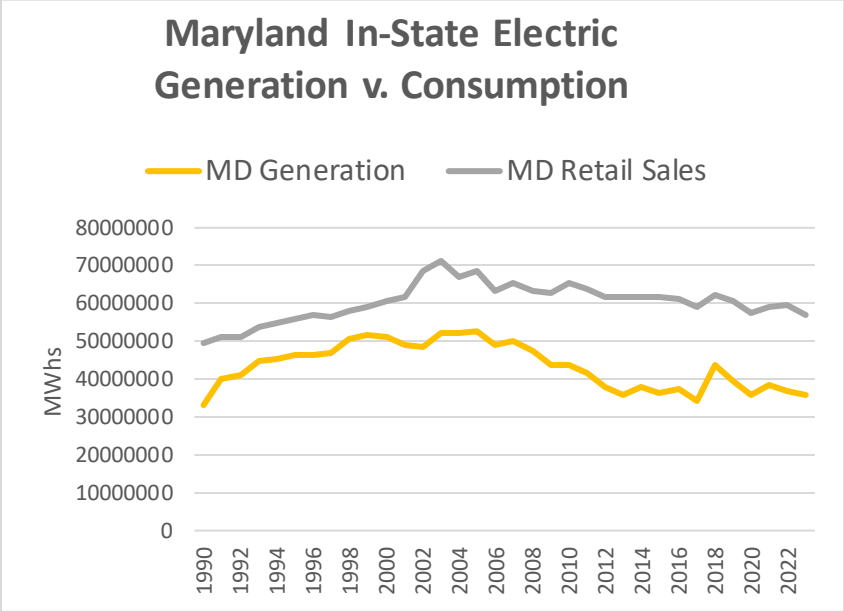
No. Resource adequacy depends only in part on the geographic source of energy production. It is mostly a function of peak demand and the combination of generation and transmission capability to meet that demand. Maryland's status as a net importer speaks to overall energy consumption—at all times of day over the course of a year—and is measured in megawatt-hours (or kilowatt hours), which is a different measurement than used for reliability and system capacity—*megawatts*. Meeting resource adequacy requires having sufficient *megawatts* available at time of highest demand on the system, while Maryland's status as a net importer of 40 percent of its *megawatt hours* speaks only to overall energy consumption.

The relevant available data does not show that there is a near-term need for generation located in Maryland for reliable electric service. The transmission system in place can

[3] *See*, for example, Middle River Power reverses plan to shut 540-MW plant amid record PJM capacity prices, Utility Dive (Sept. 12, 2024). The plant discussed in this article is in Illinois.

import sufficient power into Maryland, and new transmission under development will increase that capability as power plants retire.

Maryland has imported a portion of its power needs for many decades through both periods of high and low energy costs.[4] In fact, more states in PJM are energy importers than exporters. D.C. imports about 98 percent of energy, and Delaware about 57 percent. As long as there is enough capacity in the region and sufficient transmission to deliver the electricity, importing part of Maryland's energy needs poses no risk to Marylanders.



Maryland, like many states in PJM, has long imported more electricity than it generated.

In fact, Maryland customers benefit from being part of a diverse regional system and market, and it has been part of PJM for more than 60 years.

It is true, however, that new generation is needed within PJM's broader footprint, considering increasing demand from data centers and potential power plant retirements.[5] Maryland, however, cannot address regionwide resource adequacy issues raised by data center growth elsewhere in PJM without taking on significant costs.

How can Maryland lower the costs of assuring resource adequacy for customers?

Even though it is likely that there will be sufficient resources in Maryland to meet resource adequacy standards, tight market conditions *throughout* PJM could lead to high

[4] *See* State Electricity Profiles, EIA, Table 10. Maryland has been a net energy importer of electricity every year since 1990 (the EIA only provides data going back to the '90s). In 2013, Maryland imported 30,881,323 MWh, or 46% of its total electricity from other states, the highest annual import to date. 1998 was the lowest year of imports since 1990, with 13,945,102 MWh, or 22% imported into the state. In 2023, 24,139,011 MWh, or 40% of the state's demand, was imported.

[5] At least some of this demand may be illusory. *See*, e.g., Investors may overestimate benefits to utilities of datacenter boom, S&P Global (June 18, 2024). Regardless, because PJM has accepted projected load growth from data centers, it has increased the capacity requirements to meet the reliability requirement.

prices for capacity for Maryland customers in upcoming years. A variety of "no-regrets" solutions could enhance resource adequacy, reduce risks to customers of reliability issues, and minimize the chances of paying high prices for potentially unnecessary transmission and generation. These no-regrets measures include:

- *Demand flexibility and response*. Foremost among "no regrets" solutions are measures to enhance demand flexibility and response. Demand response refers to programs that pay or credit consumers for decreasing their energy use during peak demand hours. Estimates from the EmPOWER future programming work group indicate that it would be cost effective to deploy more than four times the amount of demand response utilities paid for in 2023.[6] Demand response can bid into PJM's capacity market, and so, in addition to decreasing the real-time cost of electricity, can decrease capacity costs for consumers.

  The electric system is built for—and resource adequacy is measured based on—peak demands on the system. Programs that encourage consumption more evenly across the day would decrease peaks that drive resource adequacy needs and thereby decrease system costs.

- *Energy efficiency*. Maryland could also take measures to require more energy efficient appliances. While energy efficiency can no longer bid into PJM capacity markets,[7] encouraging energy efficiency can still reduce capacity demand. Energy savings means that less capacity is needed to serve the lower peak demand, thus decreasing capacity costs, while also lowering customer bills. An analysis for the EmPOWER energy-efficiency programs found vast quantities of cost-effective energy-efficiency savings are available beyond what the current EmPOWER program alone can provide.

- *Existing transmission enhancements*. The transmission system is part of the resource adequacy equation. Limits on how much electricity can be delivered over any given transmission line are determined by the physical characteristics of the wire. Grid enhancing technologies, also called GETs, refer to a suite of new technologies that provide low-cost methods to make the most of existing transmission infrastructure. GETs can help defer, or even avoid, expensive construction of new transmission lines and enable more generation to connect to the system and serve customers. One study estimates

[6] Utilities procured 125 MW of demand reduction in 2023. *See* The EmPOWER Maryland Energy Efficiency Act Report 2024, Public Service Commission (May 2024), at 15. It would be cost effective to procure more than 500 MW of demand response. *See* Maryland GHG Abatement Study Final Response, Applied Energy Group (Dec. 2, 2022), at 40. Originally submitted to the PSC under maillog number 300426.

[7] On Nov. 5, 2024, FERC accepted tariff revisions from PJM that prevent energy efficiency from participating in the capacity markets. *See* Docket No. ER24-2995.

that GETs could save $1 billion annually across PJM by 2033.[8]

- *Distributed Energy Resources (DERs)*. Greater deployment of DERs—such as rooftop solar, community solar, and batteries—can also promote resource adequacy and decrease capacity costs. DERs connect to the distribution grid—and not the transmission grid—and so are not impacted by the current delays in PJM's process for connecting generation at the transmission level. DERs can either participate as demand response—by allowing residential customers to draw energy from their battery or "behind-the-meter" solar, rather than the grid, during times of peak demand—or they can be aggregated in a "virtual power plant" (VPP) to act as a generator that can bid capacity into the capacity auction. Studies have shown that virtual power plants can provide great value to the grid, with one study finding that VPPs could save utilities $15-$35 billion in capacity investments over a 10-year period.[9]

- *Energy storage*. Energy storage can "firm up" the capacity value of intermittent renewable generation by allowing energy from solar and wind to be stored and later deployed at moments of peak demand. Energy storage can help avoid costly transmission-system upgrades by pre-flowing energy over a transmission line and storing it on the other side of the line prior to times of peak demand. When demand peaks, energy can then be supplied *both* over the transmission line in real time, and from the batteries.

- *Surplus interconnection service*. PJM is asking FERC to approve more robust surplus interconnection service (SIS), which could also promote resource adequacy and lower costs. Many generators—especially intermittent renewable generation—do not use their full allowable transmission capacity.

  More robust SIS would enable additional generating units to share the interconnection with existing generators so long as the combined generation does not export more than the existing generation's maximum allowed output at any given moment. SIS could allow solar and wind resources to add battery storage to their sites and significantly increase supply in the PJM capacity market. One study estimated that batteries utilizing SIS on existing PJM solar interconnections alone could unlock an additional 5,862 MW of capacity—an amount equivalent to about 90% of Maryland's largest utility's current peak demand.[10] If FERC approves PJM's proposal, State policies to site batteries alongside intermittent generators using SIS could add new capacity within approximately one year.

[8] GETting Interconnected in PJM, RMI (February 2024).
[9] Real Reliability: The Value of Virtual Power, Brattle (May 2023), at 25.
[10] ReSISting a Resource Shortfall: Fixing PJM's Surplus Interconnection Service (SIS) to Enable Battery Storage, ACORE (Sept. 18, 2024).

Are there other measures that Maryland should take to assess or address resource adequacy?

Maryland can require greater information about large customers—such as data centers—that plan to locate in Maryland and take measures to ensure that new big customers do not harm existing customers. For example, Maryland could require large customers to provide for their own generation needs and contribute to State policies and programs such as the Electric Universal Service Fund, EmPOWER, and the State's clean energy goals. Further, data centers that have flexible power needs could bring benefits to the system.

Also, the State could take actions to promote more accurate forecasts of future loads, and State agencies can advocate for beneficial changes to PJM and FERC policies. OPC is very active as a member of PJM, engaging daily in PJM workgroups and processes and advocacy before the FERC.

Is now a good time for Maryland to require in-State generation?

No. Interest rates are high, supply chain challenges are ongoing, and the high prices in PJM capacity market are providing incentives to existing generation to remain online and new generation to come online without ratepayer backing. As has long been the case for Maryland, if it's profitable because it's needed, private generation companies can provide the investor backing for new generation plants.

Moreover, any new baseload generation would take many years before commencing operations, likely more than six years and potentially longer, extending further out in time the uncertainty of calculating an appropriate cost that ratepayers would be committed to.

Further, the data on load forecasts is fraught with speculation. Demand growth is likely to "fail to materialize as forecast," a January 2025 analysis from Bank of America concludes, and when this happens "there are significant risks to overbuild of resources with no demand to serve."[11] Without an immediate urgency, Maryland would be better off waiting to see how projections for increasing electricity demand in other parts of PJM play out.

Finally, as described above, **there is no immediate resource adequacy issue requiring Maryland to take action that risks further increases to utility customer bills**. Most Maryland utility customers are already facing some of the highest bills they've ever seen because of massive rate increases over recent years, as described in our June 2024 rates report.

[11] US Power & Utilities: Year Ahead 2025: Is Past What's Prologue?, Bank of America (January 7, 2025)

Would allowing Maryland's utility monopolies to build and own power plants enhance resource adequacy and, if so, at what cost?

As noted above, Maryland does not need to take action to encourage the building of large power plants within the State. While any generation may lower costs in the medium to long term, utility-owned generation would likely do so at a higher cost than relying on independent power producers to construct more generation in the competitive market or making the most of the alternatives described above. In Maryland, law in place since 1999 allows utilities to build and own generation subject to Public Service Commission approval, but this law has not been utilized.

Allowing utilities to build generation poses significant risks to Maryland's utility customers, with few offsetting benefits.

First, utility ratepayers could bear uneconomic costs. Maryland ratepayers would still have to cover power plant costs (plus a profit margin) if the units sit unused because there are other lower-cost generators available to serve customers or they are incompatible federal or State climate goals. Indeed, data shows that New Jersey customers narrowly avoided paying nearly a half billion dollars above the market over the last ten years because a proposal to build out-of-market generation was overturned by the courts.

Second, utilities have no inherent advantages in constructing generation over non-utilities other than their ability to recover all their costs—no matter how high—from their captive customers. Non-utility generation companies, in fact, purchase the equipment to build generating plants from the same vendors as a Maryland utility would. Also, many non-utility companies have much greater experience actually building generation, which utilities have not done for about three decades.

Third, any new gas plant will take years—likely much more than five years—to come online.[12] By that time, planned new transmission is highly likely to be completed that will be available to serve Maryland customers and would allow other generation sources to compete against—and potentially out-compete—a utility-owned generating plant, to the detriment of customers, as the New Jersey example shows.[13]

Finally, although additional new generation anywhere in the PJM region potentially decreases capacity costs by increasing supply, in the case of utility-owned generation, customers themselves do not necessarily benefit from lower prices. Rate-regulated utilities—which have exclusive government monopolies and captive customers—are paid

[12] *See* Silverman et. al, Outlook for Pending Generation in the PJM Interconnection Queue (May 2024) at 9, (finding that "[A]bsent significant reforms or market innovations, most projects entering PJM's queue today are unlikely to come online before 2030.").

[13] There is currently 427.9 MW of capacity associated with projects that are not yet constructed but that do have signed interconnection service agreements (ISAs) in Maryland. These plants can come online and are not impacted by the queue delays. Queue delays are holding back a much larger tide of generation that wants to interconnect. There is 6,122.0 MW of capacity in the queue in Maryland, and 152,384.0 MW of capacity in the queue or under construction in PJM. *See* Serial Service Request Status, PJM.

on a "cost-plus return" basis, and if the costs are higher than competitor's costs, the utility is generally entitled to recover those costs plus its return as a matter of law. And because there is great uncertainty with projecting generation market prices over the life of the power plant, it is not possible to know whether utility ownership of generation will benefit customers.

What *would* be certain, however, is that captive utility customers bear all the risks that the future costs paid to the utilities would be higher than market prices. That is the opposite of how risks are allocated currently to the investors of competitive generation companies.

Would it be different if Maryland directed its utilities to competitively procure new in-State generation through purchase power agreements?

Requiring a competitive procurement for generation rather than simply requiring utility generation investments would be more protective of utility customers because it would avoid some—though not all—of the problems described immediately above.

Most importantly, it would not avoid the guesswork about future market prices that puts ratepayers at risk. As the New Jersey example noted above illustrates, locking in prices with private generation companies shifts the risks of low future market prices to customers. One simply cannot know what the future capacity and energy markets will do. As with utility ownership, what *would* be certain is that captive utility customers would bear all the risks that the future costs of the procurement would be higher than market prices.