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PUBLIC SERVICE COMMISSION

Chair Marc Korman
Environment and Transportation Committee
250 Taylor House Office Building
Annapolis, MD 21401

RE: HB 1494 - Information - Electricity and Retail Gas Supply – Customer Choice, Consumer Protection, and Green Power (Retail Energy Modernization and Consumer Choice Act)

Dear Chair Korman and Committee Members:

The Public Service Commission (the “Commission”) appreciates the opportunity to provide this informational testimony for HB 1494. The bill carves out the following electric products from many of the consumer protections enacted by SB1 of 2024¹: time of use rates, supply products bundled with *emissions-free certificates*, as opposed to *renewable energy credits*; and distributed energy resources that provide demand response. The following natural gas retail supply offerings are also exempt from consumer protections: tiered natural gas rates; and gas supply that is paired with an “emissions-reducing product or service.” For these product offerings, a retail supplier is not required to adhere to the current statutory safeguards regarding contract term length, variable rates, price caps, and the limitations surrounding utility purchase of supplier receivables (“POR”).

The Commission notes that enabling products in the retail market that do not have price caps and are billed through purchase of receivables will likely enable all of the previous high price offerings that SB 1 of 2024 sought to restrict. If the General Assembly moves forward with HB 1494 where price caps are removed, for any product offering, then it is recommended that POR not be permitted or restrictions be placed upon the use of POR.

The aforementioned products are notably carved out from the green product oversight and procedures identified in PUA 7-707. Currently, under this provision, any product marketed as “green,” as “clean,” “100% renewable,” or as a similar claim, must be verified as having at least 51% Maryland RPS-compliant renewable energy credits (RECs) attached. Additionally, the Commission annually establishes the price cap for these green products, above the statutory cap, at a hearing before the Commission where suppliers, utilities, and stakeholders, provide

¹ Ch. 537 of 2024.

justifiable evidence to support the set price. Legislation under SB1 of 2024 further enabled a retail supplier to petition for a price that supersedes the green power price set.

Carving these products from the green product proceedings will result in market inconsistencies and potential confusion regarding which products are considered “green.” Additionally, the Commission will encounter difficulties in overseeing the market when different offerings, in only some instances, may be subject to the Commission’s marketing oversight. Additionally, a carve out of this type will allow customer protections that were developed under SB1 of 2024 to be easily circumvented. For example, an “emissions-reducing product”, as allowed under the legislation, could be satisfied through the sale of a single LED bulb or by installing a more efficient appliance and would be exempt from SB1’s customer protections if combined with the sale of gas.

An additional consequence of HB 1494 is that it creates a three-tiered market, for which enforcement may be challenging: 1) a general market with a trailing 12 month price cap; 2) a green product market for which regulatory enforcement and oversight is heightened via price caps; and 3) a non-green, yet niche market that exceeds all statutory price caps.

In addition, the bill specifies that a distributed energy resource aggregator providing electric distribution system support services and participating in a demand response program is not limited to acting only at the direction of an electric company, despite the definition of "electric distribution system support services" in § 7-1001. An aggregator cannot provide distribution support services unless it is for grid support needed by an electric distribution company under an electric distribution company retail tariff. Therefore, we can only assume that the bill's sponsor is referring to the dual participation of a distributed energy resource aggregator in both electric distribution company retail tariffs and PJM wholesale markets, where the aggregator would not be under the direction of an electric distribution company. Dual participation for distributed energy resource aggregators in PJM is set to roll out in several phases.

The Commission’s Interconnection Workgroup is already working on interconnection regulations to implement DER aggregations for dual market participation to meet PJM’s February 1, 2028 deadline. The bill’s expanded requirements regarding cybersecurity, information exchange and nondiscriminatory interconnection can be included in these efforts, although the July 1, 2027 deadline may be unrealistic given the complexity of the issues to be deliberated, the fact that PJM still has not fully defined its process requirements as of this date, and the processes and system changes required to be implemented by electric companies to meet the bill’s requirements and PJM’s requirements for dual market participation. For these reasons, the Commission prefers a more realistic December 1, 2027 deadline for regulation to be effective in 2028, if the legislature is amenable.

Please contact Niki Wiggins, Director of Legislative Affairs, at irene.wiggins3@maryland.gov if you have any questions related to this informational testimony.

(signature to follow)

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Sincerely,

A handwritten signature in blue ink, appearing to read "Kumar", with a stylized flourish extending from the end.

Kumar P. Barve
Chair, Maryland Public Service Commission