



Delegate Marc Korman, Chair
Delegate Michele Guyton, Vice-Chair
House Environment and Transportation Committee
250 Taylor House Office Building
Annapolis, Maryland 21401

**Re: House Bill 1404: Public Utilities - Energy Generation and Transmission – OPPOSED
House Bill 1561: Electricity Generation and Storage - Investor-Owned Electric
Companies and Front-of-the-Meter Storage (Affordable Energy Act) – OPPOSED**

March 6, 2026

Dear Chairman Korman, Vice-Chair Guyton, and Committee Members:

The Retail Energy Supply Association (RESA) **opposes** utility-owned generation in states that have restructured their energy markets, advocating instead for competitive, market-based solutions. RESA’s position is that competitive retail markets, rather than traditional monopoly-protected, rate-regulated utility structures, provide better outcomes for consumers in terms of innovation, price efficiency, and renewable energy adoption.

HB1404 aims to enhance the state's energy generation and transmission systems. As proposed, it allows for the construction, acquisition, and operation of energy-generating systems that produce energy from natural gas. It authorizes investor-owned companies to construct, acquire, lease, and operate their own generating facilities and certain transmission facilities. It also aims to expedite the interconnection process for new thermal generation resources in the state.

HB1561, as proposed, would require the Public Service Commission (PSC) to mandate that electric companies develop resource adequacy plans if electricity supply is insufficient or price-stability events occur. The PSC then has one year to approve or deny the plans. HB1516 would permit utilities to build only renewable energy projects.

Both bills also authorize how investor-owned utilities can recover their investment costs. HB1516 authorizes investor-owned electric companies to recover ‘prudently incurred costs’ for constructing, acquiring, and operating their own generating facilities or front-of-the-meter storage, plus a reasonable return. These investment costs, including ‘stranded costs’, would be recoverable through electric rates or a non-bypassable surcharge on customer bills.

Similarly, HB1404 would authorize investor-owned electric companies to recover ‘prudently incurred costs’ for constructing, acquiring, leasing, and/or operating their own generating facilities through electric rates or a non-bypassable surcharge on customer bills. Additionally, HB1404 would also permit utilities to recoup any “stranded costs” for any reason.

Utilities often contend that competitive markets cannot ensure a reliable and affordable electricity supply. When the Maryland General Assembly passed the *Electric Customer Choice and Competition Act* in 1999, it restructured the electricity sector, requiring utilities to maintain a monopoly of both distribution and transmission, while also requiring them to divest from all generating assets, passing operations and ownership to Independent Power Producers competing in an open market. As a result, it shifted the financial risks associated with building and operating power plants away from Maryland ratepayers to these Independent Power Producers (IPPs).

Allowing utilities to control transmission, distribution, and generation would essentially create a vertically integrated system in Maryland, giving utilities a complete and full monopoly. Utilities are guaranteed cost recovery, *plus* a reasonable rate of return on their capital expenditure, known as ‘rate base’. Consequently, the ratepayers bear the burden associated with the utilities’ rate base and are on the financial hook for these investments, even if the final costs are higher. Ratepayers also shoulder the responsibility for paying for projects that ultimately prove unnecessary, which is referred to as a “stranded cost”.

For nearly three decades, the State has operated under a restructured market in which utilities purchase electricity through competitive wholesale markets, and IPPs have assumed responsibility for operating the power plants that supply these markets. Reintroducing utility ownership of generation would not only undermine the benefits of Maryland's current restructured market, which has been in place for nearly 30 years, but also expose ratepayers to significant financial risks, higher energy costs, and incentives for utilities to favor their own facilities unfairly.

The Alliance for Competitive Power recently commissioned a report, “[Competitive Power Benefits for the State of Maryland](#),” to evaluate the benefits the competitive market has provided to the State of Maryland and the associated risks of utility-owned generation. The 22-page analysis conducted by FTI Consulting, Inc. identified several key data points, including:

- PJM’s competitive energy and capacity markets force IPPs to compete on the cost of generation, which has insulated Marylanders from growth in power supply costs. Had retail rates in the state grown at the same rate as in vertically integrated states, Marylanders would have paid over \$11 million more for their electricity over the past 15 years.
- For the average Maryland household, transmission and distribution have *increased* by over \$500 per year. In contrast, generation costs have *decreased* during the same period, saving households nearly \$300 per year.
- Maryland electric generation is expected to be at least 25% more expensive to produce than the cost of imported electricity.

The debate over utility-owned generation extends far beyond Maryland and into other states in the PJM territory. Neighboring state legislatures, such as Pennsylvania and New Jersey, have introduced legislation to permit utilities to own power plants. Still, those efforts have not materialized at this time. Other states, such as Ohio and Illinois, are seeing similar efforts.

Utilities have framed the narrative that changing the market could advance renewable energy development, while also meeting critical climate goals set forth by the State. Opponents and consumer advocates contend that the underlying motivation is the utilities’ goal of maximizing profits due to the proliferation of data centers. Regardless of the real intentions, it’s uncontested that

changes in state law would allow utilities to enter this market with minimal risk, while the existing players would face high risks and new competitors.

As reported last August by the [Pennsylvania Capital-Star](#), on the issue of utilities regaining the ability to build power plants in PJM:

- Todd Snitchler, president and CEO of the Electric Power Supply Association, a trade group for independent power producers, said lawmakers should be concerned about “a reversal in policy and a return to the monopoly utility approach for generation.”
- Brian Lipman, director for New Jersey’s Division of the Rate Counsel, said, “Competition is good for ratepayers.” He further stated, “Utility-owned generation will likely shift the risk of producing generation away from generation developers and onto ratepayers. This means that if something goes wrong (cost overrun, inaccurate load forecast), that ratepayers, not the generators, will be liable for the costs of that error.”
- Maryland’s Office of People’s Counsel, David Lapp, opined that, “Utilities see an opportunity to grow their profits by expanding their businesses into generation so they can shift risks on the ratepayers and take advantage of data center load growth.”

When it comes to energy policy in Maryland, it’s challenging to find common interests between Democratic and Republican lawmakers. Despite political and philosophical differences over mitigating the recent rise in energy demand, there is one universal question that both parties appear to align on: “*How will this legislative action impact Maryland rate payers?*”

On this issue, we humbly submit FTI Consulting, Inc’s deductions in response.

*“Allowing utilities to re-enter the business of power generation in Maryland would expose consumers to the financial risks of the regulated 'cost-plus' model. This structure creates a natural incentive for utilities to maximize their rate base and shareholder returns by pursuing capital-intensive generation projects. Under this framework, **captive ratepayers would bear financial responsibility for budget overruns, project delays, and management failures that can often occur during large-scale infrastructure projects.** These risks are further compounded by the fact that Maryland utilities have divested their generating expertise, making it unlikely they could build new facilities more efficiently or at a lower cost than IPPs. Any utility seeking to enter the competitive generation market can do so already through competitive affiliates without the safety net of guaranteed ratepayer recovery.”*

It is for the reasons outlined above that RESA is opposed to both HB1404 and HB1561, and we respectfully urge an unfavorable report by this committee.

Sincerely,



Tracy McCormick
Executive Director