



January 30, 2026

Chair Delegate Marc Korman
Members of the House Environment and Transportation Committee

Re: Earthjustice **support** of HB 54:
Task Force to Study Restructuring Maryland's Electric Utility Industry

Earthjustice¹ supports the passage of HB 54, Task Force to Study Restructuring Maryland's Electric Utility Industry. HB 54 would create a task force to study a variety of energy market structural issues with the intent of determining how to best address the affordability crisis in Maryland. HB 54 is an important first step toward lowering utility rates and ensuring that the Maryland energy market functions appropriately.

The Electric Customer Choice and Competition Act of 1999 (“Choice Act”) facilitated the restructuring of the electric utility industry in Maryland. As part of restructuring, the State’s vertically integrated electric companies were required to either divest their generation assets or “spin off” those assets to an affiliate or subsidiary. With restructuring, generation resources are considered competitive, and the competitive market is relied upon to provide new generation resources and to determine the price of generation.

Subsequent to the passage of the Choice Act, the General Assembly also enacted other significant positive changes to Maryland’s energy market such as the Renewable Portfolio Standard (“RPS”) and the EmPOWER energy efficiency program. The RPS requires that a specified portion of retail electricity sold by electricity suppliers in the State come from “renewable” sources. Consequently, the RPS incentivizes renewable energy growth and market stability. The Empower Maryland program’s primary goal is to incentivize energy efficiency and conservation efforts among residents and businesses.

However, a vital issue has been neglected over the years since electric restructuring occurred. The manner in which the utility itself should be regulated and how the utility rate structure should be changed in this new energy environment has never been examined. As such, the current utility rate structure is akin to forcing a square peg into a round hole.

For example, the current utility rate structure incentivizes investor-owned utilities to construct infrastructure. Constructing infrastructure is how these utilities make their profits. The utility has no incentive to consider other options (such as non-wires alternatives) because choosing an option other than construction lessens the utilities profits. This incentive disconnect

¹ Earthjustice is a non-profit public interest environmental law organization that represents other non-profits free of charge. Earthjustice uses the power of law and the strength of partnerships to advance clean energy, combat climate change, protect people’s health and preserve magnificent places and wildlife.

will always be a problem as long as utilities have a fiduciary duty to shareholders and the consumer comes second.

Rather than continue this narrow incentive that often results in unwanted and expensive projects, the Task Force should explore the development of utility incentives that encourage Maryland's goal of affordability as well as other policy goals. For example, rather than be financially rewarded for simply building more, the Commission should set performance standards (for things like non-wires alternatives) and the utility would be financially rewarded for exceeding those standards.

The Task Force Should Explore the Conversion of Utilities to Public Utility Districts

Public Utility Districts (PUDs) are nonprofit, community-owned and community-governed utilities. In most states PUDs are municipal corporations. Accountability to the citizen-voters of a PUD rests with the elected PUD commissioners, providing far more direct and local accountability between the customers and the operators of an electric utility than exists with most private and investor-owned utilities. A PUD combines the public interest benefit of a nonprofit operation with low-cost financing methods similarly available to a municipality or city. A PUD is operated for the benefit of the customer/voters while investor-owned utilities are operated for the benefit of shareholders.

There are several successful public power conversions (converting from investor-owned utility to PUD). Examples include Emerald PUD, Oregon Trail Electric Cooperative, Kauai Island Utility Cooperative, the City of Hermiston, Oregon and the Columbia River PUD in Oregon. To highlight one success story, Kauai had the highest rates of the major islands in Hawaii when the PUD was formed, and it now has the lowest rates of any of the islands. The explanation is simple. No profit, no federal income taxes, and a rapid deployment of renewable resources displacing more expensive oil (the most common fuel used on the island).

The General Assembly Should Reject Exelon's Suggestion that Utilities Be Permitted to Construct Generation in Favor of Exploring a Myriad of Options

Maryland residents are facing an energy affordability crisis. Utility bills are rising as the cost of living increases, further straining already stretched households and businesses. Exelon has proposed reversing the basic premise of electric restructuring and suggests that utilities should once again own generation and charge ratepayers the full cost of the generation's construction and operation. The General Assembly should reject this seemingly simple solution to a complex problem for a variety of reasons.

First, utilities can already construct generation. Section 7-510 (c)(6) of the Choice Act provides that the Public Service Commission may require or allow utilities to own and operate generating facilities. No Maryland utility, including the Exelon owned utilities, has ever petitioned the Commission to build generation under this provision. The Maryland utilities should be required to use the statutory avenues available to them.

Second, the Exelon utilities have demonstrated little desire or incentive to control the costs they pass on to ratepayers. Since Exelon's acquisition of BGE in 2012, BGE's base gas distribution rates have more than tripled, rising from 30 cents/therm in 2012 to 94 cents/therm in 2026. Its base electric distribution rates have almost doubled, rising by 92 percent, from 2.5 cents/kWh in 2012 to 4.9 cents/kWh in 2026. Delmarva Power has had eight rate increases since the Exelon acquisition, with rates growing by 65 percent, from an annual average of 4.3 cents/kWh before the acquisition in 2015 to 7.1 cents/kWh in 2025. Pepco has also had eight rate increases since the acquisition and is now seeking approval for another overall rate increase of 23 percent. Pepco's latest request, if approved, would make nine rate increases since Exelon's 2016 acquisition of Pepco, with annual average rates growing by 132 percent from 3.3 cents/kWh in 2015 to 7.6 cents/kWh in 2026. Electric rates for Maryland's Exelon utilities have increased well above the inflation rate.²

Third, Exelon can participate in the generation market by forming an affiliate. Exelon previously was in the generation business. But in 2022, Exelon spun off its generation affiliate (Constellation Energy). At that time, Exelon became a 100 percent regulated transmission and distribution utility business. Now, only four years later, Exelon has apparently changed its mind, but only if it gets a leg-up when compared to other generation companies. The Exelon utilities only want to provide generation without the risk that other generation companies will have to face. For competitive generators, investors take the risk of cost overruns and obtaining customers. In contrast, ratepayers will be forced to pay for cost overruns and represent a captive customer base. Moreover, the utility would be guaranteed a profit for its generation while competitive companies obviously would not. This imbalance of risks will end generation competition in Maryland. Competitive companies will not be able to compete with utility generation.

Remaking our utility system is a matter of life and death for Maryland residents. It is clear that the current utility regulation structure has only had the effect of increasing utility profits. At this critical time, Maryland must explore new, innovative solutions and design a responsible, economically sound, and affordable utility system that can serve as the backbone of Maryland's economic future.

Finally, Earthjustice thanks Delegate Allen for his leadership on this important issue.

Earthjustice urges a favorable report for HB 54.

Thank you in advance for your support. Should you have any questions, please contact me at smiller@earthjustice.org.

Continued for signature:

² Id. at 10.

Respectfully submitted,

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