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**BILL NO.:** House Bill 1327  
**Public Utilities – Transitional and Default Electric Service – Implementation**

**COMMITTEE:** Economic Matters

**HEARING DATE:** March 4, 2021

**SPONSOR:** Delegate Dumais

**POSITION:** OPPOSE

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The Office of People’s Counsel (OPC) opposes House Bill 1327. Although we understand that the bill needs to be amended to address drafting issues, it is clear that HB 1327 intends to change the way that more than 80% of Maryland residents buy their electric service. With these drafting issues outstanding, we are unable to assess the bill’s full impact; for example, we understand that in some places the bill refers to the “electric company” when it intends “default service provider” — a key difference.

State law should make way for the best performers to provide default service. Currently, the law presumes the utilities are the best performers, requiring them to procure default service under Public Service Commission (Commission) regulations. Competition for the right to procure default service could improve performance for Maryland’s residential customers. Whether the current method or competition for procuring default service provides for the best performance is a topic worthy of examination and, potentially, future legislation. An examination of these performance considerations would be useful in identifying the purpose and effects of the sorts of major reforms to retail electricity supply that HB 1327 anticipates. For example:

- The bill appears to assume that retail competition is not going well for competitive suppliers in Maryland. While that may be the case, as drafted, the bill may help retail suppliers but does not provide any clear customer benefits; in fact, it could

present new risks for customers (see below). There may be other ways of making retail competition work better that have not been assessed and would be more likely to benefit residential customers.

- The bill's vision of competition for providing default service may be logical if the utilities are not performing cost-effectively or to reduce the footprint of the incumbent monopoly. But any decision as to how to use competition should consider whether there are economies of scale associated with performing the default function and the impact on customers. If there are such economies, any legislation should reflect those economies in the way that it plans for competition to provide the service.
- The bill would establish default service across the state, but it is not clear how HB 1327 intersects the State's long-term vision of how the industry should be structured to promote its consumer and environmental goals. For example, the Committee is considering HB 768, the Community Choice Energy pilot program bill. Under that bill, Montgomery County would assume the role of default provider for its residents. It appears the two bills conflict and that HB 1327 would need to exempt Montgomery County if both bills were enacted.

### ***Comments on Specific Provisions of the Bill***

*"Transitional service"*: As we understand it, HB 1327 would immediately replace the existing standard offer service with "transitional" service for a period of time after which it would be followed by "default" service. Transitional service would last 36 months, during which customers would be able to switch to competitive retail supply service as they can now. At the beginning of transitional service, all default customers now on standard offer service would be assigned to the winners of a Commission auction. For the first 24 months, transitional service would be billed at a fixed price based on the outcome of the auction. After 24 months, transitional service customers would be automatically rolled over to a 12-month fixed price with the same transitional service company to which the customer was assigned initially. The supply company would set that fixed price for the remaining 12 months of the transition period without Commission oversight.

*"Default" service*: After the 36-month transition, there would no longer be any transitional service. Standard offer service customers who had been assigned to transitional service at the outset and had not switched to another supplier would remain with the transitional service supplier at whatever offer that company makes. There would be default service after the transition period, but it would not be a choice for consumers; rather, it would be available for an unexpected contingency, such as a retail supplier's bankruptcy, and only available for 90 days.

For selecting the default service provider, the Commission would have a process to identify one or more electricity suppliers for each utility service territory. Section 7-510.3(k)(3) would set the minimum price for default service to include the “hourly wholesale price of energy” and other wholesale market electricity products. It is not clear how the Commission would implement this section, but this language would expose residential customers on default service to short-term wholesale market price spikes.

*Unjustified ratepayer-funded benefit to utility shareholders:* Section 7-510.3(r) appears to take money from ratepayers and give it to utility shareholders for no reason. Specifically, it would give the utility an additional 50 basis points of return on equity when default service is established and for the next 10 years. No rationale is provided for why the utility would be entitled to this additional revenue from ratepayers; we can think of no rationale for it. While the 50-basis point addition is tied to the first 10 years of default service, the bill does not even give the utilities a role in providing default service. In any event, giving utilities an extra return on equity to perform services that they are statutorily obligated to perform is contrary to basic regulatory principles. Utilities have monopoly franchises for which they have obligations and are compensated according to long-established ratemaking principles. Those principles provide utilities a return on equity. This provision would serve only to provide utility shareholders extra compensation at the expense of captive ratepayers.

*Potentially beneficial consumer protection concepts:* Certain aspects of the bill may be beneficial to residential customers. For example, the bill would allow the Commission to adopt a bill of rights for customers. Those Commission regulations could include license renewal requirements for suppliers, elimination of fees for changing plans with the same supplier, credits for customers who experience long waits with supplier call centers and notice to customers regarding their right to restrict access to their usage data. These provisions, with certain amendments, could provide benefits to customers.

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To reiterate, the paragraphs above describe our best understanding of the intent of the legislation, but we cannot be sure that understanding is correct because of apparent drafting issues.

**Recommendation:** The Office of People’s Counsel respectfully requests an unfavorable report by the House Economic Matters Committee on House Bill 1327.