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BILL NO.: House Bill 0974 – Electricity and Gas – Retail Supply
(Freedom from Monopolies Act)

COMMITTEE: Environment and Transportation

HEARING DATE: March 6, 2026 (ENT)

SPONSOR: Delegates Chisholm, et al.

POSITION: Unfavorable

The Office of People’s Counsel (OPC) respectfully offers the following comments in opposition to House Bill 0974, the Freedom from Monopolies Act. HB 0974 seeks to repeal in their entirety the changes to the Public Utilities Article enacted as part of Senate Bill 0001 in 2024. That legislation placed new operational requirements and restrictions on third-party retail energy suppliers to protect customers against predatory practices. While SB 0001 did not require third-party suppliers to exit the market, certain provisions may have restricted the operation of reputable third-party retail suppliers in Maryland. Rather than making targeted changes to potentially problematic provisions, however, HB 0974 proposes to repeal SB 0001 in full, abandoning essential protections for customers.

In 1999, the General Assembly passed Maryland’s Electric Customer Choice and Competition Act (“the Act”).¹ The Act “deregulate[d] the generation, supply and pricing of electricity” by enabling companies other than the State’s monopoly utilities to sell electricity directly to retail customers.² The intent of the Act was to “create competitive retail electricity supply and electricity supply services markets . . . [and] provide economic benefits for all customer classes[.]”³

¹ 1999 Md. Laws Ch. 3, 4 (S.B. 300/H.B. 703).

² Md. Code Ann., Pub. Util. (PUA) § 7-504(3).

³ PUA §§ 7-504(2), 7-504(4).

Since 1999, however, the benefits for residential customers from retail choice have been sparse. OPC’s experience in this regard was confirmed by a 2023 study of retail energy suppliers operating in Baltimore Gas and Electric’s service territory showing that retail supply customers are not, in fact, paying competitive prices.⁴ Compounding this problem, the study also found that “households who live in low-income areas pay higher [electricity] prices, on average, than households in high-income areas.”⁵

At the same time, the harm to customers was plentiful. Existing laws and regulations enabled retail energy suppliers to engage in deceptive and unfair marketing practices that were hard to uncover and even harder to adequately remedy. OPC has litigated before the Public Service Commission (PSC) numerous cases successfully alleging that retail energy suppliers have violated Maryland law and regulation by engaging in unfair and deceptive practices that resulted in harm to customers.⁶ In just two of those cases, Maryland customers were overcharged by over \$14 million and \$6 million dollars, respectively, and individual customers were overcharged by thousands of dollars.⁷

Consumer complaints against retail energy suppliers included unfair and deceptive marketing and solicitation practices such as:

- Telemarketing based on incomplete or deceptive advertising material that results in a binding supply contract just based on a telephone call;⁸

⁴ Kahn-Lang, Jenya, *Competing for (In)attention: Price Discrimination in Residential Electricity Markets*, pg. 1, (Mar. 7, 2023), <https://drive.google.com/file/d/1IClpnaf3gVy3X94YWhLtSSTMWKTzi16K/view>.

⁵ *Id.* at 43.

⁶ See e.g., Case No. 9324, *In the Matter of the Investigation into the Marketing Practices of Starion Energy PA, Inc.*; Case No. 9613, *In the Matter of the Complaint of the Staff of the Public Service Commission against SmartEnergy Holdings d/b/a SmartEnergy*; Case No. 9615, *In the Matter of the Complaint of the Staff of the Public Service Commission v. U.S. Gas & Electric and Energy Services Providers, Inc., D/B/A Maryland Gas & Electric*; Case No. 9617, *In the Matter of the Complaint of the Staff of the Public Service Commission Against Smart One Energy, LLC*; Case No. 9647, *Complaint of the Md. Office of People’s Counsel Against SunSea Energy, LLC*.

⁷ Case No. 9617, Order No. 89526 (Mar. 6, 2020); Case No. 9613, Order No. 90515 (Feb. 22, 2023). In the case of SmartEnergy, the PSC found that the company was responsible for \$15.97 million in customer refunds but suspended \$9.47 million of that amount contingent on prompt and satisfactory remittance of the remaining refunds to affected customers. It also ordered a \$250,000 civil penalty against SmartEnergy. Case No. 9613, Order No. 91676 (June 9, 2025).

⁸ The most egregious example of this type of supplier behavior is Smart One Energy. Through telephone marketing, the company was able to learn the account number or customer ID for the customer and enroll the customer without their consent. The company had no other interaction with the customer other than to put excessive charges—usually about twice the utility’s rate—on the customer’s bill. This practice went on for years before being detected. The company enrolled over 17,000 Maryland customers. Many customers had no idea that they were being served by a supplier, had no knowledge of Smart One Energy, and endured overcharges for years. See Case No. 9617, Order No. 89219 (Aug. 2, 2019).

- Deceptively marketing products as “green energy,” “renewable energy,” and “carbon-free” without defining these terms;
- Enrolling customers without their consent, making misleading claims about potential savings, and posing as representatives of a customer’s utility company;⁹
- Deploying third-party sales agents who are unlicensed and unregistered, making it difficult to prevent agents who violate Maryland regulations from continuing to operate in Maryland; and
- Locking customers into variable rate contracts that significantly increase in price and charge excessive early terminations fees.

Although the PSC has a customer complaint process, PSC enforcement actions had done little to curtail retail supplier misconduct. In fact, the number of consumer complaints filed against retail energy suppliers operating in Maryland was growing. In fiscal year 2021, consumers filed 157 complaints with the PSC’s Consumer Affairs Division; in 2022, consumers filed 86 complaints; and in 2023, consumers filed 641 complaints.¹⁰ For example, one retail supplier racked up 41 new consumer complaints just months after restarting marketing and solicitation activities following an enforcement action before the PSC.¹¹ Finally, enforcement cases often span several years, which means that even if the affected customers are granted relief, that relief is substantially delayed. In one case, the supplier continued to serve—and receive revenues from—customers for years after the PSC found it had unlawfully enrolled customers.¹²

OPC supported the passage of SB 0001 in 2024 because it imposed much needed protections for customers interacting with the retail energy supply market, including:

- Enhancing licensing requirements to include the licensing of door-to-door “energy salespersons” and to require retail energy suppliers to reapply for a license every three years, providing the PSC with additional opportunities to review suppliers’ conduct and to deny problematic suppliers from selling in the state;
- Increasing the civil penalty amount from \$10,000 to \$25,000 and providing that each customer who is affected by a retail supplier’s misconduct is a separate violation;
- Eliminating most variable rate contracts;
- Prohibiting commission-based compensation for energy salespersons, which removed an incentive for deceptive marketing and solicitation practices;
- Prohibiting the sale and purchase of accounts receivable; and

⁹ See e.g., PSC Case No. 9324; PSC Case No. 9615; PSC Case No. 9647.

¹⁰ Consumer complaint information is publicly available on the PSC’s website: <https://www.psc.state.md.us/retail-energy-supplier-complaint-reports/>.

¹¹ PSC Case No. 9647, *Notice of Probable Cause Hearing* (Public and Confidential), ML No. 301288 (Feb. 13, 2023).

¹² *In re SmartEnergy Holdings, LLC*, 486 Md. 502 (2024).

- Eliminating early termination fees.

Notably, SB 0001 did not require third-party suppliers to exit the market, but certain provisions may have caused even reputable third-party retail suppliers to choose to exit. Other legislation introduced this year, SB 0749, proposes to address those potentially problematic provisions, while preserving essential protections for customers. HB 0974, however, proposes to repeal SB 0001 entirely, including all of the protections described above. In so doing, HB 0974 seeks to restore Maryland's retail energy supply market to its pre-SB 0001 state, which would mean a greater risk of abusive practices and fewer protections for customers.

Moreover, to the extent that the bill's title, the Freedom from Monopolies Act, implies that expanding the retail energy supply market in Maryland will eliminate utilities' monopoly status, it's worth noting that Maryland's public utilities have monopolies on distribution service, not supply. In other words, even if HB 0974 succeeds in attracting third-party retail suppliers back to the market and customers can again choose to receive their electricity or natural gas supply from a third-party retail supplier, that supply will still be delivered through the local utility's pipes and wires. Customers will still be captive to their local utilities, and nothing in HB 0974 would affect their state-granted monopoly status.

Recommendation: OPC requests an unfavorable Committee report on HB 0974.