

Introduced by: Councilmember Henry Bullock

*DORSEY, cd, Bunnell, Jeng,*

Prepared by: Department of Legislative Reference

Date: January 9, 2019

*Clarke*

# RESOLUTION

*Sreed*

Referred to: \_\_\_\_\_ Committee

~~*Stark*~~

## JUDICIARY AND LEGISLATIVE INVESTIGATIONS

*M. Adkins*

Also referred for recommendation and report to municipal agencies listed on reverse.

*Reisinger*

CITY COUNCIL 19-0127R

A RESOLUTION ENTITLED

*Paul Jeng*

A CITY COUNCIL RESOLUTION concerning

### Request for State Action – Reform Residential Retail Electricity and Natural Gas Markets

FOR the purpose of calling on the Baltimore City delegation to the 2019 Maryland General Assembly to create legislation that requires the Public Service Commission to collect and analyze retail electric and natural gas supplier actual rates, usage, and zip-code information and data for residential customers; eliminate retail supplier individual residential market contracts; make aggregated supply options that would lower costs available to households; and enact additional consumer pricing and contract safeguards for all Maryland residents who choose third-party energy supply.

*R. Dorsey*

*[Signature]*

*Bill [Signature]*

*[Signature]*

*Mary Pat Clarke*

*[Signature]*

*[Signature]*

*[Signature]*

NO. \_\_\_\_\_

**\*\*The introduction of an Ordinance or Resolution by Councilmembers at the request of any person, firm or organization is a courtesy extended by the Councilmembers and not an indication of their position.**

**Agencies**

|       |   |
|-------|---|
| _____ | Baltimore City Public School System             |
| _____ | Baltimore Development Corporation               |
| _____ | City Solicitor                                  |
| _____ | Comptroller's Office                            |
| _____ | Department of Audits                            |
| _____ | Department of Finance                           |
| _____ | Department of General Services                  |
| _____ | Department of Housing and Community Development |
| _____ | Department of Human Resources                   |
| _____ | Department of Planning                          |
| _____ | Other: _____                                    |
| _____ | Other: _____                                    |
| _____ | Other: _____                                    |
| _____ | Department of Public Works                      |
| _____ | Department of Real Estate                       |
| _____ | Department of Recreation and Parks              |
| _____ | Department of Transportation                    |
| _____ | Fire Department                                 |
| _____ | Health Department                               |
| _____ | Mayor's Office of Employment Development        |
| _____ | Mayor's Office of Human Services                |
| _____ | Mayor's Office of Information Technology        |
| _____ | Office of the Mayor                             |
| _____ | Police Department                               |
| _____ | Other: _____                                    |
| _____ | Other: _____                                    |

**Boards and Commissions**

|       |   |
|-------|---|
| _____ | Board of Estimates                                  |
| _____ | Board of Ethics                                     |
| _____ | Board of Municipal and Zoning Appeals               |
| _____ | Comm. for Historical and Architectural Preservation |
| _____ | Commission on Sustainability                        |
| _____ | Employees' Retirement System                        |
| _____ | Other: _____  |
| _____ | Other: _____  |
| _____ | Other: _____  |
| _____ | Environmental Control Board                         |
| _____ | Fire & Police Employees' Retirement System          |
| _____ | Labor Commissioner                                  |
| _____ | Parking Authority Board                             |
| _____ | Planning Commission                                 |
| _____ | Wage Commission                                     |
| _____ | Other: _____  |
| _____ | Other: _____  |
| _____ | Other: _____  |

**CITY OF BALTIMORE  
COUNCIL BILL 19-0127R  
(Resolution)**

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Introduced by: Councilmembers Henry, Bullock, Dorsey, Cohen, Burnett, President Young,  
Councilmembers Clarke, Sneed, Middleton, Reisinger

Introduced and read first time: January 14, 2019

Assigned to: Judiciary and Legislative Investigations Committee

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Committee Report: Favorable

Adopted: March 11, 2019

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**A COUNCIL RESOLUTION CONCERNING**

**1 Request for State Action – Reform Residential Retail Electricity and Natural Gas Markets**

2 FOR the purpose of calling on the Baltimore City delegation to the 2019 Maryland General  
3 Assembly to create legislation that requires the Public Service Commission to collect and  
4 analyze retail electric and natural gas supplier actual rates, usage, and zip-code information  
5 and data for residential customers; eliminate retail supplier individual residential market  
6 contracts; make aggregated supply options that would lower costs available to households;  
7 and enact additional consumer pricing and contract safeguards for all Maryland residents who  
8 choose third-party energy supply.

9 **Recitals**

10 Nearly two decades ago, the Maryland General Assembly passed the Electric Customer  
11 Choice and Competition Act of 1999, or the Electric Choice Act. The Public Service  
12 Commission (PSC) authorized retail competition for residential gas customers in 1999, and  
13 legislation requiring licensing and consumer protection requirements for gas retail competition  
14 was passed in 2000. Before the electricity and natural gas markets were deregulated, all  
15 Maryland residents got their electricity and natural gas from the regulated monopolies that were  
16 granted franchises to provide electricity and natural gas in specific service areas. The  
17 authorization of retail competition allowed residents to purchase electricity from retail electricity  
18 suppliers and retail natural gas suppliers. The authorization of retail competition aimed to  
19 increase competition in the electricity and natural gas markets; the law anticipated that  
20 competition and innovation would result in economic benefits for all consumer classes.

21 Retail competition authorized by the Maryland General Assembly and the PSC has reached  
22 some of its aims. There are hundreds of licensed suppliers and over 60 active electricity and  
23 natural gas suppliers to Baltimore City consumers at any given time. The market now has  
24 renewable and green energy options, fixed and variable rate plans, customer reward and loyalty  
25 programs, and a variety of benefits including airline points, charitable donations, and National  
26 Park passes. Large commercial customers are, on average, saving money.

27 Yet, federal data, and a report commissioned by the Maryland Office of People’s Counsel,  
28 indicate that retail competition in Maryland has largely failed to lower prices for residential  
29 consumers; on the contrary, prices are, on average, considerably higher. Regulated utility  
30 providers in each service area charge residential Standard Offer Service (SOS) rates. Third-party

EXPLANATION: Underlining indicates matter added by amendment.  
~~Strike-out~~ indicates matter stricken by amendment.

**Council Bill 19-0127R**

1 supplier residential electricity data published by the U.S. Energy Information Administration  
2 reveal that, from 2014 to 2017, Maryland households that chose retail electricity paid an  
3 estimated \$255 million more than they would have if they had remained with their regulated  
4 utilities' standard offer, excluding suppliers who sell renewable energy. In short, the energy sold  
5 is the same, but the price is substantially higher.

6 The Baltimore City Council is deeply concerned by a recent Abell Foundation report that  
7 found that our City's most vulnerable households are being targeted by retail suppliers and are  
8 paying significant pricing premiums. Much of the assistance money meant to help vulnerable  
9 households pay their utility bill is going to third party suppliers in the form of higher prices.  
10 Increased energy burdens for Baltimore City's low-income consumers have severe and real  
11 negative health, medical, financing, and housing consequences.

12 In order to stop retail suppliers from overcharging Maryland residents, the Maryland General  
13 Assembly needs to create legislation requiring the PSC to collect rate data from retail electricity  
14 and natural gas suppliers marketing in Maryland. Until this data is collected and published,  
15 Maryland citizens will continue to be overcharged. Understanding what actual rates are charged  
16 and how these retail plans are established and billed will give legislators the necessary  
17 knowledge to put reforms in place and meet the end-goal of the Electric Choice Act.

18 The legislation should require the PSC to run initial and then yearly reports that analyze the  
19 number of utility accounts that are variable priced accounts versus fixed rate accounts, determine  
20 the actual price levels of all retail accounts, and, if possible, also determine the number of retail  
21 accounts that are subject to termination fees. This data should be provided separately for  
22 customers that receive assistance from the Office of Home Energy Programs (OHEP) and from  
23 non-OHEP accounts. While this data is being collected and analyzed, the legislature should  
24 consider a temporary moratorium on retail supply for customers from the individual residential  
25 market.

26 Experience in other states indicates that aggregated supply can and does lower prices.  
27 Maryland legislation should enable OHEP and local government to acquire aggregated energy  
28 under contract, provided such contracts guarantee savings as compared to SOS rates and have  
29 other safeguards. The legislation should also discontinue individual residential contracts  
30 permanently and do the same for variable rates (energy rates that change on a month-to-month  
31 basis and often shoot up during especially hot or cold months). Many retailers sign up customers  
32 for variable rates without explaining how a variable rate works. Instead of explaining how a  
33 variable rate works, many direct sales agents solely focus their sales pitch on cash or loyalty  
34 incentives. The customer, who the retailer has failed to properly inform about the rate plan, is  
35 surprised, or even unaware, when they are hit with a huge utility bill, especially when the weather  
36 takes a turn. When given the choice, customers choose fixed rates over variable rates. Since  
37 variable rates are highly volatile and frequently misunderstood by consumers, the legislature  
38 should seriously consider eliminating residential auto-renewal to variable-rate contracts without  
39 explicit customer explanation and opt-in.

40 The legislation should improve the design of utility bills to make them more readable and  
41 informative for consumers, and the legislation should require and fund changes to improve  
42 retailer pricing and contract transparency. Residential utility bills (both online and physical  
43 versions) should have the full third-party pricing plan information, including the pricing plan's  
44 name and the contract start and stop dates. Providers should clearly list utility SOS electricity  
45 and natural gas rates on their websites and on utility bills. Retail providers should include

**Council Bill 19-0127R**

1 information on all utility bills that show how much the customer saved or overpaid on that  
2 invoice cycle compared to the regulated utility offer. All bills should use clear language that is  
3 easily understandable; all monetary figures should begin with the dollar sign, and the phrase  
4 “kilowatt hours” should be spelled out, rather than abbreviated as “KH”. If energy retailers are  
5 allowed to continue charging variable rates, retail suppliers should be required to list the past 12-  
6 month variable electric or natural gas rates on their websites in a place that customers and  
7 potential customers can easily find. Retail suppliers should also be *required* to inform customers  
8 about upcoming rate changes and provide customers with a variety of options through which they  
9 can receive this information, such as via phone call, text, or physical mail.

10 The legislation should also require the Public Service Commission to establish a unit within  
11 the agency responsible for monitoring the competitive markets and investigations to ensure  
12 compliance with the consumer protection rules. Enhanced consumer protection rules are needed,  
13 but lack force without adequate enforcement procedures and tools. The Commission also should  
14 be able to provide relief to all consumers hurt financially by deceptive practices and non-  
15 compliance with consumer protection laws and regulations. Without resources that allow the  
16 PSC to investigate and enforce provisions of this legislation, the legislation will lack genuine  
17 force.

18 Finally, the Maryland General Assembly’s legislation should delay approving the retail  
19 supplier requests before the necessary data has been gathered and analyzed and the necessary  
20 consumer protections have been enacted. The legislation should make sure to disallow supplier  
21 consolidated billing. Supplier consolidated billing blocks consumers from accessing their utility  
22 bill and therefore denies consumers the opportunity to learn about their energy usage or utility  
23 rates. This information is necessary for consumers to make decisions in the marketplace, and  
24 Maryland residents should not be denied it.

25 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE,** That the  
26 Baltimore City Council requests the Baltimore City delegation to the 2019 Maryland General  
27 Assembly to create legislation that requires the Public Service Commission to collect and analyze  
28 retail electric and natural gas supplier actual rates, usage, and zip-code information and data for  
29 residential customers; eliminate retail supplier individual residential market contracts; make  
30 aggregated supply options that would lower costs available to households; and enact additional  
31 consumer pricing and contract safeguards for all Maryland residents who choose third-party  
32 energy supply.

33 **AND BE IT FURTHER RESOLVED,** That a copy of this Resolution be sent to the Baltimore City  
34 Delegation to the 2019 Maryland House of Delegates, the Maryland Public Service Commission,  
35 the Maryland Office of People’s Counsel, and the Mayor’s Legislative Liaison to the City  
36 Council.



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**BALTIMORE CITY COUNCIL**  
**JUDICIARY AND LEGISLATIVE INVESTIGATIONS COMMITTEE**  
**VOTING RECORD**

Resolution#: CC-19-0127R

DATE: 3/5/19

TITLE: Request for State Action - Reform Residential Retail Electricity and Natural Gas Markets

MOTION BY: Clarke                      SECONDED BY: Stokes

- FAVORABLE                       FAVORABLE WITH AMENDMENTS  
 UNFAVORABLE                       WITHOUT RECOMMENDATION

| NAME                   | YEAS                                | NAYS                     | ABSENT                   | ABSTAIN                  |
|------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Costello, E., Chair    | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Clarke, M., Vice Chair | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Bullock, J.            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Pinkett, L.            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Reisinger, E.          | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Scott, B.              | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Stokes, R.             | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| *                      | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| *                      | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| *                      | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| *                      | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>TOTALS</b>          | <b>7</b>                            | <b>0</b>                 | <b>0</b>                 | <b>0</b>                 |

CHAIRPERSON: E.T. [Signature]

COMMITTEE STAFF: Matthew L. Peters, Initials: [Signature]





# City of Baltimore

City Council  
City Hall, Room 408  
100 North Holliday Street  
Baltimore, Maryland  
21202

## Meeting Minutes - Final

### Judiciary and Legislative Investigations

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Tuesday, March 5, 2019

10:30 AM

Du Burns Council Chamber, 4th floor, City Hall

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19-0127R

#### CALL TO ORDER

#### INTRODUCTIONS

#### ATTENDANCE

**Present** 7 - Member Eric T. Costello, Member Mary Pat Clarke, Member Leon F. Pinkett III, Member John T. Bullock, Member Edward Reisinger, Member Brandon M. Scott, and Member Robert Stokes Sr.

#### ITEM SCHEDULED FOR PUBLIC HEARING

##### 19-0127R

##### **Request for State Action - Reform Residential Retail Electricity and Natural Gas Markets**

For the purpose of calling on the Baltimore City delegation to the 2019 Maryland General Assembly to create legislation that requires the Public Service Commission to collect and analyze retail electric and natural gas supplier actual rates, usage, and zip-code information and data for residential customers; eliminate retail supplier individual residential market contracts; make aggregated supply options that would lower costs available to households; and enact additional consumer pricing and contract safeguards for all Maryland residents who choose third-party energy supply.

**Sponsors:** Bill Henry, John T. Bullock, Ryan Dorsey, Zeke Cohen, Kristerfer Burnett, President Young, Mary Pat Clarke, Shannon Sneed, Sharon Green Middleton, Edward Reisinger

**A motion was made by Member Clarke, seconded by Member Stokes, Sr., that this City Council Resolution be Recommended Favorably. The motion carried by the following vote:**

**Yes:** 7 - Member Costello, Member Clarke, Member Pinkett III, Member Bullock, Member Reisinger, Member Scott, and Member Stokes Sr.

#### ADJOURNMENT





**HEARING NOTES**

**City Council Resolution: 19-0127R**

**Request for State Action - Reform Residential Retail Electricity and Natural Gas Markets**

**Committee:** Judiciary and Legislative Investigations

**Chaired By:** Councilmember Eric Costello

**Hearing Date:** March 5, 2019

**Time:** 11:05 AM to 11:55 AM

**Location:** Clarence "Du" Burns Chamber

**Total Attendance:** ~40

**Committee Members in Attendance:**

Eric Costello

Mary Pat Clarke

Brandon Scott

Leon Pinkett

Robert Stokes

Edward Reisinger

John Bullock

- Bill Synopsis in the file? .....  yes  no  n/a
- Attendance sheet in the file? .....  yes  no  n/a
- Agency reports read? .....  yes  no  n/a
- Hearing televised or audio-digitally recorded? .....  yes  no  n/a
- Certification of advertising/posting notices in the file? .....  yes  no  n/a
- Evidence of notification to property owners? .....  yes  no  n/a
- Final vote taken at this hearing? .....  yes  no  n/a
- Motioned by: ..... Councilmember Clarke
- Seconded by: ..... Councilmember Stokes
- Final Vote: ..... Favorable

**Major Speakers**

*(This is not an attendance record.)*

N/A



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**Major Issues Discussed**

1. Chairman Costello opened the proceedings, and asked if any City agencies would like to speak on the resolution. No agency requested to speak.
2. Barbara Dent and Jason Jesner, from GEDCO CARES, testified in favor of the resolution. Specifically, they mentioned that the Maryland General Assembly is currently considering a bill that would require the Maryland Public Service Commission to collect data to better determine how electric and gas market deregulation has impacted Maryland consumers (SB 716). They also discussed the recent findings of the Maryland Office of People’s Counsel and the Abell Foundation that consumers who purchase electricity or gas from third-party retail suppliers, as a whole, significantly overpay. Finally, they discussed how low-income households are often more vulnerable to deceptive marketing and the financial stress caused by higher utility bills.
3. Councilwoman Clarke asked if there are leases that provide for eviction if the tenant does not maintain utility service. Mr. Jesner confirmed that he has seen leases with that requirement.
4. Councilman Stokes asked what is being done to educate consumers. Mr. Jesner noted that he does try to inform his clients, but State regulation is important so consumers are not the first line of defense. Ms. Dent also noted that GEDCO CARES has a social worker who helps clients understand their energy bills and options.
5. Tony Cusati, from the Retail Energy Supply Association (RESA), presented testimony in opposition to the resolution (in file).
6. Councilman Stokes asked if RESA has any data that contradicts the findings of the Office of People’s Counsel or the Abell Foundation. Mr. Cusati responded that he did not have such data available.
7. Jacob Ouslander, from the Maryland Office of People’s Counsel, presented testimony in support of the resolution (in file).

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**Further Study**

Was further study requested?

Yes  No

If yes, describe. N/A

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**Committee Vote**

E. Costello: ..... Yea  
M. Clarke:..... Yea  
J. Bullock:..... Yea  
L. Pinkett: ..... Yea  
E. Reisinger: ..... Yea  
B. Scott: ..... Yea  
R. Stokes:..... Yea

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*Matthew Peters*

Matthew L. Peters, Committee Staff

Date: March 5, 2019

cc: Bill File  
OCS Chrono File







# CITY OF BALTIMORE

## CITY COUNCIL HEARING ATTENDANCE RECORD

Committee: Judiciary and Legislative Investigations

Chairperson: Eric Costello

Date: March 5, 2019

Time: 10:30 AM

Place: Clarence "Du" Burns Chambers

Subject: Resolution - Request for State Action - Reform Residential Retail Electricity and Natural Gas Markets

CC Bill Number: 19-0127R

**PLEASE PRINT**

**IF YOU WANT TO TESTIFY PLEASE CHECK HERE**



| FIRST NAME         | LAST NAME          | ST. # | ADDRESS/ORGANIZATION NAME | ZIP   | EMAIL ADDRESS             | TESTIFY                             | FOR                                 | AGAINST                             | YES                                 | NO                                  |
|--------------------|--------------------|-------|---------------------------|-------|---------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| John               | Doe                | 100   | North Charles Street      | 21202 | Johndoenbmore@yahoo.com   | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Barbara            | Dent               |       |                           |       |                           | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Jason              | Jesner             |       |                           |       |                           | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| <del>Justice</del> | <del>Pittman</del> |       |                           |       |                           | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| <del>TONY</del>    | <del>USA</del>     | 1379  | BUTTER CHURCH DR          | 20170 | TELESTATION@GENERENGY.COM | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| <del>TONY</del>    | <del>JACOBS</del>  | 6     | St. Paul Suite 2102       | 21202 | jeeds@uslander.com        | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| <del>Aure</del>    | <del>USA</del>     |       |                           |       |                           | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |

(\*) NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD. REGISTRATION IS A SIMPLE PROCESS. FOR INFORMATION AND FORMS, CALL OR WRITE: BALTIMORE CITY BOARD OF ETHICS, C/O DEPARTMENT OF LEGISLATIVE REFERENCE, 626 CITY HALL, BALTIMORE, MD 21202. TEL: 410-396-4730; FAX: 410-396-8483.



Maryland Residential 2017 Energy Information Administration Form 861 Sales\_Ult\_Cust data. Sorted by Market Share. "Green" suppliers' data below.

| 2017                        | Revenue<br>000s | Sales - MWH | #<br>Customers | Market<br>Share % | Avg. Yearly<br>KWH per<br>Client | Supplier<br>Avg. Billed<br>KWH Rate | MD Avg<br>S.O.S. | Percent<br>+/- to<br>S.O.S. | Over/Under to<br>S.O.S. / Kwh | Over/Under to<br>S.O.S. / Total | Overpay per<br>Customer |
|-----------------------------|-----------------|-------------|----------------|-------------------|----------------------------------|-------------------------------------|------------------|-----------------------------|-------------------------------|---------------------------------|-------------------------|
| Constellation NewEnergy     | \$108,154       | 1,242,707   | 93,929         | 23%               | 13,230                           | \$0.087                             | \$0.084          | 4%                          | \$0.003                       | \$4,077,289                     | \$43                    |
| Constellation PowerChoice   | \$9,786         | 109,781     | 10,985         | 3%                | 9,992                            | \$0.089                             | \$0.084          | 6%                          | \$0.005                       | \$573,918                       | \$52                    |
| WGL Energy Services, Inc.   | \$47,346        | 552,758     | 52,347         | 13%               | 10,559                           | \$0.086                             | \$0.084          | 2%                          | \$0.002                       | \$1,052,517                     | \$20                    |
| Direct Energy Services      | \$36,273        | 343,379     | 32,198         | 8%                | 10,665                           | \$0.106                             | \$0.084          | 26%                         | \$0.022                       | \$7,515,009                     | \$233                   |
| Commerce Energy, Inc.       | \$19,542        | 211,229     | 22,187         | 6%                | 9,520                            | \$0.093                             | \$0.084          | 10%                         | \$0.009                       | \$1,851,871                     | \$53                    |
| NRG / Reliant Energy NE     | \$26,586        | 238,786     | 20,184         | 5%                | 11,829                           | \$0.111                             | \$0.084          | 33%                         | \$0.028                       | \$6,588,348                     | \$326                   |
| XOOM Energy Maryland,       | \$17,659        | 187,515     | 18,218         | 5%                | 10,293                           | \$0.094                             | \$0.084          | 12%                         | \$0.010                       | \$1,954,819                     | \$107                   |
| IDT Energy, Inc.            | \$18,088        | 127,216     | 15,840         | 4%                | 8,134                            | \$0.126                             | \$0.084          | 51%                         | \$0.043                       | \$5,411,760                     | \$346                   |
| Energy Services Providers,  | \$16,784        | 184,407     | 15,451         | 4%                | 11,935                           | \$0.091                             | \$0.084          | 9%                          | \$0.007                       | \$1,340,114                     | \$87                    |
| Ambit Energy Holdings,      | \$19,986        | 182,333     | 15,294         | 4%                | 11,922                           | \$0.110                             | \$0.084          | 31%                         | \$0.026                       | \$4,725,511                     | \$309                   |
| SFE Energy Maryland, Inc    | \$7,633         | 88,489      | 9,874          | 2%                | 8,870                            | \$0.086                             | \$0.084          | 3%                          | \$0.003                       | \$223,721                       | \$22                    |
| Stream Energy Maryland      | \$11,288        | 106,590     | 8,883          | 2%                | 11,989                           | \$0.106                             | \$0.084          | 26%                         | \$0.022                       | \$2,361,388                     | \$288                   |
| Star Energy Partners, LLC   | \$5,860         | 57,283      | 8,179          | 2%                | 7,005                            | \$0.099                             | \$0.084          | 18%                         | \$0.015                       | \$851,511                       | \$104                   |
| Major Energy Electric       | \$5,724         | 45,533      | 6,535          | 2%                | 6,988                            | \$0.126                             | \$0.084          | 50%                         | \$0.042                       | \$1,910,611                     | \$282                   |
| Consolidated Edison-no new  | \$9,418         | 117,731     | 6,051          | 2%                | 19,456                           | \$0.080                             | \$0.084          | -4%                         | -\$0.004                      | -\$442,471                      | -\$73                   |
| North American Power        | \$7,622         | 75,234      | 5,981          | 1%                | 12,558                           | \$0.101                             | \$0.084          | 21%                         | \$0.018                       | \$1,321,553                     | \$221                   |
| Viridian Energy PA LLC      | \$7,074         | 61,809      | 5,504          | 1%                | 11,230                           | \$0.114                             | \$0.084          | 37%                         | \$0.031                       | \$1,897,096                     | \$245                   |
| Oasis Power LLC             | \$7,117         | 52,771      | 5,289          | 1%                | 9,878                            | \$0.135                             | \$0.084          | 61%                         | \$0.051                       | \$2,687,729                     | \$510                   |
| Energy Plus Holdings LLC    | \$8,706         | 59,207      | 5,225          | 1%                | 11,331                           | \$0.147                             | \$0.084          | 76%                         | \$0.063                       | \$3,747,714                     | \$717                   |
| Palmetto Power MD, LLC      | \$4,115         | 32,153      | 5,006          | 1%                | 6,423                            | \$0.128                             | \$0.084          | 53%                         | \$0.044                       | \$1,421,986                     | \$284                   |
| Public Power/Utility of MD  | \$5,809         | 49,356      | 4,858          | 1%                | 10,160                           | \$0.118                             | \$0.084          | 41%                         | \$0.034                       | \$1,875,335                     | \$345                   |
| Starion Energy PA, Inc.     | \$4,873         | 34,227      | 3,554          | 1%                | 9,831                            | \$0.142                             | \$0.084          | 70%                         | \$0.059                       | \$2,006,789                     | \$595                   |
| Interstate Gas Supply, Inc. | \$2,816         | 29,513      | 3,284          | 1%                | 8,987                            | \$0.095                             | \$0.084          | 14%                         | \$0.012                       | \$344,285                       | \$106                   |
| Spark Energy, LP            | \$4,683         | 57,925      | 3,131          | 1%                | 18,500                           | \$0.081                             | \$0.084          | -3%                         | -\$0.003                      | -\$158,319                      | -\$61                   |
| ENGIE Retail, LLC           | \$2,372         | 29,831      | 2,840          | 1%                | 10,539                           | \$0.079                             | \$0.084          | -5%                         | -\$0.005                      | -\$135,221                      | -\$48                   |
| Spartan Energy Corp         | \$3,047         | 32,758      | 2,754          | 1%                | 11,895                           | \$0.093                             | \$0.084          | 11%                         | \$0.009                       | \$303,118                       | \$110                   |
| Liberty Power Corp.         | \$2,709         | 21,120      | 2,398          | 1%                | 8,804                            | \$0.128                             | \$0.084          | 53%                         | \$0.045                       | \$940,200                       | \$392                   |
| HIKO Energy, LLC            | \$1,602         | 12,590      | 1,780          | 0%                | 7,153                            | \$0.127                             | \$0.084          | 52%                         | \$0.043                       | \$647,088                       | \$311                   |

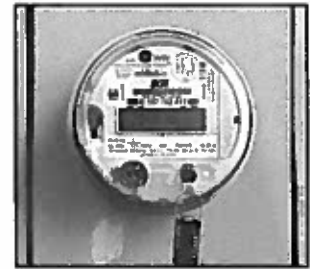
| 2017                      |                 |             |                |                   |                                  |                                     |                  |                             |                              |                                |                         |  |
|---------------------------|-----------------|-------------|----------------|-------------------|----------------------------------|-------------------------------------|------------------|-----------------------------|------------------------------|--------------------------------|-------------------------|--|
|                           | Revenue<br>000s | Sales - MWH | #<br>Customers | Market<br>Share % | Avg. Yearly<br>KWH per<br>Client | Supplier<br>Avg. Billed<br>KWH Rate | MD Avg<br>S.O.S. | Percent<br>+/- to<br>S.O.S. | Over/Under to<br>S.O.S. /kwh | Over/Under to<br>S.O.S. /Total | Overpay per<br>Customer |  |
| Horizon Power and Light,  | \$2,552         | 21,857      | 1,607          | 0%                | 13,601                           | \$0.117                             | \$0.084          | 39%                         | \$0.033                      | \$721,476                      | \$449                   |  |
| SmartEnergy Holdings,     | \$432           | 4,893       | 1,480          | 0%                | 3,308                            | \$0.088                             | \$0.084          | 5%                          | \$0.005                      | \$22,211                       | \$15                    |  |
| MPower Energy NJ LLC      | \$987           | 9,542       | 1,459          | 0%                | 6,540                            | \$0.103                             | \$0.084          | 24%                         | \$0.020                      | \$187,858                      | \$129                   |  |
| Spring Power & Gas        | \$1,348         | 11,916      | 1,455          | 0%                | 8,190                            | \$0.113                             | \$0.084          | 35%                         | \$0.028                      | \$350,035                      | \$241                   |  |
| Great American Power, LLC | \$1,076         | 10,168      | 1,003          | 0%                | 10,138                           | \$0.106                             | \$0.084          | 26%                         | \$0.022                      | \$223,930                      | \$223                   |  |
| Park Power LLC            | \$1,082         | 9,027       | 946            | 0%                | 9,542                            | \$0.120                             | \$0.084          | 43%                         | \$0.036                      | \$328,089                      | \$345                   |  |
| Shipley Choice, LLC       | \$970           | 10,729      | 913            | 0%                | 11,751                           | \$0.090                             | \$0.084          | 8%                          | \$0.007                      | \$71,846                       | \$79                    |  |
| First Energy Solutions    | \$888           | 12,777      | 809            | 0%                | 15,794                           | \$0.069                             | \$0.070          | -0%                         | -\$0.000                     | -\$748                         | -\$1                    |  |
| Plymouth Rock Energy,     | \$436           | 3,908       | 732            | 0%                | 5,339                            | \$0.112                             | \$0.084          | 33%                         | \$0.028                      | \$108,505                      | \$148                   |  |
| MIDAmerican Energy Serv.  | \$549           | 6,976       | 481            | 0%                | 14,503                           | \$0.079                             | \$0.084          | -6%                         | -\$0.005                     | -\$35,840                      | -\$74                   |  |
| Greenlight Energy Inc.    | \$368           | 3,698       | 463            | 0%                | 7,987                            | \$0.100                             | \$0.084          | 19%                         | \$0.016                      | \$58,293                       | \$126                   |  |
| Agera Energy LLC          | \$510           | 5,982       | 429            | 0%                | 13,944                           | \$0.085                             | \$0.084          | 2%                          | \$0.002                      | \$9,007                        | \$21                    |  |
| Discount Energy Group     | \$444           | 4,151       | 355            | 0%                | 11,693                           | \$0.107                             | \$0.084          | 28%                         | \$0.023                      | \$65,854                       | \$270                   |  |
| LifeEnergy, LLC           | \$577           | 7,034       | 146            | 0%                | 48,178                           | \$0.082                             | \$0.084          | -2%                         | -\$0.002                     | -\$12,498                      | -\$86                   |  |
| Discount Power Inc - (CT) | \$59            | 669         | 110            | 0%                | 6,082                            | \$0.088                             | \$0.084          | 5%                          | \$0.005                      | \$3,071                        | \$28                    |  |
| NextEra Energy Services,  | \$111           | 1,283       | 95             | 0%                | 13,505                           | \$0.086                             | \$0.084          | 3%                          | \$0.002                      | \$3,049                        | \$32                    |  |
| Eligo Energy, LLC         | \$96            | 1,137       | 68             | 0%                | 16,721                           | \$0.084                             | \$0.084          | 1%                          | \$0.001                      | \$776                          | \$11                    |  |
| Energy.Me Midwest LLC     | \$62            | 659         | 50             | 0%                | 13,180                           | \$0.079                             | \$0.084          | -6%                         | -\$0.005                     | -\$3,191                       | -\$64                   |  |
| Nordic Energy Services,   | \$17            | 208         | 32             | 0%                | 6,500                            | \$0.083                             | \$0.084          | -1%                         | -\$0.001                     | -\$220                         | -\$7                    |  |
| Planet Energy             | \$27            | 267         | 30             | 0%                | 8,900                            | \$0.103                             | \$0.084          | 23%                         | \$0.019                      | \$6,039                        | \$168                   |  |
| Asprly Energy LLC         | \$7             | 73          | 23             | 0%                | 3,174                            | \$0.100                             | \$0.084          | 19%                         | \$0.016                      | \$1,186                        | \$52                    |  |
| Source Power & Gas LLC    | \$18            | 197         | 16             | 0%                | 12,313                           | \$0.093                             | \$0.084          | 11%                         | \$0.009                      | \$1,801                        | \$113                   |  |
| Talen Energy Marketing,   | \$12            | 145         | 12             | 0%                | 12,083                           | \$0.079                             | \$0.084          | -5%                         | -\$0.004                     | -\$644                         | -\$54                   |  |
| First Point Power, LLC    | \$15            | 204         | 7              | 0%                | 29,143                           | \$0.075                             | \$0.084          | -10%                        | -\$0.008                     | -\$1,685                       | -\$241                  |  |
| Entust Energy             | \$1             | 6           | 2              | 0%                | 3,000                            | \$0.093                             | \$0.084          | -0%                         | -\$0.000                     | -\$3                           | -\$1                    |  |
|                           | \$433,073       | 4,471,787   | 400,373        |                   | 11,169                           | \$0.097                             | \$0.08375        | 16%                         | \$0.013                      | \$58,742,263                   | \$146.72                |  |

| 2017  | Revenue 000s | Sales - MWH | # Customers | Market Share % | Avg. Yearly KWH per Client | Supplier Avg. Billed KWH Rate | MD Avg S.O.S. | Percent +/- to S.O.S. | Over/Under to S.O.S. /kwh | Over/Under to S.O.S. /Total | Overpay per Customer |
|---|--------------|-------------|-------------|----------------|----------------------------|-------------------------------|---------------|-----------------------|---------------------------|-----------------------------|----------------------|
| Suppliers Excluded- 100% and AP data is off?  |              |             |             |                |                            |                               |               |                       |                           |                             |                      |
| AP Holdings LLC<br>I think AP is actually SB and these accounts get coded res by accident | \$213        | 5,038       | 391         | 0%             | 12,885                     | \$0.042                       | \$0.084       | -60%                  | -\$0.041                  | -\$208,933                  | -\$534               |
| <b>2017 - Renewable- only supplier</b>  | Revenue 000s | Sales - MWH | # Customers | Market Share % | Avg. Yearly KWH per Client | Supplier Avg. Billed KWH Rate | MD Avg S.O.S. | Percent +/- to S.O.S. | Over/Under to S.O.S. /kwh | Over/Under to S.O.S. /Total | Overpay per Customer |
| NRG / Green Mount Energy  | \$7,338      | 64,182      | 6,039       | 2%             | 10,628                     | \$0.114                       | \$0.084       | 37%                   | \$0.031                   | \$1,962,358                 | \$325                |
| CleanChoice Energy, Inc.  | \$14,316     | 118,886     | 13,666      | 3%             | 8,553                      | \$0.122                       | \$0.084       | 46%                   | \$0.039                   | \$4,526,698                 | \$331                |
| Clearview Electric Inc.   | \$8,253      | 82,309      | 12,548      | 3%             | 6,560                      | \$0.100                       | \$0.084       | 20%                   | \$0.017                   | \$1,359,621                 | \$108                |
| Inapire Energy Holdings   | \$9,672      | 80,080      | 8,841       | 2%             | 9,058                      | \$0.121                       | \$0.084       | 44%                   | \$0.037                   | \$2,985,200                 | \$335                |
|   | \$39,578     | 343,457     | 41,084      | 10%            | 8,358                      | \$0.115                       | \$0.084       | 38%                   | \$0.031                   | \$10,813,876                | \$283                |



# Request for State Action - Reform Residential Retail Electricity and Natural Gas Markets

Sponsor: Councilman Henry  
Hearing: March 5, 2019 10:00 a.m.



*Create legislation that requires the PSC to collect analyze retail electric and natural gas supplier data for residential customers; and enact consumer pricing and contract safeguards for residents who chose third-party energy supply.*

## Maryland's energy deregulation 1999 Electric Choice Act has not benefited Maryland households on the whole.

|                                    |                |
|------------------------------------|----------------|
| # Households on 3rd-party electric | 442,0000       |
| Percent of MD households           | 20%            |
| Overpayment from 2014 to 2017      | -\$255,000,000 |
| Avg. loss per household in 2017    | -\$147         |

**Low-income households appear to be targeted, enroll at twice the rate than non-low-income households & pay high rates.**

| Electric Rate vs. BGE | Gas Rate vs. BGE | % Office & Home Energy Aid to Supplier Overpayments |
|-----------------------|------------------|---|
| +51%                  | +78%             | 34%   |

**Why?** Tricky pricing plans with variable rates, low energy literacy, sloppy direct sales, confusing utility bills, no state reporting, no shopping tools, no PSC enforcement of regs, and no consumer support.

### Consequences:

1. Unnecessary financial "heat or eat" stress & harm for vulnerable families.
2. Inefficient use of limited Office of Home Energy Program (OHEP) funds.





**BGE ACCOUNT FLIPS FROM \$0.09 FIXED RATE TO VARIABLE RATES DEC. 2017.**

**RESULT: \$715 OVERPAY COMPARED TO BGE. NO REWARDS. BGE CUT-OFF.**

| SPARK ENERGY |      | 21218 Milton T.   |                | ELECTRIC ONLY HOME |               |                   |                 |
|--------------|------|-------------------|----------------|--------------------|---------------|-------------------|-----------------|
|              |      | Electric Kwh USED | SUPPLIER RATE  | BGE S.O.S.         | PAID SUPPLIER | WOULD'VE PAID BGE | Overpay         |
| January      | 2017 | 541               | \$0.090        | \$0.096            | \$48.69       | \$52.10           | -\$3.41         |
| February     | 2017 | 555               | \$0.090        | \$0.093            | \$49.95       | \$51.55           | -\$1.60         |
| March        | 2017 | 611               | \$0.090        | \$0.093            | \$54.99       | \$56.75           | -\$1.76         |
| April        | 2017 | 587               | \$0.090        | \$0.093            | \$52.83       | \$54.52           | -\$1.69         |
| May          | 2017 | 495               | \$0.090        | \$0.093            | \$44.55       | \$45.98           | -\$1.43         |
| June         | 2017 | 514               | \$0.090        | \$0.086            | \$46.26       | \$44.24           | \$2.02          |
| July         | 2017 | 396               | \$0.090        | \$0.086            | \$35.64       | \$34.08           | \$1.56          |
| August       | 2017 | 389               | \$0.090        | \$0.086            | \$35.01       | \$33.48           | \$1.53          |
| September    | 2017 | 484               | \$0.090        | \$0.086            | \$43.56       | \$41.66           | \$1.90          |
| October      | 2017 | 382               | \$0.090        | \$0.082            | \$34.38       | \$31.39           | \$2.99          |
| November     | 2017 | 596               | \$0.090        | \$0.082            | \$53.64       | \$48.98           | \$4.66          |
| December     | 2017 | 656               | <b>\$0.149</b> | \$0.082            | \$97.74       | \$53.91           | <b>\$43.83</b>  |
| January      | 2018 | 983               | <b>\$0.149</b> | \$0.082            | \$146.47      | \$80.78           | <b>\$65.68</b>  |
| February     | 2018 | 638               | <b>\$0.149</b> | \$0.081            | \$95.06       | \$51.42           | <b>\$43.64</b>  |
| March        | 2018 | 709               | <b>\$0.157</b> | \$0.081            | \$111.03      | \$57.15           | <b>\$53.88</b>  |
| April        | 2018 | 576               | <b>\$0.169</b> | \$0.081            | \$97.34       | \$46.43           | <b>\$50.92</b>  |
| May          | 2018 | 519               | <b>\$0.169</b> | \$0.081            | \$87.71       | \$41.83           | <b>\$45.88</b>  |
| June         | 2018 | 390               | <b>\$0.169</b> | \$0.076            | \$65.91       | \$29.80           | <b>\$36.11</b>  |
| July         | 2018 | 396               | <b>\$0.169</b> | \$0.076            | \$66.92       | \$30.26           | <b>\$36.66</b>  |
| August       | 2018 | 360               | <b>\$0.169</b> | \$0.076            | \$60.95       | \$27.51           | <b>\$33.44</b>  |
| September    | 2018 | 410               | <b>\$0.170</b> | \$0.076            | \$69.66       | \$31.33           | <b>\$38.33</b>  |
| October      | 2018 | 368               | <b>\$0.186</b> | \$0.081            | \$68.56       | \$29.72           | <b>\$38.84</b>  |
| November     | 2018 | 858               | <b>\$0.198</b> | \$0.081            | \$169.80      | \$69.29           | <b>\$100.51</b> |
| December     | 2018 | 1048              | <b>\$0.198</b> | \$0.081            | \$207.40      | \$84.64           | <b>\$122.76</b> |
|              |      | 13461             |                |                    | \$1844.05     | \$1128.80         | <b>\$715.25</b> |
|              |      |                   |                |                    | DIFF          | <b>\$715.25</b>   | <b>63%</b>      |



**STATE OF MARYLAND  
OFFICE OF PEOPLE'S COUNSEL**

**Paula M. Carmody, People's Counsel**

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**Resolution No.:** 19-0127R  
**Request for State Action – Reform Residential  
Retail Electricity and Gas Markets**

**COMMITTEE:** Baltimore City Council  
**Judiciary and Legislative Investigations**

**HEARING DATE:** March 5, 2019

**SPONSORS:** Councilman Bill Henry, et al.

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The Office of People's Counsel (OPC) submits this testimony regarding Resolution 19-0127R. Pursuant to Section 2-201 et seq. of the Public Utilities Article, OPC is the statutory representative of the interests of all residential utility customers throughout the State of Maryland, including the residential electric and gas customers of BGE. OPC also has the authority to represent these customer interests in relation to retail energy suppliers subject to oversight by the Public Service Commission (Commission). OPC exercises its responsibilities in proceedings before the Public Service Commission, federal and state agencies, the General Assembly and appellate courts.

Resolution 19-0127R is directed at the Maryland General Assembly, and urges the legislature to take action regarding the protection of residential gas and electric customers in Maryland's retail energy market. A significant provision of the Resolution concerns the need for collection of data for analyzing comparisons of supplier prices paid by residential customers with

utility supply prices. OPC will testify later today in support of Senate Bill 716, sponsored by Senator Mary Washington. Senate Bill 716 requires electric and gas utilities, as well as certain electricity and gas suppliers, to submit monthly reports to the Public Service Commission (Commission) with certain energy supplier rate (unit price) data broken out by categories, with a comparison to utility gas and electric supply rates. The report information is only required for residential customers. The bill also includes an annual reporting requirement for the Commission, in consultation with the Office of Home Energy Programs (OHEP). Data from Maryland and other states provide strong indications that residential customers with energy supplier contracts are paying more for energy in aggregate than if they had stayed with their utility supply. The impact is more severe for low income customers. The Office of People's Counsel (OPC) supports the collection of the necessary data to determine if residential customers are getting the benefits promised in 1999, or if changes to the residential retail market are warranted.

#### **Purpose of the Data Collection Requirements**

There is heightened activity about energy suppliers in other retail competition states, including supplier investigations, regulatory proceedings, and calls for limits or bans on residential customer participation in the retail supply market..

Retail electric competition was adopted in Maryland in 1999, while retail gas competition had been introduced via pilot programs a few years earlier. Retail competition had been introduced in a number of other states between 1997 and 2001. Until recently, there has been no assessment of the competitiveness of retail competition, and whether it has provided "economic benefits for all classes" of customers in Maryland, and to residential customers in particular.

Over the past several years, energy suppliers have been the subject of numerous investigations regarding marketing practices in a number of retail competition states, including

Maryland.<sup>1</sup> In 2018, reports and studies have been released in Connecticut,<sup>2</sup> Massachusetts,<sup>3</sup> Rhode Island<sup>4</sup> and Illinois<sup>5</sup> detailing the higher total costs paid to energy suppliers by residential customers in comparison to utility standard offer service (or default service). The New York Public Service Commission has been investigating energy supplier marketing practices for several years. In December 2016 that Commission began an ongoing investigation into whether (and/or how) retail energy suppliers should be allowed to market their services to residential and small business customers.<sup>6</sup>

OPC released the Maryland Report in November 2018 that documented the gap between electric and gas suppliers' price offers and utility electric and gas supply prices. That study is based on a comparison of prices energy suppliers provided in marketing their products and the prevailing rate for the utility's standard product. The preliminary finding is that residential customers paid an annual total of approximately \$34.1 million more to electricity suppliers, and \$20.7 million more

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<sup>1</sup> See "Maryland's Residential Electric and Gas Supply Markets: Where Do We Go From Here," (Susan Baldwin and Sarah Bosley, November 2018), Appendices A and B, released by OPC, at [www.opc.maryland.gov/publications](http://www.opc.maryland.gov/publications). ("Maryland Report"). The Illinois Attorney General entered into settlements with Sperian and IDT Energy in October and November 2018 for millions in refunds.

<sup>2</sup> See Testimony of Susan Baldwin in Connecticut PURA Docket No. 18-06-02, *Review of Feasibility, Costs and Benefits of Placing Certain Customers on Standard Service Pursuant to Conn. Gen. Stat. § 16-245o(m)*.

<sup>3</sup> "Are Consumers Benefitting from Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts," (Susan M. Baldwin, March 2018), prepared for the Massachusetts Office of Attorney General, and available at <https://www.mass.gov>.

<sup>4</sup> "DPUC Enacts New Rules for Competitive Electricity Suppliers Initiates Review of Competitive Supply Marketplace," Rhode Island Division of Public Utilities & Carriers, Press Release, dated May 8, 2018, stating that over a period of five years residential customers paid an estimated \$28 million more in supply costs to electricity suppliers than if they had purchased utility supply.

<sup>5</sup> 2018 Annual Report by the Illinois Commerce Commission to the General Assembly, the Governor, and the Illinois Commerce Commission shows evidence that residential customers served by retail suppliers paid in the aggregate millions of dollars more per month in comparison to utility supply prices. See <https://www.icc.illinois.gov/reports/report.aspx?rt=22>.

<sup>6</sup> New York Public Service Commission Case No. 15-M-0127, available at <http://documents.dps.ny.gov>.

to gas suppliers than if they purchased electricity or gas from their respective utilities. A study based on actual prices charged by energy suppliers cannot be performed in Maryland because that data is not accessible.

The findings in the OPC report are fully consistent with the findings reported in other states, even though different data sources are used. In states such as Massachusetts and Connecticut, the reports are based on actual supplier rates charged month by month and billed by the electric utilities on behalf of the suppliers. Significantly, the OPC report findings are also consistent with another Maryland report issued by the Abell Foundation in December 2018.<sup>7</sup> The report authors relied on a different data source – supplier data reported to the Energy Information Administration – and determined that during the 2014-2017 time period, Maryland residential customers paid approximately \$255 million more for retail electricity supply, than if they had stayed with the utility Standard Offer Service.

A more troubling aspect of the state of the residential retail market involves low-income households. The Massachusetts report makes clear that low-income households are disproportionately enrolled with electricity suppliers in comparison with residential customers as a whole. More importantly, these households are paying higher rates and paying disproportionately more than residential customers as a whole. Just last week, the Connecticut Office of Consumer Counsel released a report on hardship customers (those who are medically vulnerable or facing significant financial hardship), finding that those customers paid more for retail supply on average (\$143 more annually) and in total (\$7.2 million) over the period October 2016-September 2018:

Connecticut's "hardship" electric customers— those consumers who are identified as medically vulnerable or facing significant financial hardship—paid approximately \$7.2 million more to purchase electricity from third-party electric suppliers than if they

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<sup>7</sup> *"Maryland's Dysfunctional Residential Third-Party Energy Supply Market: An Assessment of Costs and Policies* (Laurel Peltier and Arjun Makhijani, Ph.D., December 2018)

purchased utility standard service...during a 24-month study period (October 2016-September 2018). The report finds that hardship customers experience an average annual net loss of \$143 per hardship household... [D]uring September 2018, 35 percent of hardship customers purchased electricity from third-party suppliers, as opposed to 27 percent of non-hardship customers. Using U.S. Census data, the report finds that in some of Connecticut's poorest areas—such as communities in Waterbury, Bridgeport, and Hartford—approximately 50 percent of hardship customers purchase their electricity from third-party suppliers and on average pay up to 2 cents more per kilowatt hour over utility standard service to do so. Likewise, hardship customers living in communities with high percentages of minority populations disproportionately participate in the third-party electric supply market, and pay high premiums to do so.<sup>8</sup>

Of particular importance, the actual supplier rate data in Connecticut for residential customers is public information, in comparison to other states such as Maryland. The study performed in Connecticut cannot be performed for Maryland customers without the access to data provided by Senate Bill 716.

The Abell Foundation report also shows dramatic gaps between actual electric and gas supplier rates billed to customers and utility SOS rates. The authors acknowledge that the report does not include comprehensive findings for Maryland low-income households, since the authors did not have access to the actual data. However, the report provides an important window into the types of marketing activity and actual gas and electric rates by low-income customers seeking bill assistance in a Baltimore City area with a 2016 median household income of \$39,829.<sup>9</sup> The report readily acknowledges that the information provides a “snapshot,” not a full analysis. But a snapshot can at times be more revealing than a hypothetical proposal that does not reflect the real marketplace and consumer behavior. In this case, the reality is vulnerable customers paying more for essential gas and electricity than is necessary.

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<sup>8</sup> Press Release issued February 27, 2019.

<sup>9</sup> Baltimore Neighborhood Indicators Alliance (BNIA) Community Profile for Greater Govans using Community Statistical Area (CSA) data, at [www.bnijfi.org](http://www.bnijfi.org).

An assessment of the state of the residential retail energy market in Maryland is needed and now is the time. The existing data raises a number of concerns, particularly for low income households served by energy suppliers. Data collection and reporting requirements will provide a straightforward way to answer some of the questions and concerns raised in these numerous reports and investigations in Maryland and other states.





**19-0127R Request for State Action - Reform Residential Retail Electricity  
and Natural Gas Markets**

**Comments of the Retail Energy Supply Association**

**Before the Baltimore City Council Committee on Judiciary and Legislative  
Investigations**

**March 5, 2019**



Good morning Mr. Chairman, Ms. Vice Chairman and members of the committee. I appreciate the opportunity to come before you today to provide comments on City Council matter 19-0127R.

My name is Tony Cusati and I am the Director of Regulatory Affairs for IGS Energy. I am also Chairman of the Maryland State Natural Gas caucus of the Retail Energy Supply Association, on whose behalf I'm testifying today.

IGS is a licensed electricity and natural gas supplier in Maryland, as is the case for many of the 20 members of the Retail Energy Supply Association<sup>1</sup>(RESA.)

RESA is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more efficient, customer-oriented outcome than regulated, monopoly utilities. RESA members are devoted to working with all stakeholders to promote vibrant and sustainable competitive retail energy markets for residential, commercial and industrial consumers.

I'm here today in opposition to matter 19-0127R, and to explain why such a resolution is not necessary. The resolution relies on information contained in a report commissioned by the Maryland

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<sup>1</sup> The Retail Energy Supply Association has 20 retail electricity and natural gas suppliers operating throughout the United States. Some members supply both electricity and natural gas to residential, commercial and industrial customers, while some members may supply only electricity or natural gas and may only serve one or another class of customer. Not all RESA members operate in all the states that allow retail competition for electric and natural gas supply. The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. More information on RESA can be found at [www.resausa.org](http://www.resausa.org).



Office of People's Counsel, and a separate report prepared by the Abell Foundation.

All claims that customers are overpaying for retail supply service are without merit and there is absolutely no real evidence that residential customers, including low income customers, overpay for retail supply. There is, however, solid evidence that residential customers can save substantially over their respective Price-to-Compare (PTC) via signing up for retail supplier service.

Intelometry Inc. is a technology, data provider and consulting services company that specializes in retail electricity and natural gas market operations. The Intelometry Maryland Market Savings Report (Appendix A) for the period of January, 2018 through November, 2018 shows that many retail supply offers were below their associated PTC in every single month. Further, the report shows that if all residential customers took advantage of the lowest offer available and remained on that offer for the contract term the total market savings for that period compared to the PTC would have surpassed \$183 million.

Consider the following:

- The competitive retail electricity and gas markets are working for Maryland consumers; 20% or more than 438,000 Maryland consumers are served by electricity suppliers; more than 20% or more than 222,000 Maryland consumers are served by natural gas suppliers.
- While electricity prices nationwide have increased, Maryland residential customers' electric bills have essentially remained static for more than a decade. In fact, Federal Energy Information Administration data show that the monthly bill for an



average Maryland household went from \$138.39 in 2008 to \$139.86 in 2017 – a negligible increase of less than \$1.50 over 10 years. When accounting for inflation, Maryland residential electricity prices have decreased by 9.7 percent since 2008. In states that remained a monopoly, prices increased by 9.3 percent.

- The generation mix in Maryland is significantly more diverse and cleaner today than it was ten years ago.
- In the last decade, Maryland experienced tremendous growth in clean energy resources, with more than 9,000 MW of wind and solar energy resources coming online in PJM to provide electricity to Marylanders and others throughout the region. See Appendix B.
- This has given Marylanders better quality and cleaner sources of energy, with little to no impact on price.
- Without retail electricity competition, there is no incentive to develop better technologies, efficiencies, products and services for customers.
- Retail electric competition gives consumers options when choosing an electric supplier as well as offering a wide range of innovations and products, such as:
  - o Energy efficiency programs that help manage energy usage
  - o Home warranty plans
  - o The ability to lock in a rate over a set period of time, which helps with better energy planning for consumers budgets



- The benefits of competitive markets are being unfairly associated with the actions of a few disreputable electricity and gas suppliers exploiting that market.
- Unlike the few disreputable actors in our industry, RESA is transparent, compliant and customer-centric:
  - o We strongly support efforts to root out bad actors and protect low-income and vulnerable customers from predatory offers.
  - o We proactively educate customers about how to protect themselves from unscrupulous business activities.
  - o We have stringent sales policies and procedures that aim to prevent unfair behavior and that meet or exceed state regulations.
  - o We support tougher oversight and enforcement measures to address sales practices that result in customers paying more than they should.
- Competitive electricity markets are working and benefiting customers. Going back to monopoly service is not the answer.

Allow me to address the Office of People's Counsel's (OPC) commissioned report. In that report the OPC uses incomplete data, inappropriate assumptions and faulty analytics to erroneously claim that electric and gas retail markets in Maryland hurt residential customers and therefore Maryland's policymakers should impose additional barriers on market participants.



The report mistakenly claims that a comparison of Maryland utility Standard Offer Service ("SOS") rates to retail supplier offers across Maryland shows that residential customers are collectively losing \$54.9 million per year across electric and gas utility service areas. This is not true.

The OPC Report's analysis-based results and conclusions should never be used to foster policy making in the State of Maryland on the retail energy market. The report misleads the reader by omitting critical information, furbishing piecemeal data and employing questionable analytical tactics.

The report omits critical information regarding the Maryland utility PTC, misinforms on the differences between PTC prices and retail supplier offers, provides a false comparison between variable tariff prices and 12-month fixed supplier prices. Essentially, the report understates electric PTC prices thereby inflating PTC benefits while at the same time providing misleading information on the number of retail offers that are below the PTC leading the reader to believe mistakenly that consumers are being harmed when in fact they are not.

In regards to the omission of critical information on the Maryland utility PTC, the total monthly price residential customers in Maryland pay for utility default service can contain varying charges. For Maryland electric utilities the total price a residential customer pays for electric service is comprised of generation, transmission and the energy or Procurement Cost Adjustment. ("PCA")



The sum of the Generation and Transmission charges comprise what is generally termed the Standard Offer Service rate ("SOS") in Maryland. When the PCA is added to the SOS the total charge is generally referred to as the Price to Compare ("PTC"), a standard industry term. The PTC is the total price a customer pays for utility service and is also the price that a retail supplier competes against.

Maryland utility Generation charges are set for defined summer and winter periods where the price to the customer changes with each period. Transmission charges are set annually. PCA charges are set monthly, quarterly or every four months depending on the utility. Because the PCA charge changes frequently the total PTC, meaning the full price a residential customer pays for utility service, also changes frequently.

The analysis presented in the OPC Report makes two basic errors regarding the price that residential customers pay for utility service. First, the OPC Report only looks at SOS rates, meaning it does not use the full PTC paid by customers for utility service when comparing utility and supplier prices. Second, the OPC Report ignores the volatile nature of the PTC thereby implying that the PTC remains stable when it absolutely does not.

As for the false comparison, the OPC Report's comparison of a one-month variable utility price in October or July of 2018 to 12-month fixed price retail supplier offers is akin to comparing apples and oranges. Again, retail supplier products and utility products are very different. Maryland residential customers actively choose to take service from retail suppliers via products and terms



tailored to their needs. Drawing simple comparisons between Maryland utility default variable tariff rates and retail supplier products ignores the reasons why customers contract for retail supply, let alone the fact that they are completely different products that just can't be compared.

*See The Electricity Journal 32 (2019) 4-10: "Utility default service has been priced incorrectly for two decades. Incumbent utilities serving as default service providers for both electricity and gas allocate few to no "costs to serve" to default service rates. The indirect costs not allocated include billing, customer care, enrollments, metering, and other overhead and add up to billions of dollars annually. These costs are paid in distribution rates. The resulting rate for utility-provided default service is a below-market price, allowing the utilities to maintain dominant market positions in the retail markets for residential and small commercial customers. This pricing practice distorts the relevant retail electric and gas markets and harms customers and the markets." <sup>2</sup>*

My next comments are directed to the Abell Foundation report. The Abell Report presents deficient analyses culminating in meaningless analytical results as well as cites the analysis conducted by the Maryland Office of People's Counsel ("OPC") to falsely claim that Maryland residential customers overpay for retail service. The Abell Report also makes frivolous and unsubstantiated claims that retail supplier products don't offer value to consumers and that Purchase of Receivables ("POR") instigates retail supplier price gouging.

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<sup>2</sup> Electric Advisors Consulting, LLC, Default service pricing – The flaw and the fix Current pricing practices allow utilities to maintain market dominance in deregulated markets.





More specifically, the Abell Report provides no credible evidence that residential customers, low income or otherwise, overpay for retail service; erroneously attacks the Retail Energy Supply Association for defending retail choice; makes the bizarre and inexplicable claims that POR causes retail energy suppliers to raise their prices; disregards reasons why low-income customers opt for retail service, thereby implying that these customers are incapable of acting in their own best interest.

The Abell Report does not conduct a serious review of the OPC Report analysis and conclusions and simply cites the OPC Report's error clad analysis results as given, as I pointed out earlier in my testimony.

The Abell Report professes to compare EIA data for retail suppliers in Maryland to utility SOS prices obtained from the OPC and concludes that residential customers collectively overpaid \$255 million for retail supplier service between 2014 and 2017.

The Abell Report claims that the Maryland utility SOS prices used in the Abell Foundation analysis were pulled from monthly OPC Price Comparison reports. These reports, however, do not provide the true PTC meaning the full price Maryland residential customers truly pay for utility default service. As I previously mentioned the full Maryland electric utility PTC includes a generation charge, a transmission charge and a Procurement Cost Adjustment ("PCA") charge. SOS prices reported in OPC Price Comparison reports **only encompass generation and transmission charges**, meaning they do not incorporate the complete price residential customers pay for utility service.



The Abell Report compares the price paid to retail suppliers by 40 residential customers in BGE's service area to what they would have paid to their respective utility and concludes that for "the Month" checked these customers overpaid for retail service. Checking bill differentials for a single month, if done correctly, at best shows that customers paid more for retail supplier service for a single month. It absolutely does not suggest that the 40 customers analyzed pay or paid more for retail service for the life of their retail contract or provides even minimal insight into the market at large.

The Abell Report also claims that over 442,000 residential customers take electric service and over 226,000 residential customers take gas service from retail suppliers. Assuming the report is correct, a survey of 40 customers in only one utility simply does not represent a valid sample from which to draw any conclusions regarding the market at large.

The Abell Report claims that Purchase of Receivables ("POR") enables retail suppliers to offload uncollectible risk to Maryland utilities and resulting in retail suppliers to freely charge higher prices is a baseless claim and is unaccompanied by any research, study or analysis of any kind. It also speaks of profound unfamiliarity regarding how retail suppliers set their prices and how retail energy markets work.

With POR, retail suppliers now account for this risk in their supply price based on the POR charge from a regulated entity. Whether the POR charge results in a higher or lower retail supply price than before, the impact would be negligible. To claim that any



retail supplier deliberately increased their price to pad their margins since they no longer had the risk of uncollectible payments is unfounded. Any retail supplier who increases their price simply to pad margins would be undercut by competitors and driven out of the market.

Thank you for your time today. I would be glad to answer any questions.



# Appendix A Intelometry Maryland Market Savings Report

## Maryland Retail Supplier Offers v PTC

### Market Savings Report - Maryland

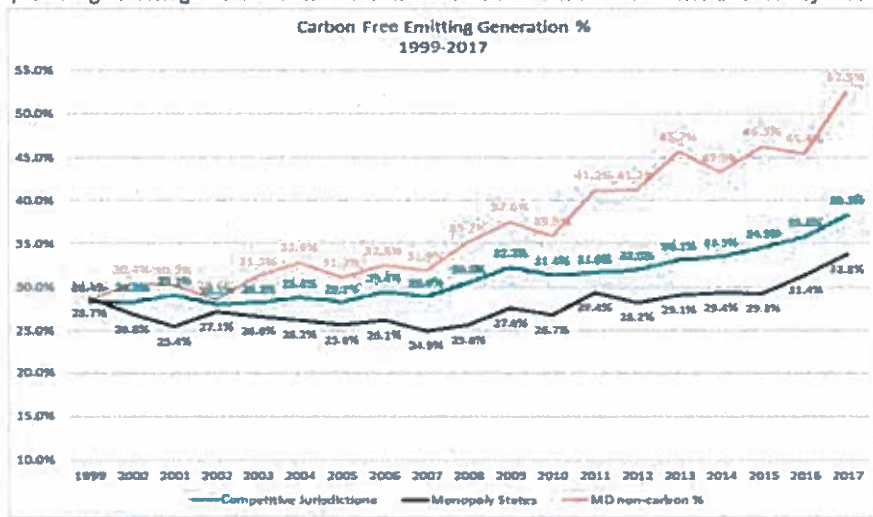
| All Offers   |           |          |               |                        |          |   |  |             |                    | Retail Price Offers   |                          |                    | Utility Price Offers |                          |                    | Other Offers |                          |                    |          |
|--|-----------|----------|---------------|------------------------|----------|---|--|-------------|--------------------|-----------------------|--------------------------|--------------------|----------------------|--------------------------|--------------------|--------------|--------------------------|--------------------|----------|
| File #   | File Name | Provider | Contract Type | Contract Term (Months) | Exchange | Potential Market Savings for 12 Months (Est.) | Potential Market Savings R Customer Based on Low Bid Offer for Other Term (Est.) | # of Offers | Offer v Retail PTC | Forecast              | # of Offers v Retail PTC | Offer v Retail PTC | Forecast             | # of Offers v Retail PTC | Offer v Retail PTC | Forecast     | # of Offers v Retail PTC | Offer v Retail PTC | Forecast |
| <b>Estimated Potential Total Market Savings Year to Date</b> |           |          |               |                        |          |   |  |             |                    | <b>\$ 183,379,823</b> |                          |                    |                      |                          |                    |              |                          |                    |          |
| <b>November 2009</b>   |           |          |               |                        |          |   |  |             |                    |                       |                          |                    |                      |                          |                    |              |                          |                    |          |
| 001  | 00 0000   | 00 0000  | 1             | 00 0000                | 00 0000  | \$18,379,823                                  | \$18,379,823   | 100         | 00                 | 100%                  | 100                      | 00                 | 100%                 | 100                      | 00                 | 100%         | 100                      | 00                 | 100%     |
| <b>December 2009</b>   |           |          |               |                        |          |   |  |             |                    |                       |                          |                    |                      |                          |                    |              |                          |                    |          |
| 001  | 00 0000   | 00 0000  | 1             | 00 0000                | 00 0000  | \$18,379,823                                  | \$18,379,823   | 100         | 00                 | 100%                  | 100                      | 00                 | 100%                 | 100                      | 00                 | 100%         | 100                      | 00                 | 100%     |
| <b>January 2010</b>  |           |          |               |                        |          |   |  |             |                    |                       |                          |                    |                      |                          |                    |              |                          |                    |          |
| 001  | 00 0000   | 00 0000  | 1             | 00 0000                | 00 0000  | \$18,379,823                                  | \$18,379,823   | 100         | 00                 | 100%                  | 100                      | 00                 | 100%                 | 100                      | 00                 | 100%         | 100                      | 00                 | 100%     |
| <b>February 2010</b>   |           |          |               |                        |          |   |  |             |                    |                       |                          |                    |                      |                          |                    |              |                          |                    |          |
| 001  | 00 0000   | 00 0000  | 1             | 00 0000                | 00 0000  | \$18,379,823                                  | \$18,379,823   | 100         | 00                 | 100%                  | 100                      | 00                 | 100%                 | 100                      | 00                 | 100%         | 100                      | 00                 | 100%     |
| <b>March 2010</b>  |           |          |               |                        |          |   |  |             |                    |                       |                          |                    |                      |                          |                    |              |                          |                    |          |
| 001  | 00 0000   | 00 0000  | 1             | 00 0000                | 00 0000  | \$18,379,823                                  | \$18,379,823   | 100         | 00                 | 100%                  | 100                      | 00                 | 100%                 | 100                      | 00                 | 100%         | 100                      | 00                 | 100%     |
| <b>April 2010</b>  |           |          |               |                        |          |   |  |             |                    |                       |                          |                    |                      |                          |                    |              |                          |                    |          |
| 001  | 00 0000   | 00 0000  | 1             | 00 0000                | 00 0000  | \$18,379,823                                  | \$18,379,823   | 100         | 00                 | 100%                  | 100                      | 00                 | 100%                 | 100                      | 00                 | 100%         | 100                      | 00                 | 100%     |
| <b>May 2010</b>  |           |          |               |                        |          |   |  |             |                    |                       |                          |                    |                      |                          |                    |              |                          |                    |          |
| 001  | 00 0000   | 00 0000  | 1             | 00 0000                | 00 0000  | \$18,379,823                                  | \$18,379,823   | 100         | 00                 | 100%                  | 100                      | 00                 | 100%                 | 100                      | 00                 | 100%         | 100                      | 00                 | 100%     |
| <b>June 2010</b>   |           |          |               |                        |          |   |  |             |                    |                       |                          |                    |                      |                          |                    |              |                          |                    |          |
| 001  | 00 0000   | 00 0000  | 1             | 00 0000                | 00 0000  | \$18,379,823                                  | \$18,379,823   | 100         | 00                 | 100%                  | 100                      | 00                 | 100%                 | 100                      | 00                 | 100%         | 100                      | 00                 | 100%     |
| <b>July 2010</b>   |           |          |               |                        |          |   |  |             |                    |                       |                          |                    |                      |                          |                    |              |                          |                    |          |
| 001  | 00 0000   | 00 0000  | 1             | 00 0000                | 00 0000  | \$18,379,823                                  | \$18,379,823   | 100         | 00                 | 100%                  | 100                      | 00                 | 100%                 | 100                      | 00                 | 100%         | 100                      | 00                 | 100%     |
| <b>August 2010</b>   |           |          |               |                        |          |   |  |             |                    |                       |                          |                    |                      |                          |                    |              |                          |                    |          |
| 001  | 00 0000   | 00 0000  | 1             | 00 0000                | 00 0000  | \$18,379,823                                  | \$18,379,823   | 100         | 00                 | 100%                  | 100                      | 00                 | 100%                 | 100                      | 00                 | 100%         | 100                      | 00                 | 100%     |
| <b>September 2010</b>  |           |          |               |                        |          |   |  |             |                    |                       |                          |                    |                      |                          |                    |              |                          |                    |          |
| 001  | 00 0000   | 00 0000  | 1             | 00 0000                | 00 0000  | \$18,379,823                                  | \$18,379,823   | 100         | 00                 | 100%                  | 100                      | 00                 | 100%                 | 100                      | 00                 | 100%         | 100                      | 00                 | 100%     |
| <b>October 2010</b>  |           |          |               |                        |          |   |  |             |                    |                       |                          |                    |                      |                          |                    |              |                          |                    |          |
| 001  | 00 0000   | 00 0000  | 1             | 00 0000                | 00 0000  | \$18,379,823                                  | \$18,379,823   | 100         | 00                 | 100%                  | 100                      | 00                 | 100%                 | 100                      | 00                 | 100%         | 100                      | 00                 | 100%     |



## Appendix B

### Percent of Carbon Free Emissions Monopoly vs. Competitive Jurisdictions

Since 1999, electricity choice states have maintained their lead vs. monopoly states in the percentage of total generation emissions that are carbon free. That is even more true in Maryland!





# City of Baltimore

City Council  
City Hall, Room 408  
100 North Holliday Street  
Baltimore, Maryland  
21202

## Meeting Agenda - Final

### Judiciary and Legislative Investigations

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Tuesday, March 5, 2019

10:30 AM

Du Burns Council Chamber, 4th floor, City Hall

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19-0127R

#### **CALL TO ORDER**

#### **INTRODUCTIONS**

#### **ATTENDANCE**

#### **ITEM SCHEDULED FOR PUBLIC HEARING**

##### 19-0127R

Request for State Action - Reform Residential Retail Electricity and Natural Gas Markets

For the purpose of calling on the Baltimore City delegation to the 2019 Maryland General Assembly to create legislation that requires the Public Service Commission to collect and analyze retail electric and natural gas supplier actual rates, usage, and zip-code information and data for residential customers; eliminate retail supplier individual residential market contracts; make aggregated supply options that would lower costs available to households; and enact additional consumer pricing and contract safeguards for all Maryland residents who choose third-party energy supply.

##### Sponsors:

Bill Henry, John T. Bullock, Ryan Dorsey, Zeke Cohen, Kristerfer Burnett, President Young, Mary Pat Clarke, Shannon Sneed, Sharon Green Middleton, Edward Reisinger

#### **ADJOURNMENT**

**THIS MEETING IS OPEN TO THE PUBLIC**





CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



OFFICE OF COUNCIL SERVICES

LARRY E. GREENE, Director  
415 City Hall, 100 N. Holliday Street  
Baltimore, Maryland 21202  
410-396-7215 / Fax: 410-545-7596  
email: larry.greene@baltimorecity.gov

## BILL SYNOPSIS

**Committee:** Judiciary and Legislative Investigations

**City Council Resolution 19-0127R**

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**Request For State Action - Reform Residential Retail Electricity And Natural Gas Markets**

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**Sponsor:** Councilmember Henry, et al

**Introduced:** January 14, 2019

**Purpose:**

For the purpose of calling on the Baltimore City delegation to the 2019 Maryland General Assembly to create legislation that requires the Public Service Commission to collect and analyze retail electric and natural gas supplier actual rates, usage, and zip-code information and data for residential customers; eliminate retail supplier individual residential market contracts; make aggregated supply options that would lower costs available to households; and enact additional consumer pricing and contract safeguards for all Maryland residents who choose third-party energy supply.

**Effective:** Upon enactment.

**Hearing Date/Time/Location:** March 5, 2019/10:30 a.m./Clarence "Du" Burns Chamber

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### AGENCY REPORTS

N/A

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### ANALYSIS

**Current Law**

Title 7, subtitle 5 of the Public Utilities Article of the Maryland Code provided for electric industry restructuring and governs electricity distribution and supply.

Title 7, subtitle 6 of the Public Utilities Article of the Maryland Code governs natural gas supplier licensing and consumer protection.

Title 20 of the Code of Maryland Regulations establishes the Maryland Public Service Commission's regulations related to, among other things, electricity suppliers, competitive electricity supply, and gas suppliers.

### **Resolution Summary and Background**

The resolution requests that the Baltimore City delegation to the 2019 Maryland General Assembly create legislation requiring the Public Service Commission to collect and analyze retail electric and natural gas supplier actual rates, usage, and zip-code information and data for residential customers; eliminate retail supplier individual residential market contracts; make aggregated supply options that would lower costs available to households; and enact additional consumer pricing and contract safeguards for all Maryland residents who choose third-party energy supply.

The Electric Customer Choice and Competition Act of 1999 opened Maryland's electric supply market to competition. As a result, residential customers have the option of purchasing electricity from retail electric suppliers rather than their regulated utility. The regulated utilities remain responsible for electric distribution for all customers. Also in 1999, the Maryland Public Service Commission authorized full implementation of similar measures giving residential customers the option to purchase natural gas from retail suppliers. In 2018, approximately one in five Maryland residential customers purchased electricity from a retail supplier and approximately one in five purchased gas from a retail supplier.

The resolution largely reflects the findings and recommendations from two reports on Maryland's energy supply markets published in 2018—one commissioned by the Maryland Office of People's Counsel<sup>1</sup>, and the other prepared for the Abell Foundation<sup>2</sup>. Both reports found that Maryland residential customers using third-party retail suppliers, as a whole, paid significantly more than if they had stayed with their regulated utility's supply offer. The Office People's Counsel's report estimated that each year Maryland's households are paying approximately \$54.9 million more for electricity and gas than if they had purchased energy from their utilities. The Abell Foundation report estimated that from 2014 to 2017, Maryland

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<sup>1</sup> The full report commissioned by the Maryland Office of People's Counsel—Maryland's Residential Electric and Gas Supply Markets: Where Do We Go from Here?—is available at: <http://opc.maryland.gov/Portals/0/Hot%20Topics/Maryland%20Electric%20and%20Gas%20Residential%20Supply%20Report%20November%202018.pdf>

<sup>2</sup> The full Abell Foundation report—Maryland's Dysfunctional Residential Third-Party Energy Supply Market: An Assessment of Costs and Policies—is available at: [https://www.abell.org/sites/default/files/files/Third%20Party%20Energy%20Report\\_final%20for%20web.pdf](https://www.abell.org/sites/default/files/files/Third%20Party%20Energy%20Report_final%20for%20web.pdf)

households paid about \$255 million more in all than if they had stayed with their utility's supply offer.

The Abell Foundation report also found that the higher rates charged by third-party retail suppliers increased the financial stress on low-income households and reduced the effectiveness of the State's energy assistance programs. Both reports noted that additional data on the prices that suppliers are actually charging to customers, broken down by zip code, is needed to completely understand the impacts on residential customers, including on low-income customers and customers living in communities of color.

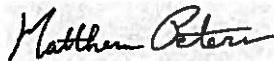
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**ADDITIONAL INFORMATION**

**Fiscal Note:** None

**Information Source(s):** Maryland Office of People's Counsel, Abell Foundation, Resolution 19-0127R.

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Analysis by: Matthew L. Peters  
Analysis Date: March 1, 2019

Direct Inquiries to: (410) 396-1268



**CITY OF BALTIMORE  
COUNCIL BILL 19-0127R  
(Resolution)**

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Introduced by: Councilmembers Henry, Bullock, Dorsey, Cohen, Burnett, President Young,  
Councilmembers Clarke, Sneed, Middleton, Reisinger  
Introduced and read first time: January 14, 2019  
Assigned to: Judiciary and Legislative Investigations Committee

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A RESOLUTION ENTITLED

1 A COUNCIL RESOLUTION concerning

2 **Request for State Action -- Reform Residential Retail Electricity and Natural Gas Markets**

3 FOR the purpose of calling on the Baltimore City delegation to the 2019 Maryland General  
4 Assembly to create legislation that requires the Public Service Commission to collect and  
5 analyze retail electric and natural gas supplier actual rates, usage, and zip-code information  
6 and data for residential customers; eliminate retail supplier individual residential market  
7 contracts; make aggregated supply options that would lower costs available to households;  
8 and enact additional consumer pricing and contract safeguards for all Maryland residents who  
9 choose third-party energy supply.

10 **Recitals**

11 Nearly two decades ago, the Maryland General Assembly passed the Electric Customer  
12 Choice and Competition Act of 1999, or the Electric Choice Act. The Public Service  
13 Commission (PSC) authorized retail competition for residential gas customers in 1999, and  
14 legislation requiring licensing and consumer protection requirements for gas retail competition  
15 was passed in 2000. Before the electricity and natural gas markets were deregulated, all  
16 Maryland residents got their electricity and natural gas from the regulated monopolies that were  
17 granted franchises to provide electricity and natural gas in specific service areas. The  
18 authorization of retail competition allowed residents to purchase electricity from retail electricity  
19 suppliers and retail natural gas suppliers. The authorization of retail competition aimed to  
20 increase competition in the electricity and natural gas markets; the law anticipated that  
21 competition and innovation would result in economic benefits for all consumer classes.

22 Retail competition authorized by the Maryland General Assembly and the PSC has reached  
23 some of its aims. There are hundreds of licensed suppliers and over 60 active electricity and  
24 natural gas suppliers to Baltimore City consumers at any given time. The market now has  
25 renewable and green energy options, fixed and variable rate plans, customer reward and loyalty  
26 programs, and a variety of benefits including airline points, charitable donations, and National  
27 Park passes. Large commercial customers are, on average, saving money.

28 Yet, federal data, and a report commissioned by the Maryland Office of People's Counsel,  
29 indicate that retail competition in Maryland has largely failed to lower prices for residential  
30 consumers; on the contrary, prices are, on average, considerably higher. Regulated utility  
31 providers in each service area charge residential Standard Offer Service (SOS) rates. Third-party  
32 supplier residential electricity data published by the U.S. Energy Information Administration

EXPLANATION: Underlining indicates matter added by amendment.  
~~Strike-out~~ indicates matter deleted by amendment.

## Council Bill 19-0127R

1 reveal that, from 2014 to 2017, Maryland households that chose retail electricity paid an  
2 estimated \$255 million more than they would have if they had remained with their regulated  
3 utilities' standard offer, excluding suppliers who sell renewable energy. In short, the energy sold  
4 is the same, but the price is substantially higher.

5 The Baltimore City Council is deeply concerned by a recent Abell Foundation report that  
6 found that our City's most vulnerable households are being targeted by retail suppliers and are  
7 paying significant pricing premiums. Much of the assistance money meant to help vulnerable  
8 households pay their utility bill is going to third party suppliers in the form of higher prices.  
9 Increased energy burdens for Baltimore City's low-income consumers have severe and real  
10 negative health, medical, financing, and housing consequences.

11 In order to stop retail suppliers from overcharging Maryland residents, the Maryland General  
12 Assembly needs to create legislation requiring the PSC to collect rate data from retail electricity  
13 and natural gas suppliers marketing in Maryland. Until this data is collected and published,  
14 Maryland citizens will continue to be overcharged. Understanding what actual rates are charged  
15 and how these retail plans are established and billed will give legislators the necessary  
16 knowledge to put reforms in place and meet the end-goal of the Electric Choice Act.

17 The legislation should require the PSC to run initial and then yearly reports that analyze the  
18 number of utility accounts that are variable priced accounts versus fixed rate accounts, determine  
19 the actual price levels of all retail accounts, and, if possible, also determine the number of retail  
20 accounts that are subject to termination fees. This data should be provided separately for  
21 customers that receive assistance from the Office of Home Energy Programs (OHEP) and from  
22 non-OHEP accounts. While this data is being collected and analyzed, the legislature should  
23 consider a temporary moratorium on retail supply for customers from the individual residential  
24 market.

25 Experience in other states indicates that aggregated supply can and does lower prices.  
26 Maryland legislation should enable OHEP and local government to acquire aggregated energy  
27 under contract, provided such contracts guarantee savings as compared to SOS rates and have  
28 other safeguards. The legislation should also discontinue individual residential contracts  
29 permanently and do the same for variable rates (energy rates that change on a month-to-month  
30 basis and often shoot up during especially hot or cold months). Many retailers sign up customers  
31 for variable rates without explaining how a variable rate works. Instead of explaining how a  
32 variable rate works, many direct sales agents solely focus their sales pitch on cash or loyalty  
33 incentives. The customer, who the retailer has failed to properly inform about the rate plan, is  
34 surprised, or even unaware, when they are hit with a huge utility bill, especially when the weather  
35 takes a turn. When given the choice, customers choose fixed rates over variable rates. Since  
36 variable rates are highly volatile and frequently misunderstood by consumers, the legislature  
37 should seriously consider eliminating residential auto-renewal to variable-rate contracts without  
38 explicit customer explanation and opt-in.

39 The legislation should improve the design of utility bills to make them more readable and  
40 informative for consumers, and the legislation should require and fund changes to improve  
41 retailer pricing and contract transparency. Residential utility bills (both online and physical  
42 versions) should have the full third-party pricing plan information, including the pricing plan's  
43 name and the contract start and stop dates. Providers should clearly list utility SOS electricity  
44 and natural gas rates on their websites and on utility bills. Retail providers should include  
45 information on all utility bills that show how much the customer saved or overpaid on that

**Council Bill 19-0127R**

1 invoice cycle compared to the regulated utility offer. All bills should use clear language that is  
2 easily understandable; all monetary figures should begin with the dollar sign, and the phrase  
3 “kilowatt hours” should be spelled out, rather than abbreviated as “KH”. If energy retailers are  
4 allowed to continue charging variable rates, retail suppliers should be required to list the past 12-  
5 month variable electric or natural gas rates on their websites in a place that customers and  
6 potential customers can easily find. Retail suppliers should also be *required* to inform customers  
7 about upcoming rate changes and provide customers with a variety of options through which they  
8 can receive this information, such as via phone call, text, or physical mail.

9 The legislation should also require the Public Service Commission to establish a unit within  
10 the agency responsible for monitoring the competitive markets and investigations to ensure  
11 compliance with the consumer protection rules. Enhanced consumer protection rules are needed,  
12 but lack force without adequate enforcement procedures and tools. The Commission also should  
13 be able to provide relief to all consumers hurt financially by deceptive practices and non-  
14 compliance with consumer protection laws and regulations. Without resources that allow the  
15 PSC to investigate and enforce provisions of this legislation, the legislation will lack genuine  
16 force.

17 Finally, the Maryland General Assembly’s legislation should delay approving the retail  
18 supplier requests before the necessary data has been gathered and analyzed and the necessary  
19 consumer protections have been enacted. The legislation should make sure to disallow supplier  
20 consolidated billing. Supplier consolidated billing blocks consumers from accessing their utility  
21 bill and therefore denies consumers the opportunity to learn about their energy usage or utility  
22 rates. This information is necessary for consumers to make decisions in the marketplace, and  
23 Maryland residents should not be denied it.

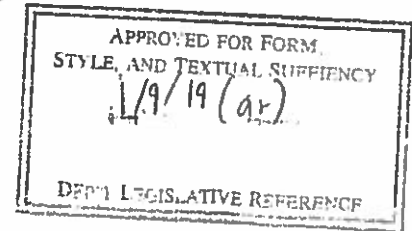
24 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE,** That the  
25 Baltimore City Council requests the Baltimore City delegation to the 2019 Maryland General  
26 Assembly to create legislation that requires the Public Service Commission to collect and analyze  
27 retail electric and natural gas supplier actual rates, usage, and zip-code information and data for  
28 residential customers; eliminate retail supplier individual residential market contracts; make  
29 aggregated supply options that would lower costs available to households; and enact additional  
30 consumer pricing and contract safeguards for all Maryland residents who choose third-party  
31 energy supply.

32 **AND BE IT FURTHER RESOLVED,** That a copy of this Resolution be sent to the Baltimore City  
33 Delegation to the 2019 Maryland House of Delegates, the Maryland Public Service Commission,  
34 the Maryland Office of People’s Counsel, and the Mayor’s Legislative Liaison to the City  
35 Council.





**INTRODUCTORY\***  
**CITY OF BALTIMORE**  
**COUNCIL BILL \_\_\_\_\_ R**  
**(Resolution)**



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Introduced by: Councilmember Henry

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A RESOLUTION ENTITLED

A COUNCIL RESOLUTION concerning

**Request for State Action – Reform Residential Retail Electricity and Natural Gas Markets**

FOR the purpose of calling on the Baltimore City delegation to the 2019 Maryland General Assembly to create legislation that requires the Public Service Commission to collect and analyze retail electric and natural gas supplier actual rates, usage, and zip-code information and data for residential customers; eliminate retail supplier individual residential market contracts; make aggregated supply options that would lower costs available to households; and enact additional consumer pricing and contract safeguards for all Maryland residents who choose third-party energy supply.

**Recitals**

Nearly two decades ago, the Maryland General Assembly passed the Electric Customer Choice and Competition Act of 1999, or the Electric Choice Act. The Public Service Commission (PSC) authorized retail competition for residential gas customers in 1999, and legislation requiring licensing and consumer protection requirements for gas retail competition was passed in 2000. Before the electricity and natural gas markets were deregulated, all Maryland residents got their electricity and natural gas from the regulated monopolies that were granted franchises to provide electricity and natural gas in specific service areas. The authorization of retail competition allowed residents to purchase electricity from retail electricity suppliers and retail natural gas suppliers. The authorization of retail competition aimed to increase competition in the electricity and natural gas markets; the law anticipated that competition and innovation would result in economic benefits for all consumer classes.

Retail competition authorized by the Maryland General Assembly and the PSC has reached some of its aims. There are hundreds of licensed suppliers and over 60 active electricity and natural gas suppliers to Baltimore City consumers at any given time. The market now has renewable and green energy options, fixed and variable rate plans, customer reward and loyalty programs, and a variety of benefits including airline points, charitable donations, and National Park passes. Large commercial customers are, on average, saving money.

Yet, federal data, and a report commissioned by the Maryland Office of People's Counsel, indicate that retail competition in Maryland has largely failed to lower prices for residential consumers; on the contrary, prices are, on average, considerably higher. Regulated utility providers in each service area charge residential Standard Offer Service (SOS) rates. Third-party supplier residential electricity data published by the U.S. Energy Information Administration

\* WARNING: THIS IS AN UNOFFICIAL, INTRODUCTORY COPY OF THE BILL.  
THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER COPY.

reveal that, from 2014 to 2017, Maryland households that chose retail electricity paid an estimated \$255 million more than they would have if they had remained with their regulated utilities' standard offer, excluding suppliers who sell renewable energy. In short, the energy sold is the same, but the price is substantially higher.

The Baltimore City Council is deeply concerned by a recent Abell Foundation report that found that our City's most vulnerable households are being targeted by retail suppliers and are paying significant pricing premiums. Much of the assistance money meant to help vulnerable households pay their utility bill is going to third party suppliers in the form of higher prices. Increased energy burdens for Baltimore City's low-income consumers have severe and real negative health, medical, financing, and housing consequences.

In order to stop retail suppliers from overcharging Maryland residents, the Maryland General Assembly needs to create legislation requiring the PSC to collect rate data from retail electricity and natural gas suppliers marketing in Maryland. Until this data is collected and published, Maryland citizens will continue to be overcharged. Understanding what actual rates are charged and how these retail plans are established and billed will give legislators the necessary knowledge to put reforms in place and meet the end-goal of the Electric Choice Act.

The legislation should require the PSC to run initial and then yearly reports that analyze the number of utility accounts that are variable priced accounts versus fixed rate accounts, determine the actual price levels of all retail accounts, and, if possible, also determine the number of retail accounts that are subject to termination fees. This data should be provided separately for customers that receive assistance from the Office of Home Energy Programs (OHEP) and from non-OHEP accounts. While this data is being collected and analyzed, the legislature should consider a temporary moratorium on retail supply for customers from the individual residential market.

Experience in other states indicates that aggregated supply can and does lower prices. Maryland legislation should enable OHEP and local government to acquire aggregated energy under contract, provided such contracts guarantee savings as compared to SOS rates and have other safeguards. The legislation should also discontinue individual residential contracts permanently and do the same for variable rates (energy rates that change on a month-to-month basis and often shoot up during especially hot or cold months). Many retailers sign up customers for variable rates without explaining how a variable rate works. Instead of explaining how a variable rate works, many direct sales agents solely focus their sales pitch on cash or loyalty incentives. The customer, who the retailer has failed to properly inform about the rate plan, is surprised, or even unaware, when they are hit with a huge utility bill, especially when the weather takes a turn. When given the choice, customers choose fixed rates over variable rates. Since variable rates are highly volatile and frequently misunderstood by consumers, the legislature should seriously consider eliminating residential auto-renewal to variable-rate contracts without explicit customer explanation and opt-in.

The legislation should improve the design of utility bills to make them more readable and informative for consumers, and the legislation should require and fund changes to improve retailer pricing and contract transparency. Residential utility bills (both online and physical versions) should have the full third-party pricing plan information, including the pricing plan's name and the contract start and stop dates. Providers should clearly list utility SOS electricity and natural gas rates on their websites and on utility bills. Retail providers should include information on all utility bills that show how much the customer saved or overpaid on that invoice cycle compared to the regulated utility offer. All bills should use clear language that is easily understandable; all monetary figures should begin with the dollar sign, and the phrase "kilowatt hours" should be spelled out, rather than abbreviated as "KH". If energy retailers are

allowed to continue charging variable rates, retail suppliers should be required to list the past 12-month variable electric or natural gas rates on their websites in a place that customers and potential customers can easily find. Retail suppliers should also be *required* to inform customers about upcoming rate changes and provide customers with a variety of options through which they can receive this information, such as via phone call, text, or physical mail.

The legislation should also require the Public Service Commission to establish a unit within the agency responsible for monitoring the competitive markets and investigations to ensure compliance with the consumer protection rules. Enhanced consumer protection rules are needed, but lack force without adequate enforcement procedures and tools. The Commission also should be able to provide relief to all consumers hurt financially by deceptive practices and non-compliance with consumer protection laws and regulations. Without resources that allow the PSC to investigate and enforce provisions of this legislation, the legislation will lack genuine force.

Finally, the Maryland General Assembly's legislation should delay approving the retail supplier requests before the necessary data has been gathered and analyzed and the necessary consumer protections have been enacted. The legislation should make sure to disallow supplier consolidated billing. Supplier consolidated billing blocks consumers from accessing their utility bill and therefore denies consumers the opportunity to learn about their energy usage or utility rates. This information is necessary for consumers to make decisions in the marketplace, and Maryland residents should not be denied it.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE,** That the Baltimore City Council requests the Baltimore City delegation to the 2019 Maryland General Assembly to create legislation that requires the Public Service Commission to collect and analyze retail electric and natural gas supplier actual rates, usage, and zip-code information and data for residential customers; eliminate retail supplier individual residential market contracts; make aggregated supply options that would lower costs available to households; and enact additional consumer pricing and contract safeguards for all Maryland residents who choose third-party energy supply.

**AND BE IT FURTHER RESOLVED,** That a copy of this Resolution be sent to the Baltimore City Delegation to the 2019 Maryland House of Delegates, the Maryland Public Service Commission, the Maryland Office of People's Counsel, and the Mayor's Legislative Liaison to the City Council.



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**ACTION BY THE CITY COUNCIL**

**JAN 14 2019**  
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FIRST READING (INTRODUCTION) \_\_\_\_\_ 20 \_\_\_\_\_

PUBLIC HEARING HELD ON March 5, 2019 \_\_\_\_\_ 20 \_\_\_\_\_

COMMITTEE REPORT AS OF March 11, 2019 \_\_\_\_\_ 20 \_\_\_\_\_

FAVORABLE \_\_\_\_\_ UNFAVORABLE \_\_\_\_\_ FAVORABLE AS AMENDED \_\_\_\_\_ WITHOUT RECOMMENDATION

*[Signature]*  
Chair

COMMITTEE MEMBERS:

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\_\_\_\_\_

COMMITTEE MEMBERS:

\_\_\_\_\_  
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SECOND READING: The Council's action being favorable (unfavorable), this City Council bill was (was not) ordered printed for Third Reading on:

**MAR 11 2019**

\_\_\_\_\_  
20 \_\_\_\_\_

\_\_\_\_ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING (ENROLLED) \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING (RE-ENROLLED) \_\_\_\_\_ 20 \_\_\_\_\_

WITHDRAWAL \_\_\_\_\_ 20 \_\_\_\_\_

There being no objections to the request for withdrawal, it was so ordered that this City Council Ordinance be withdrawn from the files of the City Council.

\_\_\_\_\_  
President

\_\_\_\_\_  
Chief Clerk