

**Senate Finance Committee  
February 25, 2020**

Vistra Energy respectfully submits this testimony in **opposition to SB 681 – Electricity Suppliers and Gas Suppliers - Consumer Protections.**

Vistra Energy (NYSE: VST) is a premier, integrated, Fortune 350 energy company with retail operations in Maryland. Vistra combines an innovative, customer-centric approach to retail with safe, reliable, diverse, and efficient power generation.<sup>1</sup>

Vistra believes that strong customer protections and enforcement are vital to a functioning competitive market. While Vistra believes the policy goals of SB 681 are laudable, that being enabling increased enforcement of customers protection rules and providing additional customer protections, the process that the legislation takes to achieve those goals are a step backward for customers who could benefit most from competition.

SB 681 would task the Office of People’s Counsel (OPC) with an additional level of investigative power and require the Maryland Public Service Commission (PSC) to address associated discovery disputes outside of docketed cases. However, the PSC is already taking action to ensure better enforcement of customer protection rules. Earlier this month, the PSC announced that it created a Compliance and Enforcement Unit within its Consumer Affairs Division (CAD). It is anticipated that the new unit’s responsibilities will include work tasks that support the intent of this legislation.

Furthermore, the OPC has noted in testimony before this Committee as well as the Senate Budget and Taxation and House Appropriations and Economic Matters Committees that the 19-member agency’s resources are currently exhausted - specifically with the 2019 Federal Energy Regulatory Commission (FERC) activities (Docket Nos. EL16-49-000 and EL18-178-000) and OPC’s involvement with PJM. OPC understandably has a heavy workload for the foreseeable future. It is unknown what impact this legislation would have on those activities. Vistra believes that the PSC’s new Enforcement Unit should be given an opportunity to show its ability to handle enforcement actions before adding another layer of enforcement oversight and

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<sup>1</sup> The company brings its products and services to market in 20 states and the District of Columbia, including six of the seven competitive markets in the U.S. and markets in Canada and Japan, as well. Serving nearly 5 million residential, commercial, and industrial retail customers with electricity and gas, Vistra is the largest competitive residential electricity provider in the country and offers over 40 renewable energy plans. The company is also the largest competitive power generator in the U.S. with a capacity of approximately 39,000 megawatts powered by a diverse portfolio of natural gas, nuclear, coal, solar, and battery energy storage facilities. The company is a large purchaser of wind power. The company is currently developing the largest battery storage system of its kind in the world –a 300-MW/1,200-MWh system in Moss Landing, California.

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potentially creating a more overworked and inefficient system of enforcement.

It should be noted that the PSC has routinely taken action as needed to protect customers. In 2016, the PSC implemented stronger consumer protections. After a collaborative effort with input from utilities, retailers, and consumer advocates developed a strong set of consumer protections. Retailers were/are required to do the following:

- Provide notifications to customers 30 days before a contract term end
- Disclose the following month's variable rate (if applicable) 12 days in advance (via email, letter, toll-free number, and website)
- Provide customers with an easy to read "contract summary"
- Switch a customer to/from their service provider within 3 days
- Provide additional customer disclosures concerning pricing (including a letter to customer if rate changes more than 30%)
- Adhere to certain door to door sales requirements concerning agent training and qualifications

The PSC features information regarding consumer protections on the current PSC website (<https://www.psc.state.md.us/electricchoice/customer-rights-protections/>) and is scheduled to release a new customer shopping website this year.

SB 681 also attempts to limit the level of appropriate contract termination fees that suppliers are able to offer in the market. Such fees have been routinely discussed in PSC proceedings and upheld. Such fees enable energy suppliers to help mitigate risk of the cost of a customer leaving their contract without cause. Often, suppliers pre-purchase the anticipated energy needed to supply the customer during the term of their contract, if the customer were to leave prior to the end of the contract this could leave the supplier with a significant financial exposure with limited ability to recover. For this reason, retail energy suppliers, with proper notification are permitted, to levy a termination fee if the customer breaks a contract without cause, the same as many other businesses who take on financial risk at the outset of a contract (such as hotels, internet providers, insurers, gyms). This practice not only provides some level of financial recovery to suppliers but it also allows suppliers to obtain the best prices for supply offers helping to lower prices for all energy consumers. Limiting the amount that energy suppliers can charge for a termination fee significantly restricts the ability of energy suppliers to hedge against the financial risk of a customer leaving a contract without cause.

Vistra knows that transparency, appropriate customer protections and strong enforcement are the keys to a functioning competitive market. Vistra looks forward to partnering with the Maryland legislature, state agencies and other stakeholders to ensure that all Maryland consumers can receive the benefits of the competitive market balanced with the appropriate customer protections that any competitive energy market needs to be effective. Vistra supports the actions currently being undertaken by the PSC, such as their work to implement Supplier Consolidated Billing, and believes that such actions will help strengthen transparency for customers' ability to know their contract terms and make choices that best fit their energy needs.

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Thank you for the opportunity to share our perspective on SB 681 and for the above reasons Vistra urges the Committee to provide an **unfavorable** report.

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