



53 Baxter Boulevard, Suite 202 | Portland, ME 04101  
Phone: 866-554-5380 | Fax: 207-775-5727 | TTY: 877-434-7598  
aarp.org/me | me@aarp.org | twitter: @aarpmaine  
facebook.com/aarpmaine | instagram.com/aarpme

March 16, 2022

**L.D. 318, An Act To Provide More Options to Maine Electric Service Customers and Support Maine's Climate Goals**

BEFORE THE ENERGY, UTILITIES, AND TECHNOLOGY COMMITTEE  
TESTIMONY OF AARP MAINE: IN OPPOSITION

Chairs Lawrence and Berry, and the Joint Standing Committee on Energy, Utilities, and Technology:

Good morning, my name is Japhet Els, and I am an Advocacy and Outreach Director with AARP Maine. AARP Maine is a non-partisan, non-profit organization with more than 200,000 members statewide. I'm here today to testify IN OPPOSITION TO L.D. 318 AS PROPOSED. This bill was introduced last year as a concept draft that included a bill summary that would essentially repeal the Standard Offer and push all customers into the arms of retail electricity providers. A significant substitute proposal was issued at mid-afternoon on March 15, the day before this hearing.

AARP Maine supports initiatives to make essential electricity service more affordable to Maine consumers. We initiated the proceeding presently before the Maine Public Utilities Commission to expand the Low Income Assistance Program to more Maine low income households. We have supported legislation and proceedings to use federal LIHEAP funds to respond to the dramatic increase in the Standard Offer that is causing significant pain to many of our members.

While AARP supports any efforts to focus on reforms to the Commission's decision to purchase 100% of our Standard Offer requirements at one time, thus resulting in the potential of dramatic swings in prices that reflect the wholesale market's volatility, we urge this Committee to reject the suggestion as in this bill that the retail electric providers can contribute meaningfully to this crisis. Rather, we recommend that this Committee support the Public Advocate's stated intent to fully examine the policies governing our Standard Offer service. We also suggest that the Public Utilities Commission initiate a public proceeding to examine why it

choose to change its historical policy of purchasing laddered wholesale market contracts for a portion of the load annually and moved to purchasing 100% of the load at one point in time. We do not agree with this current purchasing policy for exactly the reasons made clear this winter. Default Service should be a “plain vanilla” electric service that provides the “price to beat” for retail providers. However, there is no need for additional legislation on this matter at this time. The current law clearly contemplates a more stable procurement policy that the Commission should not have ignored. 35-A MRSA Section 3212 (4-C) states:

*For the purpose of providing over a reasonable time period the lowest price for standard-offer service to residential and small commercial customers, the commission, with respect to residential and small commercial standard-offer service, may, ... establish various standard-offer service contract lengths and terms.*

Our major concern with this bill and the proposed substitute is the suggestion that retail electricity providers might provide some benefits to residential consumers and that expanded education and promotion of the retail market is worth evaluating. After over 20 years of experience with retail energy markets in every restructuring state, we can assure this Committee that there is NO study that documents that residential customers have benefited from being served by retail energy providers as compared to the default service purchased in the wholesale market based on a stable and fixed price portfolio of contracts.

In every study that reviews actual customer bills for default service compared to retail supplier bills over a reasonable period of time, residential customers have experienced higher bills and loss of essential electric service. I have attached a compendium of these publicly available studies to my testimony.

Furthermore, there is ample evidence from enforcement proceedings in Maine and other states that document the abusive sales practices used by retail providers to obtain their customers. Among the suppliers who have been investigated for violations in Pennsylvania, Ohio, Massachusetts and Connecticut and who have agreed to fines and changes to their sales and marketing practices are: NRG Energy, Spark Energy, the parent of Electricity Maine, Palmco Energy, Verde Energy, and Direct Energy. Many of these providers have been subject to numerous enforcement proceedings in multiple states.

The harm to lower income customers served by retail providers is particularly shameful due not only to their higher electric bills, but the additional costs these higher bills impose on other ratepayers who subsidize the low income discount and bill payment arrears programs.

In the face of this incontrovertible evidence, many states have adopted policies to prevent these providers from serving low income customers (or require that their provider prices are below the default price) who participate in ratepayer funded low income assistance programs, including Pennsylvania, Maryland, New York,

Ohio, Illinois, and Connecticut. Connecticut has also outlawed variable rate contracts for residential customers. We would be glad to testify in favor of a bill that contained these consumer protections in Maine.

In contrast to what appears to be the assumption of this proposal, we urge the Committee to put an end to the retail market and rely on a properly designed default service to pass through benefits from restructuring to consumers. Our primary recommendation is also a reflection of the trend here in Maine to recreate a state mandated portfolio of contracts to comply with renewable energy and climate change mandates that are funded through the distribution portion of the bill. Maine consumers don't need to pay more than absolutely necessary for essential electric service.

We also have opposed any suggestion that retail providers should be able to engage in what is called Supplier Consolidated Billing. Retail providers claim that allowing them to issue the total electric bill that includes the distribution utility's regulated charges and collect their unregulated charges with those regulated charges by threatening disconnection for nonpayment will open the door to more innovative products and services. There is no evidence to support that claim since these providers have had over 20 years to develop these innovative products and services and solicit customers. Retail providers are able to issue their own bills for their own products and services to any Maine customer. Or they can bill their generation supply prices on the CMP and Versant bill. As the Pennsylvania Commission recently concluded when it closed a proceeding to examine Supplier Consolidated Billing after multiple hearings and comments:

At this time, the Commission has decided to close the instant proceeding, at Docket No. M-2018-2645254, without taking additional action. Even after considering the testimony and exhibits presented at the two *en banc* hearings, and the comments and reply comments, the record still lacks sufficient detail for the Commission to definitively conclude that implementation of SCB would be prudent from a public policy perspective or legal under Chapters 14 and 28 of the Code. Outstanding questions, primarily related to consumer protections and the Commission's lack of jurisdiction over EGSs under current law, include, but are not limited to, (1) the legal authority for SCB; (2) the legal authority for EGSs to bill and collect EDC distribution charges; (3) the legal authority for EGSs to order termination of a customer's electric service; (4) how to properly account for EGS value-added-service charges; and (5) the administration of EGS purchase of receivables programs.

As there is neither clear authority for, nor consensus on how to implement SCB, we cannot move forward with proposing implementation of SCB at this time and will close this proceeding.<sup>1</sup>

Providers licensed in Maine are free now to offer renewable energy products,

---

<sup>1</sup> Pennsylvania Public Utility Commission, Closing Docket No. M-2018-2645254, Supplier Consolidated Billing, without further action (July 21, 2021).

efficiency products, and a variety of supply pricing plans. Maine ratepayers support through their rates a full array of efficiency programs. There are several important proceedings underway to expand our low income programs. Devoting resources to studies and working groups to examine issues that have been the subject of numerous state proceedings on these same issues and require another study concerning these same unproven benefits from the retail market is wasteful and unnecessary.

We appreciate the opportunity to provide our comments to the Committee. We urge vote of Ought Not to Pass.

Thank you,

Japhet Els  
Outreach and  
Advocacy  
AARP Maine



AARP MAINE TESTIMONY IN OPPOSITION TO LD 318  
THE RESULTS OF RETAIL MARKET PRICING AND MARKETING ABUSES

Retail-level electric competition was pitched to consumers as a money saving idea that would lower electric and gas rates, increase supplies of renewable energy, and advance innovative energy products or services.

However, after a quarter century of electric competition in Pennsylvania and other states, the data is undeniable: Since 2015, across just three of Pennsylvania’s seven largest electric utilities, residential electric shopping consumers were charged over \$1,131,895,991 more than they would have been charged if they chose to remain on default service.

**Table 1: Pennsylvania - Amounts charged by competitive electric supply companies to residential customers for electric supply in excess of default service rate <sup>i</sup>**

UTILITY	DATES ANALYZED	AMOUNT OF EXCESS CHARGE
PECO Electric	Jan. 2015 – April 2020	\$733,197,940
PPL Electric	Jan. 2015 – May 2020	\$295,828,735
Duquesne Light	Jan. 2017 – May 2020	\$102,869,316
<b>Total</b>		<b>\$1,131,895,991</b>

There is some evidence that the restructuring of the electric utilities and their divestiture of generation supply market has improved residential **wholesale** market costs in many states—providing benefits to all consumers, residential customers included with a stable and fixed price default service. But it is important to separate out the wholesale market results that has resulted in periods of lower cost default service from the results of the retail market dominated by retail suppliers. In other words, it is not necessary to repeal restructuring to reform the retail market.

Exorbitant prices for competitive residential electric service are not unique to Pennsylvania. Every state that has analyzed the difference between default service purchased in the wholesale market and passed through without markup compared with the prices charged by retail marketers has found that, in the aggregate, customers pay substantially more for competitive supply.

**Table 2: Other States - Amounts charged by competitive electric supply companies to residential customers for electric supply in excess of default service rate <sup>ii</sup>**

STATE	DATES ANALYZED	AMOUNT OF EXCESS CHARGES
Connecticut	2015-2019	\$240,771,574
	Dec. 2020-Nov. 2021	\$36,069,404
Illinois	June 2019-May 2020	\$234,434,643
	June 2020-May 2021	\$388,940,183
Maine	2014-2016	\$77,670,086

Maryland	2017	\$34,138,799
Massachusetts	July 2015- June 2020	\$425,700,000
New York	Jan. 2014- Dec. 2016	\$1,200,000,000

In analyzing national data from the United States Energy Information Administration, a recent Wall Street Journal investigation revealed that residential consumers in so-called competitive market states have paid – *in the aggregate* - over **\$19.2 billion** from 2010 to 2019 compared to default service acquired in the wholesale markets.<sup>iii</sup>

Residential customers who choose to engage in the competitive electric market have reported pervasive problems, including:

- teaser rates that quickly expire and are replaced with higher, variable rates
- variable rates that can be increased with no limit, and little to no advance warning
- high cancellation fees or other hidden charges
- automatic reenrollment (called “negative option” renewal)
- poor customer service, including the complete lack of call centers and levied fees for routine customer service functions

---

<sup>i</sup> Petition of PPL Electric Utilities Corp. for Approval of a Default Service Program for the Period of June 1, 2021 through May 31, 2025, Testimony of Harry Geller on Behalf of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA), Pa. PUC Docket No. P-2020-3019356, at 8 & Exhibit 1 (June 25, 2020) (hereinafter, PPL DSP – CAUSE-PA Testimony).

Petition of PECO Energy Co. for Approval of a Default Service Program for the Period of June 1, 2021 through May 31, 2025, Testimony of Harry Geller on Behalf of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA), Pa. PUC Docket No. P-2020-3019290, at 10 & Exhibit 1 (June 16, 2020) (hereinafter, CAUSE-PA Testimony, PECO DSP – CAUSE-PA Testimony).

Petition of Duquesne Light Company for Approval of a Default Service Program for the Period of June 1, 2021 through May 31, 2025, Testimony of Harry Geller on Behalf of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA), Pa. PUC Docket No. P-2020-3019522, at 10 & Exhibit 1 (July 17, 2020) (hereinafter, DLC DSP – CAUSE-PA Testimony).

Note that data prior to 2017 was unavailable in the Duquesne Light Company (DLC) service territory due to system constraints.

<sup>ii</sup> Conn. Office of Consumer Counsel, *OCC Fact Sheet: Electric Supplier Market, December 2020 Through November 2021* (Jan. 11, 2022), at [www.ct.gov/occ](http://www.ct.gov/occ); Conn. Office of Consumer Counsel, *OCC Fact Sheet: In Support of Increased Consumer Protection for the Residential Retail Choice Electric Supply Market* (Jan. 30, 2020), at [www.ct.gov/occ](http://www.ct.gov/occ).

Ill. Commerce Comm’n, *Office of Retail Market Development 2020 Annual Report* (July 31, 2020), at <https://www.icc.illinois.gov/icc-reports/report/AnnualReportOfficeOfRetailMarketDevelopment>;

Ill. Commerce Comm’n, *Office of Retail Market Development 2021 Annual Report* (Aug. 26, 2021), <https://www.icc.illinois.gov/icc-reports/report/AnnualReportOfficeOfRetailMarketDevelopment>

Maine Public Utilities Commission, *Report on Competitive Electricity Provider and Standard Offer Price Comparisons* (Feb, 15, 2018).

Susan M. Baldwin and Sarah M. Bosley, On behalf of the Maryland Office of People’s Counsel, *Maryland’s Residential Electric and Gas Supply Markets: Where Do We Go from Here?* (Nov. 2018).

Massachusetts Attorney General’s Office (Prepared by Susan M. Baldwin), *Are Consumers Benefiting from Competition? An Analysis of the Individual Residential Electric Supply Market in Massachusetts – 2021 Update*

---

(Mar. 2021), at <https://www.mass.gov/doc/2021-competitive-electric-supply-report/download>.

New York Public Service Commission, *In the Matter of Eligibility Criteria for Energy Service Companies*, Case 15-M-0127, et al., Initial Brief of the New York Department of Public Service Staff, at 2 (March 30, 2018).

<sup>iii</sup> Scott Patterson & Tom McGinty, *Deregulation Aimed to Lower Home-Power Bills. For Many, It Didn't*, Wall Street Journal (March 8, 2021), <https://www.wsj.com/articles/electricity-deregulation-utility-retail-energy-bills-11615213623?page=16>.

---

# New Maryland Law Will Protect Low-Income Families from Overpriced Electricity and Gas

*Maryland Joins New York, Illinois, Connecticut, and Ohio to Rein in Abuses by Competitive Energy Supply Companies*

**FOR IMMEDIATE RELEASE:** June 7, 2021

**National Consumer Law Center contact:** Jan Kruse, [jkruse@nclc.org](mailto:jkruse@nclc.org)

Washington, D.C. – National Consumer Law Center advocates applauded Maryland’s General Assembly for passing the Energy Supply Reform Bill (SB31/HB397). The effort was led by Maryland’s Senator Mary L. Washington and Delegate Brooke E. Lierman, and advocates in the Energy Supplier Reform Coalition. The law goes into effect on January 1, 2023, and will protect low income consumers from paying more to third-party suppliers than the utility company rate for electricity and natural gas.

“Congratulations to Maryland for joining other leading states to protect vulnerable consumers from sky-high utility bills,” **said National Consumer Law Center Attorney Jenifer Bosco**, who provided written testimony about how these third-party suppliers (often called “alternative” or “competitive” suppliers) charge customers millions of dollars—in New York, hundreds of million dollars—more than they would have paid to the regulated utility company. “Overpriced utility bills especially harm low-income consumers who have limited assets, and drain vital resources from assistance programs that ratepayers and taxpayers support,” she said.

**According to the Maryland Office of People’s Counsel, Maryland households who signed up to buy electricity or natural gas service from third-party energy supply companies paid approximately \$54.9 million more each year, starting in 2014, than if they had bought the same service from their utility companies.** The AARP Maryland also supported the bill, noting in an op-ed that these third-party companies were “ripping off low-income and elderly customers on limited incomes.”

Third-party energy supply companies are known for aggressive marketing through robocalls and door-to-door solicitations, operating in many states. They often claim that consumers will save money by switching to them, but then often increase their rates, wiping out any savings and costing customers even more money for the same utility service. Under the new law, utility customers who are enrolled in energy assistance programs will no longer be charged more than the utility company rates for electric and gas service, and cannot be charged a termination fee for switching back to the utility company. Several other states have adopted similar protections to shield low-income customers from being tricked into overpaying for utilities, including New York, Illinois, Connecticut and Ohio. Other states such as Massachusetts, Maine, Rhode Island, and Delaware that allow third party suppliers but that have not enacted protections along these lines should take a close look at what Maryland and these other states have done to protect utility customers.