Senate Bill 1 Will Permanently End Customer Choice in the Energy Space

By Travis Kavulla

Maryland de-monopolized the supply of electricity and gas two decades ago. Today, almost 600,000 electric and gas customers choose to buy their energy supply from competitive suppliers. All told, energy purchases from the competitive market amount to 41% of the state's total peak electricity demand, and slightly more than half of the natural gas used by Marylanders.

That would all change for the worse if Senate Bill 1/House Bill 267 were adopted in the Maryland legislative session that began this month. The legislation, sponsored by Senator Malcolm Augustine and Delegate Brian Crosby, would effectively terminate the competitive energy market for a wide swathe of customers.

The re-monopolization of the energy sector would be a huge mistake.

By shopping, a Maryland customer can green up his supply—increasing from 34.4% renewable content that Pepco reports as part of its overall fuel mix, to ensuring that their usage is 100% matched to renewable or emissions-free energy. That's a premium product, and it sometimes comes at a premium price. Last month, I gladly paid about 1 cent per kilowatt-hour more than the utility's "Standard Offer Service" for my all-green product. SB1 would outlaw that choice by capping prices.

Or consider that, today, a Maryland customer can lock in a rate for 18, 24, or even 36 months—even while her utility's rate for electricity changes several times each year, and her utility's gas price changes monthly. Again, the legislation would outlaw that choice, limiting contracts to 12 months maximum.

SB1 would even prevent customers from shopping even if their only desire was to obtain savings. If SB1 were in effect today, the price cap set by SB1 for shopping customers would prohibit competitive businesses from offering plans higher than 9.9 cents/kwh, based on Pepco's 12-month historical average. But Pepco's prices have been rising, and Pepco's current rate is 12 cents/kwh. So, bizarrely, SB1 would prohibit customers from buying a 12-month-long plan for 10 cents/kwh, even though that would save them 17% off the current utility price—and protect them from future utility rate spikes.

These kind of complex, nonsensical restrictions of what products customers can buy are directly contrary to the point of the market in the first place: to allow the customer to choose without a monopoly or, for that matter, government playing gatekeeper.

The legislation also would make it practically impossible to run an energy business. SB1 would outlaw paying a commission to a salesperson for the sales she makes. It would require individual salespeople to be licensed and demonstrate to the regulator "proof of financial integrity" or, if they didn't have a big enough bank account, to post a bond. It would forbid auto-renewals of customer contracts.

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If these were the rules of the road across the economy, there'd be no cellular plans or newspaper subscriptions, no video streaming or retail banking services. SB1 would be a simpler bill if it were a single page of text shutting down competition and re-monopolizing the industry, full stop. Instead, SB1 would accomplish the same thing—but through numerous acts of over-regulation. Notably, SB1 wouldn't impose these regulations on the monopoly utilities.

Enacting this legislation would be a gigantic misstep, and customers do not support closing this market. In polling last month, 79% of Maryland voters supported the current customer-choice law. Taking away customers' choices runs into strong opposition across racial, geographic, and partisan lines. You can read the polling results from Normington, Petts & Associates, a prominent independent polling firm here.

Like all industries, the competitive energy market has problems. However, complaints against competitive retailers have been very low historically. While they ticked up briefly early last year, they have fallen, not increased, over the course of 2023. And the legislature has already taken steps to ensure good conduct in the marketplace. The Maryland Public Service Commission implemented the legislature's directive to not allow certain premium products to be sold to customers receiving energy assistance. And the PSC still has on its docket the implementation of a law requiring companies to enact a regulator-approved training course for their salespeople.

SB1 would put a hard stop to progress already being in this market and would permanently end customer choice in the energy space. That's not a bright idea.

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