



House Public Utilities Committee
House Bill 389
October 27, 2021

Chairman Hoops and members of the House Public Utilities Committee, thank you for the opportunity to provide written interested party testimony on House Bill 389 (HB 389).

The Retail Energy Supply Association (RESA) is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail electricity and natural gas markets deliver a more efficient, customer-oriented outcome than does the monopoly-protected, rate-regulated utility structure. RESA is devoted to working with all interested stakeholders to promote vibrant and sustainable competitive retail electric and natural gas markets in the best interests of residential, commercial, and industrial consumers.

RESA would like to thank the bill sponsors and members of the committee for continuing to work with interested parties to improve this legislation. However, we are concerned with some of the changes made in the most recent substitute bill that have weakened provisions intended to enhance competitive neutrality and protect customer choice that were included in the original substitute bill. Namely, the drastic changes made to the customer rebate portion of the bill. The new language in that section reads:

“An electric services company that promotes energy savings and the use of electric distribution utility energy savings programs shall be eligible to be considered a third party to whom the customer may convey an energy savings incentive associated with participation in a utility energy savings program, subject to the customer’s written consent and verification of the customer’s identity.”

This new language gives rise to a whole host of concerns. The ambiguity of many of the terms and phrases used above (“promotes energy savings and the use of electric distribution utility energy savings programs” and “eligible to be considered a third party”) seems to create instances in which an electric distribution utility could prohibit electric services companies from participating on behalf of their customers. Likewise, it appears a loophole has been created where customer choice could also be restricted if an electric distribution utility determines that one of the aforementioned, arbitrary conditions goes unmet.

There is further concern associated with the unspecified process used for “verification of the customer’s identity.” Without a specified manner in which verification is to be achieved, it is

effectively left up to an electric distribution utility to determine on a case-by-case basis. There must be a uniform process defined in the bill regarding how to verify a customer's identity in order to ensure equal application of this provision for all customers.

RESA recommends returning, by and large, to the original customer rebate language included in the first substitute bill so as to avoid uneven and potentially unfair implementation of the provision. Doing so will help to strengthen the bill by prioritizing customer choice and restoring competitive neutrality.

Thank you again for the opportunity to submit written interested party testimony on HB 389 and please do not hesitate to contact us if there are any questions or if you would like further information.