

CHAPTER 333

(Senate Bill 955)

AN ACT concerning

Public Utility Companies – Energy Efficiency, Conservation, and Demand Response Programs – Selection of HVAC Service Providers

FOR the purpose of requiring an electric company under certain circumstances to include procedures for the competitive selection of heating, ventilation, air conditioning, or refrigeration service providers in a certain plan to achieve certain electricity savings and demand reduction targets; authorizing the Public Service Commission to waive a certain requirement under certain circumstances on a request by an electric company; requiring a certain plan and any updates to include a certain certification or recertification; prohibiting an affiliate of an electric company from providing heating, ventilation, air conditioning, or refrigeration services in connection with a certain program or service unless the Public Service Commission verifies requiring an electric company that enters into a contract or obligation with an affiliate of the electric company to provide certain services to notify the Commission within a certain time that the electric company has entered into a certain contract or obligation and certifies that the electric company's regulated service customers are will not subsidizing subsidize the operations of the affiliate; requiring each electric company to submit to the Commission a certain updated plan or a certain statement on or before a certain date; providing that nothing in this Act shall impair a certain obligation or contract right; defining certain terms; and generally relating to electric companies.

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7–211(a), (h), and (i)
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Utility Companies
Section 7–211(g)
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Public Utility Companies

7-211.

(a) (1) In this section the following words have the meanings indicated.

(2) **“AFFILIATE” HAS THE MEANING STATED IN § 7-501 OF THIS TITLE.**

(3) “Demand response program” means a program established by an electric company that promotes changes in electric usage by customers from their normal consumption patterns in response to:

(i) changes in the price of electricity over time; or

(ii) incentives designed to induce lower electricity use at times of high wholesale market prices or when system reliability is jeopardized.

[(3)] (4) “Electricity consumption” and “electricity consumed” mean the sum of retail electricity sales to all customers and reported electricity losses within the electric distribution system.

[(4)] (5) “Peak demand” means the highest level of electricity demand in the State measured in megawatts during the period from May 1 to September 30 on a weather-normalized basis.

[(5)] (6) “Per capita electricity consumption” means the result calculated by dividing the total gigawatt-hours of electricity consumed by electricity customers in the State as of December 31 of a year, as determined by the Commission, by the population of the State as of December 31 of that year, as determined by the Department of Planning.

[(6)] (7) “Plan” means an electricity savings and demand reduction plan and cost recovery proposal.

(8) **“PROVIDE HEATING, VENTILATION, AIR CONDITIONING, OR REFRIGERATION SERVICES” HAS THE MEANING STATED IN § 9A-101 OF THE BUSINESS REGULATION ARTICLE.**

(g) Except as provided in subsection (e) of this section, on or before December 31, 2008, by regulation or order, the Commission shall:

(1) to the extent that the Commission determines that cost-effective energy efficiency and conservation programs and services are available, for each affected class, require each electric company to procure or provide for its electricity customers cost-effective energy efficiency and conservation programs and services

with projected and verifiable electricity savings that are designed to achieve a targeted reduction of at least 5% by the end of 2011 and 10% by the end of 2015 of per capita electricity consumed in the electric company's service territory during 2007; and

(2) require each electric company to implement a cost-effective demand response program in the electric company's service territory that is designed to achieve a targeted reduction of at least 5% by the end of 2011, 10% by the end of 2013, and 15% by the end of 2015, in per capita peak demand of electricity consumed in the electric company's service territory during 2007.

(h) (1) (i) On or before July 1, 2008, and every 3 years thereafter, each electric company shall consult with the Maryland Energy Administration regarding the design and adequacy of the electric company's plan to achieve the electricity savings and demand reduction targets specified in subsection (g) of this section.

(ii) An electric company shall provide the Maryland Energy Administration with any additional information regarding the plan, as requested.

(2) On or before September 1, 2008, and every 3 years thereafter, an electric company shall submit its plan to the Commission that details the electric company's proposals for achieving the electricity savings and demand reduction targets specified in subsection (g) of this section for the 3 subsequent calendar years.

(3) The Commission shall consider any written findings provided by the Maryland Energy Administration regarding the design and adequacy of the plan.

(4) Each electric company shall provide annual updates to the Commission and the Maryland Energy Administration on plan implementation and progress towards achieving the electricity savings and demand reduction targets specified in subsection (g) of this section.

(5) (i) The plan shall include a description of the proposed energy efficiency and conservation programs and services and the proposed demand response program, anticipated costs, projected electricity savings, and any other information requested by the Commission.

(ii) The plan shall address residential, commercial, and industrial sectors as appropriate, including low-income communities and low- to moderate-income communities.

(III) 1. IF, IN CONNECTION WITH A PROGRAM OR SERVICE, THE ELECTRIC COMPANY PROPOSES TO PROVIDE HEATING, VENTILATION, AIR CONDITIONING, OR REFRIGERATION SERVICES FOR ITS CUSTOMERS, THE PLAN SHALL INCLUDE PROCEDURES FOR THE COMPETITIVE SELECTION OF HEATING, VENTILATION, AIR CONDITIONING, OR REFRIGERATION SERVICE PROVIDERS.

2. ON REQUEST BY THE ELECTRIC COMPANY AND FOR GOOD CAUSE SHOWN, THE COMMISSION MAY WAIVE THE REQUIREMENT THAT THE ELECTRIC COMPANY COMPETITIVELY SELECT HEATING, VENTILATION, AIR CONDITIONING, OR REFRIGERATION PROVIDERS UNDER ITEM 1 OF THIS SUBPARAGRAPH.

(6) THE PLAN AND ANY UPDATES SHALL INCLUDE A CERTIFICATION OR RECERTIFICATION BY THE ELECTRIC COMPANY THAT, IF AN AFFILIATE OF THE ELECTRIC COMPANY PROVIDES HEATING, VENTILATION, AIR CONDITIONING, OR REFRIGERATION SERVICES THROUGH ANY EXISTING CONTRACT OR OBLIGATION IN CONNECTION WITH A PROGRAM OR SERVICE, THE CUSTOMERS OF THE ELECTRIC COMPANY'S REGULATED SERVICES WILL NOT SUBSIDIZE THE OPERATIONS OF THE AFFILIATE.

~~(6)~~ (7) The Commission shall review each electric company's plan to determine if the plan is adequate and cost-effective in achieving the electricity savings and demand reduction targets specified in subsection (g) of this section.

(i) (1) In determining whether a program or service encourages and promotes the efficient use and conservation of energy, the Commission shall consider the:

- (i) cost-effectiveness;
- (ii) impact on rates of each ratepayer class;
- (iii) impact on jobs; and
- (iv) impact on the environment.

(2) The Commission shall monitor and analyze the impact of each program and service to ensure that the outcome of each program and service provides the best possible results.

(3) In monitoring and analyzing the impact of a program or service under paragraph (2) of this subsection, if the Commission finds that the outcome of the program or services may not be providing the best possible results, the Commission shall direct the electric company to include in its annual update under subsection (h)(4) of this section specific measures to address the findings.

~~(4) AN AFFILIATE OF THE ELECTRIC COMPANY MAY NOT PROVIDE HEATING, VENTILATION, AIR CONDITIONING, OR REFRIGERATION SERVICES IN CONNECTION WITH A PROGRAM OR SERVICE UNLESS THE COMMISSION VERIFIES THAT THE CUSTOMERS OF THE ELECTRIC COMPANY'S REGULATED~~

SERVICES ARE NOT SUBSIDIZING THE OPERATIONS OF THE AFFILIATE AN ELECTRIC COMPANY THAT ENTERS INTO A CONTRACT OR OBLIGATION WITH AN AFFILIATE OF THE ELECTRIC COMPANY TO PROVIDE HEATING, VENTILATION, AIR CONDITIONING, OR REFRIGERATION SERVICES IN CONNECTION WITH A PROGRAM OR SERVICE SHALL NOTIFY THE COMMISSION WITHIN 30 DAYS AFTER ENTERING INTO THE CONTRACT OR OBLIGATION THAT THE ELECTRIC COMPANY:

1. HAS ENTERED INTO A CONTRACT OR OBLIGATION WITH AN AFFILIATE OF THE ELECTRIC COMPANY; AND

2. CERTIFIES THAT THE CUSTOMERS OF THE ELECTRIC COMPANY'S REGULATED SERVICES WILL NOT SUBSIDIZE THE OPERATIONS OF THE AFFILIATE.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1, 2009, each electric company shall submit to the Public Service Commission:~~

~~(1) an updated demand reduction plan and cost recovery proposal that includes the competitive selection procedures required by this Act; or~~

~~(2) a statement that the electric company does not propose to provide heating, ventilation, air conditioning, or refrigeration services for its customers under its demand reduction plan and cost recovery proposal.~~

SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act shall impair any obligation or contract right in existence as of the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 7, 2009.