Department of Legislative Services

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FISCAL AND POLICY NOTE
Revised

Senate Bill 692 (Senator Middleton and the President, *et al.*) (By Request - Administration)

Finance Economic Matters

Maryland Electricity Service Quality and Reliability Act - Safety Violations

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This emergency bill requires the Public Service Commission (PSC), by July 1, 2012, to adopt regulations implementing service quality and reliability standards for the delivery of electricity to retail customers by electric companies. The bill establishes a State goal that each electric company provide high levels of service quality and reliability in a cost-effective manner and that each electric company be held accountable if it fails to deliver reliable service. The bill specifies requirements for the regulations and requires PSC to convene a stakeholder workgroup to provide recommendations regarding the regulations. Electric companies must submit annual performance reports, and PSC must evaluate compliance. The bill requires PSC to take corrective action against noncompliant electric companies and increases the maximum civil penalties that may be imposed on a public service company for safety violations and for violation of specified provisions or a direction, ruling, order, rule, or regulation of PSC. Finally, the bill establishes a reporting requirement.

Fiscal Summary

State Effect: PSC can establish a stakeholder workgroup, implement regulations, and complete the required report with existing budgeted resources. Potential increase in general fund revenues due to the bill's penalty provisions beginning in FY 2013 or 2014, depending on when the regulations are adopted and when PSC begins to determine compliance by electric companies.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: By July 1, 2012, PSC must adopt regulations implementing service quality and reliability standards using System-Average Interruption Duration Index (SAIDI), System-Average Interruption Frequency Index (SAIFI), and any other standard PSC determines to be reasonable. SAIDI is the sum of all customer interruption hours divided by the total number of customers served. SAIFI is the sum of the number of customer interruptions divided by the total number of customers served.

Regulations adopted under the bill must include standards relating to (1) service interruption; (2) downed wire response; (3) customer communications; (4) vegetation management; (5) periodic equipment inspections; (6) annual reliability reporting; and (7) any other standards established by PSC. The regulations must account for major outages caused by events outside the control of an electric company and require an electric company that fails to meet the applicable service and reliability standards to file a corrective action plan that details specific actions the company will take to meet the standards. The regulations adopted under the bill do not apply to small rural cooperatives or municipal electric companies. Also, the bill's provisions relating to the adoption of regulations may not be construed to limit PSC's authority to adopt and enforce engineering and safety standards for electric companies.

The regulations may establish a separate reliability standard for each electric company in order to account for differences in system design, existing infrastructure, customer density, and geography.

PSC must convene a stakeholder workgroup to provide recommendations regarding the regulations to be adopted. In adopting the regulations required by the bill, PSC must (1) consider applicable standards of the Institute of Electric and Electronics Engineers; (2) ensure that the service quality and reliability standards are cost-effective; and (3) with respect to regulations relating to vegetation management, consider limitations on an electric company's right to access private property and customer acceptance of vegetation management initiatives.

By February 1 of each year, each electric company must submit an annual performance report to PSC summarizing the service reliability results for the preceding year. The bill outlines information that must be included in the report. At the request of an electric company, PSC must hold a hearing to discuss its annual performance report.

By July 1, 2013 and by July 1 annually thereafter, PSC must determine if each electric company has met the service quality and reliability standards and take appropriate corrective action against an electric company that fails to meet any or all of the applicable standards, including appropriate civil penalties for noncompliance; however, PSC is not required to take corrective action against electric cooperatives who fail to meet applicable standards. Electric companies may not recover the cost of any civil penalty from ratepayers.

The maximum civil penalty that may be imposed for a public service company for certain safety violations is increased from $500 to $25,000 for each violation for each day that the violation persists. The bill also repeals the maximum penalty that may be imposed for a series of such violations (currently $50,000). Additionally, the maximum civil penalty that may be imposed against a person who violates specified provisions or an outstanding direction, ruling, order, rule, or regulation of PSC is increased from $10,000 to $25,000. These increased penalties do not apply to common carriers.

Finally, the bill requires PSC to (1) review regulations, tariffs, and standards relating to electric company responsibility for customer damages caused by electrical surges and assess the feasibility of obtaining related information from electric companies; (2) study the feasibility of incorporating an electric company's service restoration plan into the electric company's reliability plan; and (3) study and consider whether to prohibit an electric company from using a rate formula that decouples the electric company's revenue from the sale of kilowatt-hours (kWh) unless the formula provides for the suspension of decoupling during any extended service disruption. PSC must report its findings to the Senate Finance Committee and the House Economic Matters Committee by January 1, 2012.

Current Law:

Interruption of Service

Each electric company is required to maintain reliability of its distribution system in accordance with applicable orders, tariffs, and regulations of PSC. The Maryland Code of Regulations (COMAR 20.50.07.05) requires each utility to avoid interruptions of service. If interruptions occur, service must be reestablished within the shortest time practicable, consistent with safety. Under COMAR, each utility must report to PSC (1) the onset of a storm; (2) a sustained interruption initiated by the utility in response to unacceptable system voltages; and (3) a sustained interruption initiated by the utility in response to thermal overloads of an electric plant. In a report to PSC, each utility must include a general description of areas experiencing the service interruption and the expected system restoration times, if available, and provide regular updates.

Annual Reliability Reporting

COMAR 20.50.07.06 requires electric companies with more than 40,000 customers to submit an annual reliability report to PSC by May 1 of each year. Utilities must report

SAIDI, SAIFI, and Customer Average Interruption Duration Index (CAIDI) for its system and all of its feeders originating in Maryland. Each index should include all interruption data and a set of data excluding major event interruption data.

Investor-owned utilities must report SAIDI, SAIFI, and CAIDI for 2% of feeders or 10 feeders, whichever is more, that are identified by the utility as having the poorest reliability. Cooperatively owned utilities must report SAIDI, SAIFI, and CAIDI for each operating district and identify the operating district with the poorest reliability. Each investor-owned utility must report remedial actions taken or planned to improve reliability for these feeders. Each cooperative-owned utility must report remedial actions taken or planned to improve reliability for the operating district with the poorest reliability.

Civil Penalties

PSC may impose a civil penalty up to $10,000 against a person who violates specified provisions or an outstanding direction, ruling, order, rule, or regulation of PSC. Each violation is a separate offense and each day or part of a day the violation continues is a separate offense. The maximum civil penalty that PSC may impose on a common carrier is $2,500. A public service company that violates a provision relating to safety is subject to a civil penalty of up to $500 for each violation for each day that the violation persists. The maximum civil penalty may not exceed $50,000 for a related series of violations; however, for a common carrier, the maximum civil penalty may not exceed $500 for each violation or related series of violations stemming from a single safety inspection.

Civil penalties collected by PSC are paid into the general fund.

Background: In January 2011 PSC initiated an administrative docket (RM 43) to consider revisions to regulations governing the service supplied by electric companies. The proposed regulations modify electric company service and reliability standards for service interruption; downed wire repair; service quality; vegetation management; annual reliability reporting; and the availability of penalties for failure to meet the standards. PSC has received comments on the proposed regulations and is establishing a workgroup to consider changes to the proposed regulations.

Several violent thunderstorms hit the Pepco service territory on July 25, August 5, and August 12, 2010, causing power outages to 297,000, 75,000, and 98,000 customers, respectively. PSC received many complaints about the outages, including the failure of Pepco’s automated communication system during the outages. Due to the frequency, number, and duration of the power outages and the apparent breakdown of adequate communication by Pepco to its customers during the outages, PSC initiated an investigation (Case No. 9240) into the reliability of Pepco’s substations and infrastructure in extreme weather situations, the quality of distribution service Pepco provides its customers, and Pepco's storm preparedness efforts.

In response to PSC, Pepco filed a major storm report; emergency response, reliability enhancement, and storm restoration plans; an internal residential customer satisfaction survey relating to electric system reliability; a report indicating costs for reliability distribution system activities; a report relating to the effectiveness of tree wire in preventing or mitigating outages; a report indicating procedures for determining and disseminating estimated times of restoration to customers and communicating with customers during outage situations; a report indicating measures taken to remediate and prevent the reliability, restoration, and communication problems that occurred; and a report indicating standards used in providing customer service and assuring reliability in connection with restoration and communication during outage events.

A report by the independent consultant selected to review reliability of Pepco's electric distribution system, including a survey of best practices from electric companies in other states and a compilation of standards used by other utility commissions to measure distribution system reliability, was filed with PSC on March 2, 2011. The consultant's report identifies the root causes of Pepco's reliability problems and critiques the most recent set of initiatives it has suggested to address them. The report found that Pepco's system infrastructure was generally well designed, although the sub-transmission and distribution systems are particularly vulnerable to tree damage, in part due to the fact they are primarily placed along public streets. This vulnerability was magnified by Pepco's failure to meet its annual tree trimming goals. The report stated that Pepco's physical restoration efforts in the storms of 2010 were reasonably good, with the exception of Pepco's damage assessments and problems with communication both within the company and externally. Generally, the findings from this investigation state that Pepco needs to be more proactive, rather than reactive, in dealing with problems. As an evidentiary proceeding, PSC set a procedural schedule that requires the filing of testimony in May 2011 and hearings in June 2011.

On January 26, 2011, a winter storm resulted in a significant interruption of service to a sufficient number of customers in the BGE and Pepco service territories thus classifying the event as a major storm and triggering the requirement for the utilities to file a written report to PSC within three weeks of the end of the storm. PSC initiated Case Number 9256 in response to the service interruption and on March 3, 2011, PSC conducted a legislative-style hearing to review the reports and better understand the utilities' performance and a repeat of Pepco's communication system failure, and to understand why large numbers of customers were out of service for a significant period of time, far exceeding 24 hours.

BGE and Pepco each submitted a major storm report to PSC showing each company's response to the January 2011 major storm. The reports detailed storm preparedness and mobilization, system damage and restoration, improvements to-date, reliability enhancement plan progress, lessons learned, and future plans.

Exhibit 1 provides average SAIFI and SAIDI results from each major electric utility in the State.

Exhibit 1
Average Reliability Results
2005-2009 Average

Distribution Territory	SAIFI	SAIDI
Allegheny	1.09	3.28
BGE	1.49	4.09
Choptank	2.16	3.94
Delmarva	2.23	5.73
Pepco	2.14	5.70
SMECO	1.15	2.57

Source: Public Service Commission

State Expenditures: PSC advises two additional engineers must be hired in order for PSC to review annual performance reports submitted by utilities and to determine if annual performance standards are met; however, Legislative Services does not concur with this assessment. Many of the bill's requirements are already performed under existing regulations. Additionally, proposed regulations under PSC consideration add additional requirements comparable to many of the bill's requirements. Thus, review of annual reliability performance can likely be performed with existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: HB 391 (Delegate Feldman and the Speaker, *et al.*) (By Request - Administration) - Economic Matters.

Information Source(s): Office of People's Counsel, Public Service Commission, Department of Legislative Services

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