

HOUSE BILL 1055

C5

3lr0547

By: **Delegates Braveboy, B. Robinson, and Carter**

Introduced and read first time: February 8, 2013

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2013

CHAPTER _____

1 AN ACT concerning

2 ~~Public Service Commission – Contracts for Electricity Supply – Applicability~~
3 ~~of Minority Business Enterprise Participation Goals~~

4 Evaluation of the Application of Minority Business Enterprise Program by
5 the Public Service Commission

6 FOR the purpose of requiring the ~~Public Service Commission to require that certain~~
7 ~~contracts for electricity supply include a provision that requires the electricity~~
8 ~~supplier to comply with certain minority business enterprise participation goals~~
9 ~~and subgoals established by the Special Secretary of Minority Affairs; providing~~
10 ~~that existing obligations or contract rights may not be impaired by this Act; and~~
11 ~~generally relating to the applicability of minority business enterprise~~
12 ~~participation goals to contracts for electricity supply~~ Department of
13 Transportation, the Governor’s Office of Minority Affairs, and the Public Service
14 Commission, in consultation with the Office of the Attorney General, to evaluate
15 the feasibility and constitutionality of requiring the Public Service Commission
16 to apply the provisions of a certain minority business enterprise program when
17 exercising certain authority; providing for the termination of this Act; and
18 generally relating to an evaluation of the application of the State minority
19 business enterprise program by the Public Service Commission in exercising
20 certain authority.

21 ~~BY repealing and reenacting, with amendments,~~
22 ~~Article – Public Utilities~~
23 ~~Section 7-510(e)~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~Annotated Code of Maryland
(2010 Replacement Volume and 2012 Supplement)~~

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

~~Article — Public Utilities~~

~~7-510.~~

~~(e) (1) Beginning on the initial implementation date, an electric
company's obligation to provide electricity supply and electricity supply service is
stated by this subsection.~~

~~(2) Electricity supply purchased from a customer's electric company is
known as standard offer service. A customer is considered to have chosen the standard
offer service if the customer:~~

~~(i) is not allowed to choose an electricity supplier under the
phase in of customer choice in subsection (a) of this section;~~

~~(ii) contracts for electricity with an electricity supplier and it is
not delivered;~~

~~(iii) cannot arrange for electricity from an electricity supplier;~~

~~(iv) does not choose an electricity supplier;~~

~~(v) chooses the standard offer service; or~~

~~(vi) has been denied service or referred to the standard offer
service by an electricity supplier in accordance with § 7-507(c)(6) of this subtitle.~~

~~(3) (i) Except as provided under subparagraph (ii) of this
paragraph, any obligation of an electric company to provide standard offer service
shall cease on July 1, 2003.~~

~~(ii) 1. Electric cooperatives and municipal electric utilities
may choose to continue providing standard offer service in their respective distribution
territories and may cease offering that service after notifying the Commission at least
12 months in advance.~~

~~2. On and after July 1, 2003, an electric company
continues to have the obligation to provide standard offer service to residential and
small commercial customers at a market price that permits recovery of the verifiable,
prudently incurred costs to procure or produce the electricity plus a reasonable return.~~

1 ~~(iii) 1. On or before December 31, 2008, and every 5 years~~
2 ~~thereafter, the Commission shall report to the Governor and, in accordance with §~~
3 ~~2-1246 of the State Government Article, to the General Assembly on the status of the~~
4 ~~standard offer service, the development of competition, and the transition of standard~~
5 ~~offer service to a default service.~~

6 ~~2. The Commission shall establish, by order or~~
7 ~~regulation, the definition of "default service".~~

8 ~~(4) (i) On or before July 1, 2001, the Commission shall adopt~~
9 ~~regulations or issue orders to establish procedures for the competitive selection of~~
10 ~~wholesale electricity suppliers, including an affiliate of an electric company, to provide~~
11 ~~electricity for standard offer service to customers of electric companies under~~
12 ~~paragraph (2) of this subsection, except for customers of electric cooperatives and~~
13 ~~municipal electric utilities. Unless delayed by the Commission, the competitive~~
14 ~~selection shall take effect no later than July 1, 2003.~~

15 ~~(ii) 1. Under the obligation to provide standard offer service~~
16 ~~in accordance with paragraph (3)(ii) of this subsection, the Commission, by regulation~~
17 ~~or order, and in a manner that is designed to obtain the best price for residential and~~
18 ~~small commercial customers in light of market conditions at the time of procurement~~
19 ~~and the need to protect these customers from excessive price increases:~~

20 ~~A. shall require each investor-owned electric company to~~
21 ~~obtain its electricity supply for residential and small commercial customers~~
22 ~~participating in standard offer service through a competitive process in accordance~~
23 ~~with this paragraph; and~~

24 ~~B. may require or allow an investor-owned electric~~
25 ~~company to procure electricity for these customers directly from an electricity supplier~~
26 ~~through one or more bilateral contracts outside the competitive process.~~

27 ~~2. A. As the Commission directs, the competitive~~
28 ~~process shall include a series of competitive wholesale bids in which the~~
29 ~~investor-owned electric company solicits bids to supply anticipated standard offer~~
30 ~~service load for residential and small commercial customers as part of a portfolio of~~
31 ~~blended wholesale supply contracts of short, medium, or long terms, and other~~
32 ~~appropriate electricity products and strategies, as needed to meet demand in a~~
33 ~~cost-effective manner.~~

34 ~~B. The competitive process may include different bidding~~
35 ~~structures and mechanisms for base load, peak load, and very short-term~~
36 ~~procurement.~~

37 ~~C. By regulation or order, as a part of the competitive~~
38 ~~process, the Commission shall require or allow the procurement of cost-effective~~
39 ~~energy efficiency and conservation measures and services with projected and verifiable~~

1 ~~energy savings to offset anticipated demand to be served by standard offer service, and~~
2 ~~the imposition of other cost-effective demand-side management programs.~~

3 ~~3. A. In order to prevent an excessive amount of load~~
4 ~~being exposed to upward price risks and volatility, the Commission may stagger the~~
5 ~~dates for the competitive wholesale auctions.~~

6 ~~B. By regulation or order, the Commission may allow a~~
7 ~~date on which a competitive wholesale auction takes place to be altered based on~~
8 ~~current market conditions.~~

9 ~~4. By regulation or order, the Commission may allow an~~
10 ~~investor-owned electric company to refuse to accept some or all of the bids made in a~~
11 ~~competitive wholesale auction in accordance with standards adopted by the~~
12 ~~Commission.~~

13 ~~5. The investor-owned electric company shall publicly~~
14 ~~disclose the names of all bidders and the names and load allocation of all successful~~
15 ~~bidders 90 days after all contracts for supply are executed.~~

16 ~~(H) THE COMMISSION SHALL REQUIRE THAT EACH~~
17 ~~CONTRACT FOR SUPPLY ENTERED INTO UNDER THIS PARAGRAPH INCLUDE A~~
18 ~~PROVISION THAT REQUIRES THE ELECTRICITY SUPPLIER TO COMPLY WITH THE~~
19 ~~MINORITY BUSINESS ENTERPRISE PARTICIPATION GOALS AND SUBGOALS~~
20 ~~ESTABLISHED BY THE SPECIAL SECRETARY OF MINORITY AFFAIRS UNDER §~~
21 ~~14-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

22 ~~(5) An electric company may procure the electricity needed to meet its~~
23 ~~standard offer service electricity supply obligation from any electricity supplier,~~
24 ~~including an affiliate of the electric company.~~

25 ~~(6) In order to meet long-term, anticipated demand in the State for~~
26 ~~standard offer service and other electricity supply, the Commission may require or~~
27 ~~allow an investor-owned electric company to construct, acquire, or lease, and operate,~~
28 ~~its own generating facilities, and transmission facilities necessary to interconnect the~~
29 ~~generating facilities with the electric grid, subject to appropriate cost recovery.~~

30 ~~(7) (i) To determine whether an appropriate phased~~
31 ~~implementation of electricity rates that is necessary to protect residential customers~~
32 ~~from the impact of sudden and significant increases in electricity rates, the~~
33 ~~Commission in the case of an increase of 20% or more over the previous year's total~~
34 ~~electricity rates, shall conduct evidentiary proceedings, including public hearings.~~

35 ~~(ii) 1. A deferral of costs as part of a phased implementation~~
36 ~~of electricity rates by an investor-owned electric company shall be treated as a~~
37 ~~regulatory asset to be recovered in accordance with a rate stabilization plan under~~

~~1 Part III of this subtitle or any other plan for phased implementation approved by the
2 Commission.~~

~~3 2. A deferral of costs under this paragraph must be just,
4 reasonable, and in the public interest.~~

~~5 (iii) The Commission shall approve the recovery of deferred costs
6 under subparagraph (ii) of this paragraph as:~~

~~7 1. long term recovery in accordance with a rate
8 stabilization plan under Part III of this subtitle; or~~

~~9 2. short term recovery through a rate proceeding
10 mechanism approved by the Commission.~~

~~11 (iv) The Commission may approve a phasing in of increased
12 costs by:~~

~~13 1. placing a cap on rates and allowing recovery over
14 time; or~~

~~15 2. allowing rates to increase and providing for a rebate
16 to customers of any excess costs paid.~~

~~17 (8) (i) An electric cooperative that as of July 1, 2006, supplied its
18 standard offer service load through a portfolio of blended wholesale supply contracts of
19 short, medium, and long terms, and other appropriate electricity products and
20 strategies, as needed to meet demand in a cost effective manner, may choose to
21 continue to use a blended portfolio:~~

~~22 1. as approved and modified by the electric cooperative's
23 board of directors; and~~

~~24 2. with appropriate review for prudent cost recovery as
25 determined by the Commission.~~

~~26 (ii) The Commission may not set or enforce a termination date
27 for the procurement of supply through a managed portfolio previously approved by the
28 Commission.~~

~~29 (9) (i) The Commission, on request by an electric cooperative or on
30 its own initiative, shall initiate a proceeding to investigate options for a rate
31 stabilization plan to assist residential electric customers to gradually adjust to market
32 rates over an extended period of time.~~

~~33 (ii) If an electric cooperative determines that total electric rates
34 for residential customers are anticipated to increase by more than 20% in a 12-month~~

1 ~~period resulting from an increase in the cost of generation, the electric cooperative~~
 2 ~~shall survey its membership to determine whether to make a request to the~~
 3 ~~Commission to initiate a proceeding under subsection (a) of this section.~~

4 ~~(iii) Notwithstanding subparagraphs (i) and (ii) of this~~
 5 ~~paragraph, as approved by the Commission, an electric cooperative may receive a~~
 6 ~~modification in distribution and transmission rates.~~

7 ~~SECTION 2. AND BE IT FURTHER ENACTED, That a presently existing~~
 8 ~~obligation or contract right may not be impaired in any way by this Act.~~

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 10 MARYLAND, That:

11 (a) The Department of Transportation, the Governor's Office of Minority
 12 Affairs, and the Public Service Commission, in consultation with the Office of the
 13 Attorney General, shall evaluate whether requiring the Public Service Commission to
 14 apply the provisions of the minority business enterprise program under Title 14,
 15 Subtitle 3 of the State Finance and Procurement Article when exercising its authority
 16 under § 7-510(c)(6) of the Public Utilities Article would be feasible and in compliance
 17 with the requirements of the Croson decision and any subsequent federal or
 18 constitutional requirements.

19 (b) On or before December 1, 2013, the Department of Transportation, the
 20 Governor's Office of Minority Affairs, and the Public Service Commission shall report
 21 their findings and recommendations to the General Assembly in accordance with
 22 § 2-1246 of the State Government Article.

23 ~~SECTION 2.~~ SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
 24 effect ~~October 1, 2013~~ July 1, 2013. It shall remain effective for a period of 1 year and,
 25 at the end of June 30, 2014, with no further action required by the General Assembly,
 26 this Act shall be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.