Department of Legislative Services

Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 894 (Senator Benson)
Finance

Change in Electricity Supply - Written Permission Required

This bill requires a customer's *written* permission prior to an electricity supplier or any person or governmental unit (1) making any change in the electricity supplier for a customer or (2) adding a new charge for a new or existing service or option.

Fiscal Summary

State Effect: The Public Service Commission (PSC) can handle the bill's requirements with existing budgeted resources.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Generally, a customer's written consent is already required before the initial execution of an electricity supply contract. Certain exceptions apply for telephone solicitations, as discussed below. Notice – not written consent – is required for renewals of evergreen contracts.

An electricity supplier or any person or governmental unit, without first obtaining the customer's permission, is prohibited from (1) making any change in the electricity supplier for a customer or (2) adding a new charge for a new or existing service or option.

PSC regulations specify that a supplier may not enroll a customer using a process that does not require affirmative confirmation by the customer. If a solicitation is in writing or a supplier contract is provided in response to documents submitted upon personal contact, a signed contract is required. For Internet contracts, a supplier must (1) confirm the identity of the person making the contract; (2) comply with applicable State and federal law; and (3) take appropriate steps to safeguard customer safety.

For telephone contracts, a customer can be enrolled without first giving *written* permission under certain circumstances. PSC regulations specify that in the event that a supplier is contracting with a customer as a result of a telephone solicitation that is exempt from all applicable State and federal law, including the Maryland Telephone Solicitations Act, the supplier must (1) confirm that customer questions relating to the contract are answered; (2) confirm that an independent third party verifies the contract or records the entire telephone conversation and maintains the recording for the duration of the contract; (3) mail or otherwise transmit to the customer a complete written contract within three business days of the contracting conversation; and (4) disclose all material contract terms and conditions to the customer over the telephone.

A supplier must provide a customer with a notice of the pending renewal of an evergreen contract 45 days before the automatic renewal is scheduled to occur. The supplier notice must (1) provide a clearly stated and highlighted notice to a customer of any changes in the material terms and conditions of the agreement; (2) inform the customer how to terminate the contract without penalty; and (3) inform the customer that terminating the evergreen contract without selecting another supplier will return the customer to standard offer service (SOS).

A customer may file a dispute with PSC's Office of External Relations to seek a refund of any overcharge and any fees or penalties paid by the customer as a result of an unauthorized enrollment.

Maryland Telephone Solicitations Act

Generally, a contract made pursuant to a telephone solicitation is not valid and enforceable against a consumer unless it is made in compliance with the Maryland Telephone Solicitations Act. A contract made pursuant to a telephone solicitation (1) must be reduced to writing and signed by the consumer; (2) must comply with all other applicable laws and regulations; (3) must match the description of goods or services as that principally used in the telephone solicitation; (4) must contain the name, address, and telephone number of the seller, the total price of the contract, and a detailed description of the goods or services being sold; (5) must contain a statement informing the customer that they are not obligated to pay any money unless the contract is signed and returned to the customer; and (6) may not exclude from its terms any oral or written representations made by the merchant to the consumer in connection with the transaction.

The Maryland Telephone Solicitations Act does not apply to a transaction:

- made in accordance with prior negotiations in the course of a visit by the consumer to a merchant operating a retail business establishment which has a fixed permanent location and where consumer goods are displayed or offered for sale on a continuing basis;
- in which the person making the solicitation or the business enterprise for which the person is calling has made a previous sale to or has a preexisting business relationship with the consumer;
- in which the consumer may obtain a full refund for the return of undamaged and unused goods under specified conditions;
- in which the consumer purchases goods or services pursuant to an examination of a television, radio, or print advertisement or a sample, brochure, catalogue, or other mailing material of the merchant that contains specified information; or
- in which the merchant is a bona fide charitable organization as defined in current law.

Background: The Electric Customer Choice and Competition Act of 1999 (Chapters 3 and 4) facilitated the restructuring of the electric utility industry in Maryland. The resulting system of customer choice allows the customer to purchase electricity from a competitive supplier or to continue receiving electricity under SOS. Default SOS electric service is provided by a customer's *electric company*. Competitive electric supply is provided by competitive *electricity suppliers*. As of December 2013, more than 634,000 customers – or 28.1% of eligible accounts – were served by competitive electricity suppliers.

Additional Information

Prior Introductions: None.

Cross File: HB 1115 (Delegate Swain) - Economic Matters.

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

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