

MARYLAND REGISTER

Proposed Action on Regulations

PUBLIC SERVICE COMMISSION

Subtitle 08 SUPPLIER DIVERSITY PROGRAM

20.08.01 General

Authority: Public Utilities Article, §§2-113 and 2-121, Annotated Code of Maryland

Notice of Proposed Action

[15-133-P]

The Public Service Commission proposes to adopt new Regulations **.01—.08** under a new chapter, **COMAR 20.08.01 General**, under a new subtitle, **Subtitle 08 Supplier Diversity Program**. This action was considered at a scheduled rule-making meeting on March 25, 2015.

Statement of Purpose

The purpose of this action is to codify a requirement to hold annual hearings to review plans and reports filed annually and pursuant to the terms agreed to voluntarily in separate memoranda of understanding that encourage supplier diversity in the contracting and purchasing practices of companies regulated by the Public Service Commission.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to David J. Collins, Executive Secretary, Public Service Commission, William Donald Schaefer Tower, 6 St. Paul Street, Baltimore, Maryland 21202-6806, or call 410-767-8067, or fax to 410-333-6495. Comments will be accepted through June 29, 2015. A public hearing has not been scheduled.

.01 Declaration of Public Policy.

A. The Commission declares that it is in the public interest for public service companies to implement diverse supplier programs to promote economical delivery of utility services and positively impact the economy of the State. Accordingly, the Commission has established a Supplier Diversity Program consisting of entry into a voluntary memorandum of understanding (MOU) with individual companies.

B. Under the Supplier Diversity Program, entities regulated by the Commission that voluntarily enter into an MOU will develop, implement, and consistently report on their activities and accomplishments in promoting a strategy designed to create viable and prosperous minority, women, and service-disabled-veteran-owned business enterprises by providing them with the maximum opportunity to participate in and compete for contracts and subcontracts in their supply chain for goods and services.

.02 Scope.

This subtitle applies to all public service companies, electricity suppliers, gas suppliers, and any other entities subject to regulation by the Commission.

.03 Establishment of Program.

A. There is a Maryland Public Service Commission Supplier Diversity Program.

B. Individual companies regulated or licensed by the Commission may voluntarily join the program by entering into an MOU with the Public Service Commission.

C. A signed MOU shall be filed publicly with the Public Service Commission.

.04 Definitions.

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Annual public conference" or "public conference" means a yearly Commission legislative style en banc review of the participating company filed reports and plans, attended by interested parties and executive representatives of all participating companies.

(2) "Commission" means the Public Service Commission of Maryland.

(3) “Company” means:

(a) A public service company as defined in Public Utilities Article, §1-101, Annotated Code of Maryland;

(b) Electricity supplier, as defined in Public Utilities Article, §1-101, Annotated Code of Maryland;

(c) Gas supplier, as defined in Public Utilities Article, §1-101, Annotated Code of Maryland; or

(d) Any other entity regulated by the Commission.

(4) “MOU” means a voluntary memorandum of understanding between the Commission and a company containing specific requirements and details of a company’s diverse supplier program.

(5) “Participating company” means a company that has voluntarily entered into an MOU with the Commission.

(6) “Public determination” means a publicly available report prepared by the Commission on the status of the Supplier Diversity Program.

(7) “Staff” means the Commission’s Office of External Relations and the Commission’s technical staff.

(8) “Supplier Diversity Program” means the Maryland Public Service Commission Supplier Diversity Program encompassed in an MOU.

.05 Report; Public Conference; Addenda.

A. Staff Report. Staff shall review a participating company’s annual report not more than 2 years after the annual report is filed. Staff may seek, pursuant to individual MOU and Commission statutory authority, source documents used to prepare the annual reports, while preserving the confidential and proprietary data. Upon completion of its review of participating companies’ annual reports, staff shall file a staff report of its findings.

B. Public Conference.

(1) The Commission shall hold a public conference each year for the purpose of reviewing the annual reports and annual plans received from participating companies.

(2) Within 60 days of the public conference, the Commission shall issue a public determination as to whether continuation of the Supplier Diversity Program is in the best interest of the public.

C. Addenda to an MOU.

(1) Either the Commission, a participating company or the staff may propose addenda to one, several, or all MOUs at any time prior to an annual public conference.

(2) Once proposed by any party, the Commission staff and any affected participating companies shall discuss the merits of the addenda and submit a written recommendation to the Commission.

(3) In a public determination prepared after an annual public conference, the Commission shall summarize and respond to any pending proposed addenda.

(4) Within 60 days after a public determination is issued, participating companies may submit a written response to any addenda proposed by the Commission, staff, or other participating company.

(5) No MOU amendment or other addendum to an MOU shall be of any force or effect unless it has been voluntarily accepted in writing by both an authorized representative of affected participating companies and by the Commission.

(6) All accepted addenda to an MOU shall be in effect at a time agreed upon by parties.

(7) The process in this section does not limit the Commission or any participating company's ability to propose changes to an MOU at any time.

.06 Compliance.

A. The Commission shall maintain on its website:

(1) A list of Companies participating in the Supplier Diversity Program;

(2) Copies of all public annual plan and annual report filings made by participating companies;

(3) Copies of all signed MOUs; and

(4) Copies of all agreed-to addenda.

B. An MOU may be terminated upon recommendation of staff, a participating company or the Commission for failure to:

(1) Submit an annual report or annual plan for 2 or more consecutive years;

(2) Provide source documents or data used to prepare the annual reports at the request of staff; or

(3) Comply with the terms of this subtitle or the participating company's MOU.

C. If a participating company fails to submit reports, plans, or data as requested by staff or comply with the terms of this subtitle or its MOU, the sole remedy shall be that the Commission may terminate the MOU.

D. A participating company may be reinstated upon recommendation by staff and approval by the Commission.

.07 Waiver of Regulations.

Upon written request, a regulation in this subtitle may be waived by the Commission for good cause shown.

.08 Limitations.

A. The provisions of this subtitle shall be of no effect and may not be enforced if the Commission issues a public determination that the Supplier Diversity Program is no longer in the best interest of the public, is no longer necessary, or does not positively impact the economy of the State.

B. The terms of an MOU are not themselves regulations of the Commission.

DAVID COLLINS
Executive Secretary