

**Maryland General Assembly
Department of Legislative Services**

**Reproposed Regulations
Public Service Commission**
(DLS Control No. 15-254)

Overview and Legal and Fiscal Impact

These regulations codify existing practices by the Public Service Commission with regard to memoranda of understanding (MOU) entered into with certain public service companies concerning the Supplier Diversity Program.

There are no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Public Service Commission:

Supplier Diversity Program: General:

COMAR 20.08.01.01, .02, .03, .04, .05, .06, .07, and .08

Legal Analysis

Summary of Regulation

These regulations are a resubmittal of regulations that were originally submitted in May 2015, except that these regulations do not contain language that would require the commission to issue a public determination regarding whether continuing the Supplier Diversity Program is in the best interest of the public annually and would terminate the effect of the subtitle if the commission makes such a determination.

The regulations add a new subtitle and chapter, COMAR 20.08.01, titled Supplier Diversity Program. The regulations codify the commission's existing practice that public service companies enter into a voluntary MOU with the commission to develop, implement, and report on the companies' activities and accomplishments in promoting a strategy designed to create and support minority, women, and service-disabled veteran-owned business enterprises by providing them with the opportunities to participate in and compete for contracts and subcontracts in the supply chain for goods and services.

The regulations apply to Supplier Diversity MOUs entered into with public service companies, electricity suppliers, gas suppliers, and other entities subject to regulation by the commission. The regulations require that commission staff review a participating company's

annual report, including any source documentation used to prepare the annual report, within two years after the report is filed and file a staff report of its findings. The commission is also required to hold a public conference each year to review the annual reports and annual plans received from participating companies and must issue a report of any findings from the public conference.

The regulations set forth procedures for amending a MOU and require the commission to publish on its website a list of the companies participating in the Supplier Diversity Program, copies of the public annual plans and annual report filings made by participating companies, a copy of each signed MOU, and copies of all approved addenda to an MOU. The regulations also set forth situations under which an MOU may be terminated and provide a waiver provision. Additionally, the regulations clarify that the terms of an MOU do not constitute commission regulations.

Legal Issue

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The commission cites §§ 2-113 and 2-121 of the Public Utilities Article as statutory authority for these regulations. Section 2-113 requires the commission to supervise and regulate the public service companies subject to the jurisdiction of the commission to ensure their operation is in the interest of the public and to prevent unjust discrimination in the delivery of utility services. The section also requires the commission to consider the public safety, economy of the State, conservation of natural resources, and preservation of environmental quality in supervising and regulating public service companies. Section 2-121 authorizes the commission to adopt reasonable regulations as necessary to carry out any law that relates to the commission.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The commission advises that the regulations have minimal or no impact on State or local governments. The regulations reflect existing practice. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The commission advises that the regulations have minimal or no economic impact on small businesses in the State. The regulations reflect existing practice. The Department of Legislative Services concurs.

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