

MARYLAND REGISTER

**Proposed Action on Regulations**

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	09/21/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

**1. Desired date of publication in Maryland Register: 10/30/2015**

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**

20 08 01 01, .02, .03, .04, .05, .06, .07, .08

**3. Name of Promulgating Authority**

Public Service Commission

**4. Name of Regulations Coordinator**

Loretta V Scofield

**Telephone Number**

410-767-8381

**Mailing Address**

6 St. Paul Street

**City State Zip Code**

Baltimore MD 21202

**Email**

lscofield@psc.state.md.us

**5. Name of Person to Call About this Document**

David J. Collins, Executive Secretary

**Telephone No.**

410-767-8067

**Email Address**

david.collins@maryland.gov

**6. Check applicable items:**

- New Regulations

Amendments to Existing Regulations

    Date when existing text was downloaded from COMAR online: .

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

- Reproposal of Substantively Different Text:

42: 11 Md. R 733-734 5/29/2015

(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: 15-133-P.

**7. Is there emergency text which is identical to this proposal:**

Yes - No

**8. Incorporation by Reference**

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

**10. Children's Environmental Health and Protection**

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

**11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by H. Robert Erwin, General Counsel, (telephone #410-767-8039) on September 21, 2015. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

David J. Collins

**Title**

Executive Secretary

**Telephone No.**

410-767-8067

**Date**

September 21, 2015

**Title 20**  
**PUBLIC SERVICE COMMISSION**  
**Subtitle 08 SUPPLIER DIVERSITY PROGRAM**

**20.08.01 General**

Authority: §§ 2-113, 2-121, Annotated Code of Maryland

**Notice of Proposed Action**

[]

The Public Service Commission proposes to adopt new Regulation .01, .02, .03, .04, .05, .06, .07, and .08 under COMAR 20.08.01 General.

This action was considered at a scheduled rule making session meeting on September 9, 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 email to , or fax to 410-333-6495. Comments will be accepted through . A public hearing has not been scheduled.

**Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 2016

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

Special Funds - Public Utility Regulation Fund

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

Establishment of these regulations will have minimal or no economic impact. The purpose of these regulations is to codify a requirement to hold annual hearings to review plans and reports filed annually by entities regulated by the Maryland Public Service Commission ("Commission") who have entered into voluntary Memoranda of Understanding ("MOUs") with the Commission for the purpose of promoting Supplier Diversity in the contracting and purchasing practices of such entities. Voluntary MOUs with the Commission have been in place for many years and these regulations do not require Commission regulated entities to enter into an MOU, nor do they add any additional requirements on entities with existing MOUs.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Small Business Worksheet:

Establishment of these regulations will have minimal or no economic impact. The purpose of these regulations is to codify a requirement to hold annual hearings to review plans and reports filed annually by entities regulated by the Maryland Public Service Commission ("Commission") who have entered into voluntary Memoranda of Understanding ("MOUs") with the Commission for the purpose of promoting Supplier Diversity in the contracting and purchasing practices of such entities. Voluntary MOUs with the Commission have been in place for many years and these regulations do not require Commission regulated entities to enter into an MOU, nor do they add any additional requirements on entities with existing MOUs.

**Attached Document:**

---

***.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.]]] report with any findings from the public conference.**

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