

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Public Service Commission
(DLS Control No. 15-331)**

Overview and Legal and Fiscal Impact

These regulations alter required procedures related to competitive gas supply, including customer initiated switching of gas suppliers, the resolution of enrollment disputes between customers and gas suppliers, gas supplier marketing, contracts, rates, and the relationship between a gas supplier and its agents.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies

Regulations of COMAR Affected

Public Service Commission:

Competitive Gas Supply: General: COMAR 20.59.01.02

Pre-Enrollment Information: COMAR 20.59.03.02

Transfers of Service: COMAR 20.59.04.02, .03, and .04

Utility Consolidated Billing: COMAR 20.59.05.03

Residential Customer Protection: COMAR 20.59.07.05, .07, .08, .09, .10, .11, .12, and .13

Supplier Agent Relations: COMAR 20.59.08.01, .02, .03, .04, .05, and .06

Legal Analysis

Summary of Regulations

Customer Initiated Cancellation or Switch

These regulations alter the procedures by which a customer may switch natural gas suppliers. The regulations prohibit a supplier from requiring that a customer provide advance notice before switching to another supplier or sales service. The regulations also clarify that a customer who wants to change suppliers must first attempt to cancel their current contract according to the terms of that contract. If the customer first contacts their gas company to cancel a supply contract, the utility must direct the customer to contact the gas supplier. However, if the gas company hasn't received a customer's cancellation request from the gas supplier within three days after the customer cancels the contract with the supplier, the utility gas company must process the cancellation on the customer's request. Additionally, the regulations state that a gas supplier may not include provisions in its contract that would limit or waive these regulations. If a customer

initiates a drop of a gas supplier with the gas company the customer must switch back to sales service.

Gas Supplier Enrollment Disputes

The regulations also alter procedures for enrollment disputes. The regulations provide that on proof of allegations that an enrollment with a gas supplier was unauthorized, the Office of External Relations of the Public Service Commission may order a gas supplier to issue a refund to a customer in an amount intended to hold the customer harmless relative to the price the customer would have paid had the unauthorized enrollment not occurred. Also, if the gas company has chosen the option of purchasing supplier receivables, the regulations state that an early termination fee is not considered a commodity and may not be purchased as a receivable by the gas company. Any refund ordered by the office must be remitted to the gas company by the supplier and applied to the customer's utility account balance and the excess returned to the customer on request or if the customer is no longer served by the gas company, the refund must be returned directly to the customer.

Gas Supplier Marketing

The regulations also require that all gas supplier marketing and solicitation information, including any information used by its agents or employees, include the supplier's Maryland license number. The gas supplier also must submit open offers to the commission's website according to instructions provided by the commission.

Gas Supplier Contracts

The regulations alter the minimum contract requirements for gas suppliers, requiring the inclusion of a price description of each service, including any condition of variability or limits on price variability, and a statement describing how a customer can access future pricing information. The regulations also require gas suppliers, when executing a contract, to provide to the customer a copy of the executed contract and a contract summary and specify how the documents should be delivered to the customer depending on whether the contract is made in person, over the phone, or on the internet. Also, a gas supplier must give at least 30 days' notice before a supply contract expires or is cancelled.

For automatically renewing contracts, the regulations require that the supplier notice inform the customer how to access the rate for the next billing cycle. The supplier must also clearly explain whether there are any limits on price variability and the terms of any limits, such as price caps, maximum percentage increases in price between billing cycles, or minimum and maximum charges per therm of natural gas during the contract term.

Before the expiration or cancellation of a supply contract, the supplier must provide the customer with at least 30 days' notice, rather than 45 days as is currently required.

Contract Assignment

The regulations provide that if a gas supplier assigns or transfers a contract to another supplier, both suppliers must provide at least 30 days' notice to the affected customers, the commission, the gas company, and the Office of People's Counsel. The regulations set forth the required contents of the notice to the customers, the required filings with the commission, gas company, and Office of People's Counsel and require that the terms and conditions of the existing contracts stay the same for the remainder of the term of the contract.

Rate Changes

The regulations set forth requirements for how and when a gas supplier must notify a customer of a rate change and require a gas supplier to give the customer information on how to access the rate. A supplier is allowed to provide an estimated rate to a customer so long as the actual rate does not exceed the estimated rate and the estimated rate is made available at least 12 days before the end of the customer's billing period. The regulations also require a supplier to provide certain notice to a customer if a rate changes from being fixed to being variable under certain circumstances.

Supplier Agent Relations

The regulations add a chapter on gas supplier and agent relations. A supplier may use an agent for marketing and sales purposes and a supplier is responsible for any unlawful marketing acts of its agents while conducting marketing or sales for the supplier. The supplier must develop standards and qualifications for its agents and must adhere to them. Those standards must include criminal background checks of its agents and independent contractors at certain intervals. The regulations require the supplier to ensure that their agents have received proper training and wear an identification badge while performing sales and marketing activities for the supplier. The supplier and agents must comply with all applicable laws regarding door-to-door marketing and sales activities. An agent must display proper identification and immediately give to a customer copies of any document that the customer signs or initials and must promptly leave the customer's premises when requested. The regulations also require that when a supplier engages in door-to-door activities the supplier must notify the office and give notice to the gas company as to general information on the door-to-door activities. The gas company may only use this information to aid in addressing customer service inquiries.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The commission cites §§ 2-113, 2-121, 5-101, and 7-507 of Public Utilities Article as statutory authority for the 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. Section 5-101 authorizes the commission to adopt regulations to prescribe standards for the safe, adequate, reasonable, and proper service for a public service company. Section 7-507 of the Public Utilities Article is not relevant to these regulations since that authority only applies to the competitive supply of electricity.

The relevant cited authority is correct and complete. The regulation complies 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 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 affect gas companies, which are not small businesses. Retail gas suppliers, which may be small businesses, are not adversely affected. The Department of Legislative Services concurs.

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