

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	10/27/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 12/11/2015

2. COMAR Codification

Title	Subtitle	Chapter	Regulation
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20	53	01	02
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20	53	03	02
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20	53	04	02, .03, .04
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20	53	05	06
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20	53	07	05, .07, .08, .09, .10, .11, .12, .13
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20	53	08	01, .02, .03, .04, .05, .06
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3. Name of Promulgating Authority

Public Service Commission

4. Name of Regulations Coordinator

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5. Name of Person to Call About this Document

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6. Check applicable items:

☒ New Regulations

☒ Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: October 7, 2015.

☒ Repeal of Existing Regulations

☒ Recodification

☐ Incorporation by Reference of Documents Requiring DSD Approval

☐ Reproposal of Substantively Different Text:

: Md. R

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

Under Maryland Register docket no.: --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 October 27, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

David J. Collins

Title**Telephone No.**

Executive Secretary

410-767-8067

Date

October 27, 2015

Title 20 PUBLIC SERVICE COMMISSION

Subtitle 53 COMPETITIVE ELECTRICITY SUPPLY

20.53.01 General

Subtitle 53 COMPETITIVE ELECTRICITY SUPPLY

20.53.03 Pre-Enrollment Information

Subtitle 53 COMPETITIVE ELECTRICITY SUPPLY

20.53.04 Transfers of Services

Subtitle 53 COMPETITIVE ELECTRICITY SUPPLY

20.53.05 Supplier-Utility Coordination and Utility Consolidated Billing

Subtitle 53 COMPETITIVE ELECTRICITY SUPPLY

20.53.07 Residential Customer Protection

Subtitle 53 COMPETITIVE ELECTRICITY SUPPLY

20.53.08 Supplier Agent Relations

Authority: Public Utilities Article, §§2-113, 2-121, 5-101, and 7-507, Annotated Code of Maryland

Notice of Proposed Action

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The Public Service Commission proposes to amend Regulation .02 under COMAR 20.53.01 General; Regulation .02 under COMAR 20.53.03 Pre-Enrollment Information; Regulation .02 and .04 under COMAR 20.53.04 Transfers of Service; Regulation .06 under COMAR 20.53.05 Supplier-Utility Coordination and Utility Consolidated Billing; Regulation .05, .07, .08, .09, and .11 under COMAR 20.53.07 Residential Consumer Protection. The Public Service Commission further proposes to adopt new Regulation .04 under COMAR 20.53.04 Transfers of Service; new Regulation .12 and .13 under COMAR 20.53.07 Residential Consumer Protection; new Regulation .01, .02, .03, .04, .05, .06, and .08 under COMAR 20.53.08 Supplier Agent Relations. The

Public Service Commission further proposes to repeal Regulation .03 under COMAR 20.53.04 Transfers of Service.

This action was considered at a scheduled rule making meeting on October 1, 2015, notice of which was given under State Government Article, §10-506, Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to increase consumer protections for residential and nonresidential customers of retail electricity suppliers. This is accomplished by clarifying who may legally exercise authority over an energy supply contract, strengthening the definition of consent, introducing the use of a contract summary, increasing the ease and frequency with which customers of retail electricity suppliers may switch from an incumbent retail supplier to another supplier or to standard offer service, and introducing a customer-initiated drop performed by the electric company under certain circumstances, instituting provisions requiring notice to customers of a change in rate under certain circumstances, and establishing standards applicable to agents of retail electricity suppliers. The extent of refunds that may be ordered by the Commission’s Office of External Relations upon proof of unauthorized enrollment and the treatment of the refund under a purchase of receivable regime is clarified. The requirements of certain orders and existing practices are recognized by regulation.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

In order to shorten the time period required to enroll with, drop from, or switch between retail electricity suppliers, at least one electronic (EDI) transaction will need to be developed or modified, and each of the electric companies offering choice programs will need to develop a procedure by which it will process customer initiated drops. The economic impact of providing a contract summary is expected to be de minimus. To the extent the Contract Summary avoids confusion, it may save customers money over time. However, the savings are unquantifiable.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(R+) NONE	Unquantifiable
B. On other State agencies:	(R+) NONE	None
C. On local governments:	(R+)	None

NONE

Benefit (+)
Cost (-)

Magnitude

D. On regulated industries or trade groups:

(+)

\$2,500.00

NONE

E. On other industries or trade groups: NONE

F. Direct and indirect effects on public: (+)

Unquantifiable

NONE

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A(). The proposed regulations are not expected to generate any additional workload for the Commission or any other State agency or local government. It is possible that the revised regulations will decrease the number of complaints filed with the Commission's Office of External Relations.

B(). The proposed regulations are not expected to generate any additional workload for the Commission or any other State agency or local government. It is possible that the revised regulations will decrease the number of complaints filed with the Commission's Office of External Relations.

C(). The proposed regulations are not expected to generate any additional workload for the Commission or any other State agency or local government. It is possible that the revised regulations will decrease the number of complaints filed with the Commission's Office of External Relations.

D(). Based on communications with utilities and retail suppliers, an amended EDI transaction to accommodate expedited switching and a method to accommodate customer drops through the utility would be required. The EDI transaction is a one-time cost that will be recovered through the purchase of receivable discount rate, which is paid by suppliers, over at least two years. The retail suppliers do not anticipate that they will incur additional costs.

F(). After the Polar Vortex of 2014, 1,695 complaints were filed with the Office of External Relations involving retail suppliers. Assuming, conservatively, that half of those complaints were the result of sudden increases of \$0.10 per kWh in variable rate contracts held by residential customers using average amounts of electricity (1,000 kWh per month) and the customer was unable to switch for three months, the amount paid by the customer that could have been avoided by a switch to standard offer service would have been \$254,250. Due to their increased usage, commercial and industrial customers would have experienced much higher bills. If this same analysis is applied to half of residential customers on variable rate contracts, the assumption being that only half of these customers saw an increase in rates of \$0.10 per kWh and wanted to change suppliers the amount of payment that could have been avoided over

a three month period would have been \$55,028,400 for residential customers alone.

The shortened time period for a switch in combination with off cycle switching and the ability to implement a switch through the utility, should the supplier be unresponsive, is expected to ameliorate the problem of a customer remaining with a supplier whose price has suddenly increased to the customer's detriment. New provisions requiring notice of a change in rate will also help customers to proactively assess whether to remain with the supplier, change suppliers, or return to standard offer service. Accelerated switching in such circumstances not only protects the affected customer but avoids complaints and may positively affect suppliers who follow better business practices.

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 January 11, 2016. 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 Fund - The 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:

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

The effect will be on electric companies, which are not considered small businesses and electricity suppliers, which are generally not small businesses. Customers of retail suppliers, which are small businesses, will benefit from these changes without any adverse economic impact.

G. Small Business Worksheet:

Attached Document:

20.53 – 100715 -lvs

Title 20 PUBLIC SERVICE COMMISSION

Subtitle 53 COMPETITIVE ELECTRICITY SUPPLY

Chapter 01 General

Authority: Public Utilities Article, §§2-113, 2-121, 5-101, and 7-507, Annotated Code of Maryland

20.53.01.02

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) *"Agent" means a person who conducts marketing or sales activities, or both, on behalf of a licensed supplier or broker. Agent includes an employee, a representative, an independent contractor or a vendor. Agent includes subcontractors, employees, vendors and representatives not directly contracted by the supplier who conduct marketing or sales activities on behalf of the supplier.*

[(2)](3) "Consent" means an agreement with an action communicated by [a written document, electronic document, or voice recording.]*the following:*

(a) *a written document with customer signature;*

(b) *an electronic document with electronic signature; or*

(c) *a voice recording only if the agreement is exempt under the Maryland Telephone Solicitations Act.*

[(3)](4) "Consumer" or "customer" [has the meaning stated in Public Utilities Article, §7-501, Annotated Code of Maryland.]*means the regulated utility retail electric customer account holder.*

(5) *"Contract Summary" means a summary of the material terms and conditions of a retail energy supply contract, on a form provided by the Commission.*

[(4)](6) "Customer choice" has the meaning stated in Public Utilities Article, §7-501, Annotated Code of Maryland.

[(5)](7) "Drop" means the removal of a customer from a supplier's service.

[(6)](8) "Electric company" has the meaning stated in Public Utilities Article, §1-101, Annotated Code of Maryland.

[(7)](9) "Electricity supplier" or "supplier" means a person licensed under COMAR 20.51.

[(8)](10) "Electronic transaction" means a standardized data protocol or electronic transmission medium that has been accepted by the Commission for use in Maryland.

[(9)](11) "Enrollment" means the addition of a customer to a supplier's service.

[(10)](12) "Evergreen contract" means an existing contract that automatically renews without any action by the customer.

(13) *"Public event" means an event open to the public, which may facilitate retail electricity sales and marketing activities or may result in an electricity customer enrollment transaction.*

[(11)](14) "Overcharge" means the difference between the price the customer would have paid the customer's authorized supplier and what the customer paid to the unauthorized supplier.

[(12)](15) "Scheduling coordinator" means an entity or entities:

(a) Recognized by the regional transmission organization designated for Maryland by the Federal Energy Regulatory Commission;

(b) Qualified to act on behalf of the supplier in taking those actions with the regional transmission organization as are necessary to fulfill the supplier's coordination service obligations as defined in the utility tariff, including the submission of energy schedules to the regional transmission organization; and

(c) That is:

(i) A member of the regional transmission organization; or

(ii) The agent for scheduling purposes of one or more suppliers that are members of the regional transmission organization.

(16) *"Third party verification (TPV)" means consent from the customer agreeing to each of the below-listed material contract terms that is recorded by an independent person not party to the agreement or that may be performed by an automated, computerized system. To be valid, the TPV must occur without the presence of the sales agent, and at the outset must describe how the customer can cancel the TPV at any time prior to completion. The consent from the customer must include an acknowledgement:*

(a) that he or she is voluntarily choosing to enroll with a supplier;

(b) of the type of product offered (variable, fixed, a combination of both);

(c) of the price and duration of the contract;

(d) of the amount of an early termination fee (if applicable);

(e) that the customer is authorized to make the switch;

(f) of the contract renewal procedures;

(g) that the customer may access future pricing information; and

(h) that the customer has received the supplier's customer support contact information.

[(13)](17) "Standard offer service (SOS)" has the meaning stated in Public Utility Companies Article, §7-501, Annotated Code of Maryland.

[(14)](18) "Utility" means an electric company as defined in Public Utility Companies Article, §1-101, Annotated Code of Maryland.

[(15)](19) "Utility consolidated billing" means a customer bill produced by a utility that contains both supplier and utility charges.

20.53.03.02

.02 Pre-Enrollment Information.

A. On request of a supplier, a utility shall provide the following applicable customer information:

(1) – (3) (text unchanged)

(4) Utility account number *and any other number designated by the utility as necessary to process an enrollment;*

(5) – (18) (text unchanged)

B. (text unchanged)

20.53.04.02

.02 Supplier Enrollment and Drops.

A. *A supplier may enroll or drop a customer by sending the appropriate electronic enrollment or drop transaction to the utility.*

[A]B. *Effective Dates. A utility shall process an electronic enrollment or drop from a supplier to be effective within three business days after receipt of the electronic transaction.*

[(1) Except as provided under §A(2) of this regulation, a utility shall process an electronic transaction for enrollment from a supplier to be effective on the customer's next scheduled meter reading date.

(2) *An electronic transaction for enrollment from a supplier received by a utility less than 12 days before the customer's next scheduled meter reading date shall take effect on the customer's subsequent scheduled meter reading date.]*

[B]C. *The utility shall drop a customer from its current supplier when another supplier enrolls the customer. A utility shall assign a customer who has been dropped by a supplier and not enrolled by a supplier to SOS.*

D. A utility shall not be required to process more than two enrollments and two drops per customer per bill cycle.

E. A supplier may not require that a customer provide it with advance notice, written or otherwise, before the customer switches to another supplier or to SOS.

20.53.04.03

[.03 Supplier Drops.

A. A supplier may drop a customer by sending an electronic drop transaction to the utility.

B. Drop Effective Date.

(1) Except as provided under §B(2) of this regulation, a supplier drop is effective on the customer's next scheduled meter reading date.

(2) A drop received by a utility less than 12 days before the customer's next scheduled meter reading date shall take effect on the customer's subsequent scheduled meter reading date.

C. A utility shall assign a customer who has been dropped by a supplier and not enrolled by a supplier to SOS.]

20.53.04.[04]03

[.04].03 Transaction Error Handling.

A. This regulation applies to enrollment or drop transaction errors that are identified not later than [5]2 *business* days after the transaction is initiated by a supplier.

B. A supplier shall notify a utility of a drop error or enrollment error by an electronic cancel transaction not later than [5]2 *business* days after the enrollment or drop is initiated by the supplier.

C. – E. (text unchanged)

ALL NEW TEXT

20.53.04.04

.04 Customer Initiated Drops

A. *Customer Cancellation.*

(1) *A customer that wants to cancel a supplier contract shall first attempt to cancel the contract according to the terms of the contract.*

(2) *If a customer attempts to cancel a contract by contacting the utility first, the utility shall direct the customer to contact the supplier through the means detailed in the supplier contract, Terms and Conditions or may direct the customer to contact the supplier through use of contact information on the Commission's website.*

(3) *If a customer's cancellation request has not been received by the utility from the customer's supplier, and the customer confirms that more than three days have passed since the customer cancelled the contract with the supplier, the utility shall process a cancellation.*

(4) *Customer initiated drops shall be processed in accordance with the provisions of COMAR 20.53.04.02.*

C. *A supplier may not include cancellation provisions in its contract for service that would limit or waive this provision.*

D. *A customer that initiates a drop with the utility must switch back to SOS as described in Section .02 of this chapter.*

E. *A customer's request to cancel service with the current retail supplier under this regulation does not limit cancellation provisions contained in the customer's service agreement with the supplier.*

END ALL NEW TEXT

20.53.05.06

.06 Utility Purchased Receivables or Prorated Payments.

A. – B. (text unchanged)

C. *If the utility chooses the option of purchasing supplier receivables, supplier receivables shall be purchased with full and timely cost recovery for the utility under terms and conditions approved by the Commission. An early termination fee is not considered a commodity and is not subject to purchase as a receivable by the utility.*

D. – F. (text unchanged)

20.53.07.05

.05 Unauthorized Enrollment or Service.

A. (text unchanged)

[B. The customer's choice of electricity supplier is the electricity supplier with the last enrollment of the customer received by the utility 12 days before the customer's next meter reading date.]

[C]B. A supplier may not add a new charge for a new service, existing service, or service option without first obtaining consent from the customer, verifiable to the same extent and using the same methods specified for contracting under Regulation .08 of this chapter.

[D]C. Enrollment Disputes.

(1) (text unchanged)

(2) Upon proof of the allegations, [the customer's remedy through] *that an enrollment was unauthorized*, the "Commission's Office of External Relations (OER)" [is limited to] *may order the supplier to issue a refund to the customer in an amount, determined by OER, intended to hold the customer harmless relative to the price the customer would have paid had the unauthorized enrollment not occurred.* [a refund of any overcharge and any fees or penalties paid by the customer as a result of the unauthorized enrollment.]

(a) *If the charges have been billed by and the receivable purchased by the utility, the refund determined by OER shall be remitted to the utility by the supplier. The refund determined by OER shall be applied to the customer's utility account current balance and the excess returned to the customer upon request. If the customer is no longer served by the utility, then the refund shall be returned to the customer.*

(b) *Upon purchase of any receivable under this section, the utility shall be entitled to collect from the customer, and the customer shall be responsible to pay the utility the total amount billed less any refund determined by OER.*

[E]D. (text unchanged)

20.53.07.07

.07 Advertising and Solicitations.

A. (Text Unchanged)

B. Disclosures.

(1) [A]All supplier[s] marketing or solicitation information, *including that used by its agents or employees*, shall include the supplier's Maryland license number in a clear and conspicuous manner.

(2) (text unchanged)

C. Internet [Advertising. A supplier shall post on the Internet readily understandable information about its services, prices, and emissions disclosures.]

(1) *Internet Advertising. A supplier shall post on the Internet readily understandable information about its services, prices, and emissions.*

(2) *Commission website. Suppliers shall submit open offers to the Commission's website according to instructions provided by the Commission.*

D. (text unchanged)

20.53.07.08

.08 Supplier Contracts.

A. Requirements.

(1) (text unchanged)

(2) A supplier contract shall contain all material terms and conditions, including:

(a) – (c) (text unchanged)

(d) *A clear and concise price description of each service, including, [all fixed and variable costs] but not limited to, any condition of variability or limits on price variability;*

(i) *if there is a limit on price variability, such as a specific price cap, a maximum percentage increase in price between billing cycles or minimum/maximum charges per kilowatt-hour for electricity during the term of the contract, the supplier shall clearly explain applicable limits;*

(ii) *if there is not a limit on price variability, the supplier shall clearly and conspicuously state that there is not a limit on how much the price may change from one billing cycle to the next.*

(e) – (j) (text unchanged)

(k) A statement that the supplier may terminate the contract early, including the:

(i) – (ii) (text unchanged)

(iii) Duration of the notice period before early *supplier* cancellation; and

(iv) (text unchanged)

(l) – (m) (text unchanged)

(n) *A statement describing how the customer may access future pricing information;*

[(n)](o) A dispute procedure; and

[(o)](p) The Commission's toll-free number and Internet address.

B. Contract Summary

(1) *At the time of completion of the contracting process, a supplier shall provide the customer a copy of the executed contract and completed Contract Summary on the form provided by the Commission.*

(2) *If the contract is completed through telephone solicitation, the supplier shall send the Contract Summary to the customer along with the contract that must be signed by the customer and returned as required by the Maryland Telephone Solicitations Act. If the contract is exempt from the Maryland Telephone Solicitations Act, the supplier shall send the Contract Summary with the contract to the customer.*

(3) *If the contract is completed through the Internet, the Contract Summary shall be:*
(a) *Available online and made available for download by the customer at the time of contracting; and*
(b) *Shall be transmitted to the customer by the supplier by mail or by email if the customer consents to receipt of email disclosures.*

(4) *If the contract is completed in person, the contract and the Contract Summary shall be reviewed with and provided to the customer by the supplier in hard copy or electronically, and the executed contract and Contract Summary provided to the customer at the time of contracting in hard copy or electronically if the customer consents to electronic disclosures.*

[B]C. Methods of Contracting.

(1) – (4) (text unchanged)

[C]D. Evergreen Contracts.

(1) (text unchanged)

(2) The supplier notice required under §C(1) of this regulation shall:

(a) – (c) (text unchanged)

(d) *Inform the customer how to access the customer's rate for the next billing cycle in accordance with 20.53.07.13.*

(3) *A clear and concise price description of each service, including, but not limited to, any condition of variability or limits on price variability.*

(a) *If there is a limit on price variability, such as a specific price cap, a maximum percentage increase in price between billing cycles or minimum/maximum charges per kilowatt-hour for electricity during the term of the contract, the supplier shall clearly explain applicable limits.*

(b) *If there is not a limit on price variability, the supplier shall clearly and conspicuously state that there is not a limit on how much the price may change from one billing cycle to the next.*

20.53.07.09

.09 Customer Disclosure.

A. Price Information.

(1) The supplier's price *description* for service shall include, *but not be limited to*, all fixed and variable components.

(2) (text unchanged)

B. (text unchanged)

20.53.07.10

.10 Notice of Contract Expiration or Cancellation.

A. Notice. A supplier shall provide the customer with notice [45] *at least 30 days* before expiration or cancellation of a supply contract.

B. – C. (text unchanged)

20.53.07.11

.11 Rescission Period.

A supplier is not required to offer a contract rescission period *except where required by law*.

ALL NEW TEXT

20.53.07.12

.12 Assignment of Contract

A. *At least 30 days prior to the effective date of any assignment or transfer of a supplier contract from one supplier to another, the suppliers shall jointly provide written notice to the customers of the supplier, the Commission, the utility and the Office of People's Counsel of the assignment or transfer.*

(1) *Notice to customer – the suppliers shall jointly send a letter to the customer informing them of the assignment or transfer. The letter shall include:*

(a) *A description of the transaction in clear and concise language including the effective date of the assignment or transfer;*

(b) *Customer Service contact information for the assignee; and*

(c) *A statement that the terms and conditions of the customer's contract at the time of assignment shall remain the same for the remainder of the contract term.*

(2) The suppliers shall file a notice with the Commission, with a copy to the Office of People's Counsel and the utility, of the assignment or transfer of the customer contracts and include a copy of the letter sent to customers.

B. Upon request by the Commission, the assignee shall be responsible for providing documents and records related to the assigned contracts. Records shall be maintained for a period of three years or until the contracts are expired, whichever is longer.

C. An assignment or transfer of a supplier contract from one supplier to another is not an enrollment or drop.

20.53.07.13

.13 Notice of Change in Rate.

A. When a customer's rate changes, a supplier shall make available to a customer his or her rate for the next billing period;

- (1) The rate shall be made available at least twelve days prior to close of the customer's billing period;
- (2) The rate shall be made available in a clear, easy to access format prescribed by the supplier;
- (3) The supplier shall promptly provide the customer written directions on how to access the rate:
 - (a) at the time of contracting;
 - (b) in the Contract Summary;
 - (c) when sending any notice as required in this Title;
 - (d) upon request; or
 - (e) if the supplier changes the directions for accessing the rate.

B. A supplier may provide an estimated rate for the customer's next billing period, provided the estimated rate is made available at least twelve days prior to the close of the customer's billing period. If the supplier provides an estimated rate for the customer, the supplier shall not use a rate for billing purposes that is higher than the estimate.

C. Written Notice Requirement.

(1) If a contract with a fixed rate for three or more billing cycles changes to a variable month-to-month price and a change in the contract rate will be equal to or exceed 30% of the supplier's current supply rate, the supplier shall provide written notice of the new rate to the customer at least 12 days prior to the close of the customer's billing period.

(2) The written notice shall be provided by mail, or with the mutual consent of the supplier and customer, by email, text, automated phone message or other manner.

(3) The supplier must maintain records that such notice was provided to the customer.

D. Neither a supplier nor a customer may limit or waive this provision.

Title 20 Public Service Commission

Subtitle 53 SUPPLIER AGENT RELATIONS

Chapter 08 Supplier Agent Relations

Authority: Public Utilities Article, §§ 2-113, 2-121, 5-101, and 7-507 Annotated Code of Maryland

20.53.08.01

.01 Suppliers Responsible for its Agent.

(A) A supplier may use an agent to conduct marketing or sales activities.

(B) A supplier is responsible for any fraudulent, deceptive or other unlawful marketing acts performed by its agent in the conduct of marketing or sales activities on behalf of a supplier.

20.53.08.02

.02 Agent Qualifications and Standards.

A. A supplier shall develop standards and qualifications for individuals it chooses to hire as its agents. A supplier may not permit an individual to be hired if an individual fails to meet its standards. The standards shall ensure to the fullest extent practicable that the agent's qualifications, and for door-to-door agents the results of the criminal history record check, safeguard potential customers with whom the agent may make contact.

B. A supplier may not permit a person to conduct door-to-door activities until it has obtained and reviewed a criminal history record from the Maryland Criminal Justice Information System and the Federal Bureau of Investigation, through the Department of Public Safety and Correctional Services, and from all other states in which

the person resided within at least the last 12 months. The criminal history record check shall be updated no less than every 36 months. A supplier shall subscribe to automatic updates from the Maryland Criminal Justice Information System.

C. When a supplier contracts with an independent contractor or vendor to perform door-to-door activities, the supplier shall document that the contractor or vendor has performed criminal background investigations on an agent in accordance with this section and with the standards set by the supplier. A supplier may satisfy this requirement by obtaining from the independent contractor or vendor a written statement affirming that the criminal background check was performed by them or under their supervision in accordance with this section and with standards set by the supplier and presented in writing.

D. A supplier shall audit at least every 12 months whether the criminal background checks completed by its independent contractor or vendor have been completed in accordance with this section. A supplier shall provide the Commission notice within 30 days if the audit results demonstrate that the criminal background checks were not completed by the independent contractor or vendor in accordance with this section.

20.53.08.03

.03 Agent Training.

A. A supplier shall ensure the training of its agents on the following subjects:

(1) Local, State and Federal laws and regulations that govern marketing, telemarketing, consumer protection and door-to-door sales as applicable to the types of marketing and jurisdiction in which the agent shall engage or operate.

(2) Responsible and ethical sales practices.

(3) The supplier's products and services.

(4) The supplier's rates, rate structures and payment options.

(5) The customer's right to rescind and cancel contracts.

(6) The applicability of an early termination fee for contract cancellation when the supplier has one.

(7) The necessity of adhering to the script and knowledge of the contents of the script if one is used.

(8) The proper completion of transaction documents.

(9) The supplier's Contract Summary.

(10) Terms and definitions related to energy supply, transmission and distribution service as found online at the Commission's website.

(11) Information about how customers may contact the supplier to obtain information about billing, disputes and complaints.

(12) The confidentiality and protection of customer information.

B. A supplier shall document the training of an agent and maintain a record of the training for 3 years from the date the training was completed.

C. A supplier shall make training materials and training records available to the Commission and the Office of People's Counsel upon request. Any such material shall be treated as confidential.

D. When a supplier contracts with an independent contractor or vendor to perform marketing or sales activities on the supplier's behalf, the supplier shall confirm that the contractor or vendor has provided supplier-approved training to agents and independent contractors in accordance with this section.

E. The supplier shall monitor telephonic and door-to-door marketing and sales calls to:

(1) Evaluate the supplier's training program.

(2) Ensure that agents are providing accurate and complete information, complying with applicable rules and regulations and providing courteous service to customers.

20.53.08.04

.04 Agent Identification; Misrepresentation.

A. A supplier shall issue an identification badge to agents to be worn when conducting door-to-door activities or appearing at public events on behalf of a supplier. The badge must:

(1) Accurately identify the supplier, its trade name and logo;

(2) Display the agent's photograph;

(3) Display the agent's full name;

(4) Be prominently displayed; and

(5) Display a customer-service phone number for the supplier.

B. Upon first contact with a customer, an agent shall

(1) identify the supplier that he represents; and

(2) state that he is not working for and is independent of the customer's local distribution company.

C. When conducting door-to-door activities or appearing at a public event, an agent may not wear apparel or accessories or carry equipment that contains branding elements, including a logo, that suggests a relationship that does not exist with a utility, government agency or another supplier.

D. A supplier may not use the name, bills, marketing materials or consumer education materials of another supplier, regulated utility or government agency in a way that suggests a relationship that does not exist.

E. A supplier or supplier agent may not say or suggest to a customer that a utility customer is required to choose a competitive energy supplier.

20.53.08.05

.05 Door-to-Door Sales.

The following provisions do not preempt the Maryland Door to Door Sales Act.

A. A supplier and its agents shall comply with state and local government ordinances regarding door-to-door marketing and sales activities.

B. A supplier's agent shall:

(1) prominently display an identification badge; and

(2) offer a business card or other material that lists:

(a) the supplier's name and contact information, including telephone number;

(b) the supplier's Commission license number; and

(c) the agent's name and any other identification numbers provided to the sales agent by the supplier or agent.

C. A supplier shall establish a policy that requires an agent to terminate contact with a customer if the customer is incapable of understanding and responding to the information being conveyed by the agent.

D. When an agent completes a transaction with a customer, the agent shall provide a copy of each document that the customer signed or initialed relating to the transaction. A copy of these documents shall be provided to the customer before the agent and the customer leaves each other's presence.

E. An agent shall immediately leave a residence when requested to do so by a customer or the owner or an occupant of the premises, or if the customer does not express an interest in what the agent is attempting to sell.

20.53.08.06

.06 Notification Regarding Door-to-Door Activity.

A. When a supplier engages in door-to-door activity, the supplier shall notify OER no later than the morning of the day that the activity begins. The notification shall include general, nonproprietary information about the activity, the period involved and a general description of the geographical area.

B. A supplier shall provide the utility with general, nonproprietary information about the door-to-door activity that caused the supplier to provide notice to the Commission. The supplier shall provide this general information to the utility no later than the morning of the day that the sales and marketing activities begin. The utility shall use this information only for acquainting its customer service representatives with sales and marketing activity occurring in its service territory so that they may address customer inquiries knowledgeably. A utility may not use the information for other purposes.

END ALL NEW TEXT