Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 518 (Delegates Taveras and Woods)
Economic Matters

Public Service Commission - Performance-Based Regulation - Study

This bill requires the Public Service Commission (PSC) to study the feasibility of and develop a framework for transitioning utility regulation in the State to a performance-based utility regulation model. In conducting the study, PSC must consult with relevant interested parties, as specified. PSC, in consultation with the interested parties, must develop recommendations for any legislative action necessary to implement a performance-based regulation model in the State. PSC must submit an interim report and a final report to the General Assembly by December 1, 2024, and November 1, 2025, respectively. **The bill takes effect July 1, 2024, and terminates June 30, 2026.**

Fiscal Summary

State Effect: PSC can conduct the study with existing budgeted resources. Other State entities, such as the Office of People's Counsel, can consult on the study with existing budgeted resources. Revenues are not affected.

Local Effect: The bill does not materially affect local government finances or operations.
Small Business Effect: None.

Analysis

Bill Summary: The study must address:

- standards and metrics for measuring a utility company's performance of objectives that are in the interest of ratepayers or benefit the public, which may include safety, reliability, emergency response, cost efficiency, affordability, equity, customer satisfaction, resilience, and advancing the State's environmental and other policy goals;

- the use of universal or targeted performance incentive mechanisms to achieve the standards and metrics proposed;
- the manner, including the timeframe and extent, in which the standards and metrics should be used; and
- specific mechanisms to be implemented to align utility performance with the standards and metrics proposed.

Current Law:

Public Service Commission – Generally

PSC must supervise and regulate public service companies subject to its jurisdiction to (1) ensure their operation in the interest of the public and (2) promote adequate, economical, and efficient delivery of utility services in the State without unjust discrimination. In doing so, PSC must consider the public safety, the economy of the State, the maintenance of fair and stable labor standards for affected workers, the conservation of natural resources, the preservation of environmental quality, the achievement of the State's climate commitments for reducing greenhouse gas emissions, and the protection of a public service company's infrastructure against cybersecurity threats. PSC must also enforce compliance with legal requirements by public service companies.

"Public service company" means a common carrier company, electric company, gas company, sewage disposal company, telegraph company, telephone company, water company, or any combination of public service companies.

Public Service Company Rates

A public service company must charge just and reasonable rates for the regulated services that it renders. Generally, PSC has the power to set a just and reasonable rate of a public service company, as a maximum rate, minimum rate, or both. A "just and reasonable rate" means a rate that:

- does not violate any provision of the Public Utilities Article;
- fully considers and is consistent with the public good; and
- except for rates of a common carrier, will result in an operating income to the public service company that yields, after reasonable deduction for depreciation and other necessary and proper expenses and reserves, a reasonable return on the fair value of the public service company's property used and useful in providing service to the public.

At any time, PSC may investigate and determine the fair value of the property of a public service company used and useful in providing service to the public.

Notwithstanding any other provision of law, PSC may regulate the regulated services of an electric company through alternative forms of regulation. PSC may adopt an alternative form of regulation if it finds, after notice and hearing, that the alternative form of regulation (1) protects consumers; (2) ensures the quality, availability, and reliability of regulated electric services; and (3) is in the interest of the public, including shareholders of the electric company. Alternative forms of regulation may include price regulation, revenue regulation, ranges of authorized return, rate of return, categories of services, or price indexing.

State Fiscal Effect: PSC advises that it can conduct the required study with existing budgeted resources. Other State agencies can likewise consult on the study with existing budgeted resources. PSC notes that its Case No. 9618, which explored the use of alternative forms of ratemaking, included performance-based incentives.

Additional Comments: As its name suggests, under performance-based ratemaking, a regulator typically uses metrics to reward utility *performance* in attaining certain outcomes with increased profits and to punish poor performance with lower profits or penalties. This is in contrast to the traditional focus on *cost*. Performance-based ratemaking can be incorporated into traditional or alternative forms of ratemaking.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Public Service Commission; Office of People's Counsel; Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2024
km/lgc

Analysis by: Stephen M. Ross

Direct Inquiries to:
(410) 946-5510
(301) 970-5510