Department of Legislative Services

Maryland General Assembly

FISCAL NOTE

Revised

House Bill 478 (Delegate Guns)
Environmental Matters

Steam Heating Companies

This bill requires the Public Service Commission (PSC), upon application from a steam heating company, to conduct proceedings to consider whether the applicant should continue to be regulated as a public service company. The PSC is required to remove the applicant from its jurisdiction if it determines that removing the applicant is in the public interest and that there are reasonable alternative sources of heat at a competitive price. A steam heating company that has been removed from the PSC's jurisdiction may not be considered a public service company for purposes of the Public Utilities Companies Article.

Once a steam heating company has been removed from the PSC's jurisdiction, the PSC is required to seek legislation to amend the Annotated Code to reflect the removal of steam heating companies from the PSC's jurisdiction.

Fiscal Summary

State Effect: Potential minimal impact. To the extent that this bill increases competition among heating suppliers, some State government facilities should benefit from lower heating costs. It is assumed that the State Department of Assessments and Taxation would continue to classify steam heating companies as utilities for property tax purposes.

Local Effect: Potential minimal impact. To the extent that this bill increases competition among heating suppliers, some local government facilities should benefit from lower heating costs.

Small Business Effect: Potential minimal impact.

Fiscal Analysis

State Effect: Currently, only one steam heating company (Trigen Energy) operates in Maryland. As a consequence, eliminating the PSC's jurisdiction over steam heating companies would not have a significant impact on the commission's workload.

Minimal Increase in Competition

It is expected that deregulation will create increased competition among energy suppliers. Heightened competition would create downward pressure on prices and cause steam heating suppliers to become more efficient. As a result, heating costs for some State facilities could decline.

Tax Implications

There are two primary tax implications associated with classifying steam heating companies as public utilities: (1) the method used to value the property; and (2) the type of tax imposed. First, for utility companies, the State Department of Assessments and Taxation (SDAT) values the business entity as a unit and apportions assessable values to the counties. For other companies, SDAT values each item of real and personal property separately. Second, utilities are subject to the franchise tax as opposed to the corporate income tax. The franchise tax is calculated as 2% of gross receipts, whereas the corporate income tax is calculated as 7% of profit.

In determining whether a company should be classified as a public utility for property tax assessment purposes, SDAT considers whether the company: (1) is subject to the authority of a regulatory body; (2) utilizes a significant portion of the real and personal property in its business operations as an integrated whole or unit; (3) provides a basic service to the public; and (4) owns or uses assets that are most appropriately appraised using the unitary valuation method. Companies which predominantly meet these considerations are classified as public utility companies.

Currently, SDAT classifies steam heating companies (i.e., Trigen) as public utilities for property tax assessment purposes. The bill would eliminate the PSC's jurisdiction over steam heating companies. Although being subject to the authority of a regulatory body is one of the considerations for determining whether a company is a public utility, it is not determinative. SDAT advises that steam heating companies would predominately meet the considerations even if they were no longer regulated by the PSC. As a result, SDAT advises that it would continue to tax steam heating companies as public utilities for property tax assessment purposes. Assuming that SDAT would continue to classify steam heating companies as utilities, this bill would not have any tax consequences.

Small Business Effect: Trigen Energy is the only provider of steam heat in Maryland. Trigen services approximately 1,500 customers nationwide, some of which are small businesses. Prices are set based on a rate schedule applied to classes of customers and approved by the commission. Given the significant barriers to entering the steam heating market (i.e., high capital costs), deregulation should not attract a significant number of companies to the market. Although direct competition for steam heat is not expected, Trigen will continue to face competition from other energy suppliers. For example, ComfortLink (Baltimore Gas and Electric) is in the process of constructing a series of satellite chilled water and hot water plants to supply energy to downtown Baltimore customers.

To the extent that Trigen customers can substitute other sources of energy for steam heat, Trigen will not be able to raise its prices to reflect its monopoly position. However, for customers which cannot readily switch from steam heat to other sources of energy, Trigen could raise its prices. For illustrative purposes, consider a dry cleaning company or a company which has made a significant investment in equipment requiring steam heat.

Most businesses consider steam heat and other forms of energy to be interchangeable. Consequently, deregulation should increase competition among energy providers and create downward pressure on price. Additionally, under a regulated regime, prices are determined based on a firm's cost structure. Consequently, there is little incentive to minimize costs. Deregulation, however, would encourage Trigen to become more efficient. Increased efficiency would allow Trigen to lower its price while maintaining its profit margin.

Information Sources: Department of General Services, Public Service Commission

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