

HOUSE BILL 797

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C5

2003 Regular Session
(3r1575)

ENROLLED BILL
-- Economic Matters/Finance --

Introduced by **Delegates D. Davis, Brown, Carter, Doory, Gaines, Griffith, Howard, Hubbard, Jameson, Kelley, McHale, Oaks, Proctor, Stern, Taylor, and V. Turner** V. Turner, Burns, Conroy, Feldman, Fulton, Harrison, Impallaria, Kirk, Krebs, Krysiak, Love, Moe, Parrott, Trueschler, Vaughn, and Walkup

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Electricity - Universal Service Program - Extension and Funding**

3 FOR the purpose of continuing a certain electric universal service charge at a certain
4 level for certain purposes; providing assistance for the retirement of certain
5 arrears for certain electric customers, subject to a certain limitation;
6 authorizing the waiver of a certain income eligibility limitation for certain
7 electric customers under certain circumstances; requiring the Public Service
8 Commission to make certain recommendations based on certain factors in a
9 report each year to the General Assembly; repealing a provision providing for
10 the determination of a certain charge for certain purposes only after
11 recommendation by the Commission and enactment of legislation; requiring the
12 Office of Home Energy Programs to report certain information to the
13 Commission; requiring the Office of Legislative Audits to perform certain audits

1 of the universal service program at certain intervals; providing for the funding
2 of the audits; requiring the initial audit to be completed on or before a certain
3 date; providing for the retention of certain funds in the universal service
4 program fund for certain purposes for certain periods; providing for the return of
5 certain funds to certain electric customer classes in a certain proportion and a
6 certain manner after a certain period; making stylistic changes; providing for
7 the effective date of a portion of this Act; and generally relating to the electric
8 universal service program and the universal service program fund.

9 BY repealing and reenacting, without amendments,
10 Article - Public Utility Companies
11 Section 7-512.1(g) and (h)(1) through (4)
12 Annotated Code of Maryland
13 (1998 Volume and 2002 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - Public Utility Companies
16 Section 7-512.1(a), (b), (c), (d), and (h)(5)
17 Annotated Code of Maryland
18 (1998 Volume and 2002 Supplement)

19 BY repealing
20 Article - Public Utility Companies
21 Section 7-512.1(e) and (f)
22 Annotated Code of Maryland
23 (1998 Volume and 2002 Supplement)

24 BY renumbering
25 Article - Public Utility Companies
26 Section 7-512.1(g) and (h), respectively
27 to be Section 7-512.1(e) and (f), respectively
28 Annotated Code of Maryland
29 (1998 Volume and 2002 Supplement)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
31 MARYLAND, That the Laws of Maryland read as follows:

32 **Article - Public Utility Companies**

33 7-512.1.

34 (a) (1) The Commission shall establish a universal service program to assist
35 electric customers with annual incomes at or below 150% of the federal poverty level.

1 (2) The Department of Human Resources shall be responsible for
 2 administering the universal service program through the [Maryland Energy
 3 Assistance Program] OFFICE OF HOME ENERGY PROGRAMS.

4 (3) The Department of Human Resources may, with input from a panel
 5 or roundtable of interested parties, contract with a for-profit or a nonprofit Maryland
 6 corporation existing as of July 1, 1999 to assist in administering the universal service
 7 program.

8 (4) The Commission shall have oversight responsibility for the universal
 9 service program.

10 (5) The components of the universal service program shall include:

11 (i) bill assistance, at a minimum of 50% of the determined need;

12 (ii) low-income weatherization; and

13 (iii) the retirement of arrearages ~~that were incurred prior to the~~
 14 ~~initial implementation date~~ FOR ELECTRIC CUSTOMERS WHO HAVE NOT PREVIOUSLY
 15 RECEIVED ASSISTANCE IN RETIRING ARREARAGES UNDER THE UNIVERSAL SERVICE
 16 PROGRAM, NOT TO EXCEED A TOTAL OF \$1.5 MILLION IN ANY GIVEN FISCAL YEAR.

17 (6) IN A SPECIFIC CASE, THE UNIVERSAL SERVICE PROGRAM MAY
 18 WAIVE THE INCOME ELIGIBILITY LIMITATION UNDER PARAGRAPH (1) OF THIS
 19 SUBSECTION IN ORDER TO PROVIDE ASSISTANCE TO AN ELECTRIC CUSTOMER WHO
 20 WOULD QUALIFY FOR A SIMILAR WAIVER UNDER THE MARYLAND ENERGY
 21 ASSISTANCE PROGRAM ESTABLISHED UNDER ARTICLE 41, § 6-406 OF THE CODE.

22 (b) (1) (i) All customers [will] SHALL contribute to the funding of the
 23 universal service program through a charge collected by each electric company.

24 (ii) In the first 6 months after the initial implementation date, the
 25 Commission shall consider adjustments to the charges collected for the universal
 26 service program for persons that are not eligible for customer choice.

27 (2) The Commission shall determine a fair and equitable allocation for
 28 collecting the charges among all customer classes pursuant to subsection (d) of this
 29 section.

30 (3) [Any] ~~IN ACCORDANCE WITH SUBSECTION (F)(5)(H)~~ (F)(5) OF THIS
 31 SECTION, ANY unexpended universal service program funds returned to customers
 32 under subsection [(h)] (F) of this section shall be returned to EACH customer
 33 [classes] CLASS AS A CREDIT in the same [proportions as they were collected]
 34 PROPORTION THAT THE CUSTOMER CLASS CONTRIBUTED CHARGES TO THE FUND.

35 (4) An electric company shall recover universal service program costs in
 36 accordance with § 7-512 of this subtitle.

1 (5) The Commission shall determine the allocation of the universal
2 service charge among the generation, transmission, and distribution rate components
3 of all classes.

4 (6) The Commission may not assess the universal service surcharge on a
5 per kilowatt-hour basis.

6 (c) (1) On or before December 1[, 1999, and on an annual basis thereafter]
7 OF EACH YEAR, the Commission shall report, subject to § 2-1246 of the State
8 Government Article, to the General Assembly on the universal service program,
9 including:

10 (A) (I) subject to [subsections (d) and (e)] SUBSECTION (D) of this
11 section, a recommendation on the total amount of funds for the program for the
12 following fiscal year BASED ON:

13 (A) 1. THE LEVEL OF PARTICIPATION IN AND THE AMOUNTS
14 EXPENDED FROM THE UNIVERSAL SERVICE PROGRAM DURING THE PRECEDING
15 FISCAL YEAR;

16 (A) 2. HOW PAYMENTS TO CUSTOMERS WERE CALCULATED
17 DURING THE PRECEDING FISCAL YEAR;

18 (A) 3. THE PROJECTED NEEDS OF THE UNIVERSAL SERVICE
19 PROGRAM FOR THE NEXT FISCAL YEAR; AND

20 (A) 4. THE AMOUNT OF ANY SURPLUS CARRIED OVER IN THE
21 UNIVERSAL SERVICE PROGRAM FUND UNDER SUBSECTION (F)(5)(I) OF THIS SECTION;

22 (B) (II) for bill assistance:

23 (i) 1. the total amount of need, as determined by the
24 Commission, for electric customers with annual incomes at or below 150% of the
25 federal poverty level and the basis for this determination; and

26 (ii) 2. the percentage of need, as determined by the Commission,
27 but at a minimum of 50%, that should be funded through the universal service
28 program and the basis for this determination;

29 (C) (III) for low-income weatherization, the amount of funds needed, as
30 determined by the Commission, for measures that reduce consumption of energy by
31 electric customers with annual incomes at or below 150% of the federal poverty level
32 and the basis for this determination;

33 (D) (IV) the amount of funds needed, as determined by the Commission,
34 to retire arrearages ~~that were incurred prior to the initial implementation date by~~
35 FOR electric customers with annual incomes at or below 150% of the federal poverty
36 level WHO HAVE NOT PREVIOUSLY RECEIVED ASSISTANCE IN RETIRING
37 ARREARAGES UNDER THE UNIVERSAL SERVICE PROGRAM and the basis for this
38 determination;

1 (V) THE AMOUNT OF FUNDS NEEDED, AS DETERMINED BY THE
2 COMMISSION, FOR BILL ASSISTANCE, LOW-INCOME WEATHERIZATION, AND
3 ARREARAGE RETIREMENT, RESPECTIVELY, FOR CUSTOMERS FOR WHOM INCOME
4 LIMITATIONS MAY BE WAIVED UNDER SUBSECTION (A)(6) OF THIS SECTION, AND THE
5 BASIS FOR EACH DETERMINATION;

6 ~~(5)~~ (VI) the impact on customers' rates, including the allocation among
7 customer classes, from collecting the total amount recommended by the Commission
8 under item ~~(4)~~ (I) of this subsection PARAGRAPH; and

9 ~~(6)~~ (VII) the impact of using other federal poverty level benchmarks on
10 costs and the effectiveness of the universal service program.

11 (2) (I) TO ASSIST THE COMMISSION IN PREPARING ITS
12 RECOMMENDATIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE OFFICE OF
13 HOME ENERGY PROGRAMS SHALL REPORT TO THE COMMISSION EACH YEAR ON:

14 1. THE NUMBER OF CUSTOMERS AND THE AMOUNT OF
15 DISTRIBUTIONS MADE TO FUEL CUSTOMERS UNDER THE MARYLAND ENERGY
16 ASSISTANCE PROGRAM ESTABLISHED UNDER ARTICLE 41, § 6-406 OF THE CODE,
17 IDENTIFIED BY FUNDING SOURCE AND FUEL SOURCE; AND

18 2. THE COST OF OUTREACH AND EDUCATION MATERIALS
19 PROVIDED BY THE OFFICE OF HOME ENERGY PROGRAMS FOR THE UNIVERSAL
20 SERVICE PROGRAM.

21 (II) THE OFFICE OF HOME ENERGY PROGRAMS MAY SATISFY THE
22 REPORTING REQUIREMENT OF SUBPARAGRAPH (I)1 OF THIS PARAGRAPH BY
23 PROVIDING THE COMMISSION WITH A COPY OF MATERIAL THAT CONTAINS THE
24 REQUIRED INFORMATION AND THAT THE OFFICE OF HOME ENERGY PROGRAMS
25 SUBMITS TO A UNIT OF THE FEDERAL GOVERNMENT.

26 (III) THE COMMISSION SHALL INCLUDE THE INFORMATION
27 PROVIDED BY THE OFFICE OF HOME ENERGY PROGRAMS UNDER SUBPARAGRAPH (I)
28 OF THIS PARAGRAPH IN ITS REPORT TO THE GENERAL ASSEMBLY UNDER
29 PARAGRAPH (1) OF THIS SUBSECTION.

30 (3) (I) THE OFFICE OF LEGISLATIVE AUDITS SHALL CONDUCT A
31 PERFORMANCE AUDIT OF THE UNIVERSAL SERVICE PROGRAM AT LEAST ONCE
32 EVERY 3 YEARS OR AT ANOTHER INTERVAL AS DIRECTED BY THE JOINT AUDIT
33 COMMITTEE AND SHALL REPORT THE RESULTS OF THE AUDIT TO THE GENERAL
34 ASSEMBLY.

35 (II) THE COST OF THE PERFORMANCE AUDIT UNDER THIS
36 PARAGRAPH SHALL BE INCLUDED IN THE COSTS OF ADMINISTERING THE
37 UNIVERSAL SERVICE PROGRAM, AND FUNDED THROUGH THE UNIVERSAL SERVICE
38 PROGRAM FUND UNDER SUBSECTION (F) OF THIS SECTION.

1 (d) The total amount of funds to be collected for the universal service program
2 [in each of the 3 years following the initial implementation date] EACH YEAR shall be
3 \$34,000,000, allocated in the following manner:

4 (1) \$24.4 million shall be collected from the industrial and commercial
5 classes; and

6 (2) \$9.6 million shall be collected from the residential class.

7 [(e) (1) The Commission shall recommend a total amount of funds to be used
8 for the universal service program for the fourth year, and each year thereafter.

9 (2) The recommendation of the Commission may only be made after
10 consideration of:

11 (i) information related to the funding for the first 3 years;

12 (ii) the retirement, during the first 3 years, of arrearages incurred
13 prior to the initial implementation date; and

14 (iii) the amount of low-income assistance included in rates prior to
15 the initial implementation date.

16 (f) For the fourth year after the initial implementation date, and for each year
17 thereafter, the amount to be used for the universal service program, determined after
18 consideration of the recommendation of the Commission required under this section,
19 is subject to the approval of the General Assembly through the enactment of
20 legislation.]

21 (g) Notwithstanding any other provision of this article, for the 3 years
22 immediately following the initial implementation date, electricity suppliers and
23 electric companies may not terminate, for an arrearage balance due on the initial
24 implementation date, the supply of electricity to a customer who receives assistance
25 under the universal service program under this section.

26 (h) (1) In this subsection, "fund" means the universal service program fund.

27 (2) There is a universal service program fund.

28 (3) (i) 1. The Comptroller shall collect the revenue collected by
29 electric companies under subsection (b) of this section and place the revenue into the
30 fund.

31 2. The General Assembly may appropriate funds
32 supplemental to the funds collected under sub-subparagraph 1 of this subparagraph.

33 (ii) The fund is a continuing, nonlapsing fund that is not subject to
34 § 7-302 of the State Finance and Procurement Article.

35 (iii) The purpose of the fund is to assist electric customers as
36 provided in subsection (a)(1) of this section.

1 (4) The Department of Human Resources, with oversight by the
2 Commission, shall disburse the funds in accordance with the provisions of this
3 section.

4 (5) (I) AT THE END OF A GIVEN FISCAL YEAR, ANY UNEXPENDED
5 FUNDS THAT WERE COLLECTED FOR THAT FISCAL YEAR SHALL BE RETAINED IN THE
6 FUND AND SHALL BE MADE AVAILABLE FOR DISBURSEMENT THROUGH THE ~~END~~
7 FIRST 3 MONTHS OF THE NEXT FISCAL YEAR TO CUSTOMERS WHO:

8 1. QUALIFY FOR ASSISTANCE FROM THE FUND DURING THE
9 GIVEN FISCAL YEAR; ~~AND~~

10 2. APPLY FOR ASSISTANCE FROM THE FUND BEFORE THE
11 END OF THE GIVEN FISCAL YEAR; AND

12 3. REMAIN ELIGIBLE FOR ASSISTANCE AT THE TIME
13 SERVICES ARE PROVIDED.

14 (II) IF THE COMMISSION DETERMINES THAT AN EXTENSION IS
15 NEEDED, THE COMMISSION MAY EXTEND UP TO AN ADDITIONAL 3 MONTHS THE
16 PERIOD IN WHICH UNEXPENDED FUNDS MAY BE MADE AVAILABLE FOR
17 DISBURSEMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

18 (H) (III) [In any year when there are unexpended funds, those
19 funds] ANY FUNDS COLLECTED FOR A GIVEN FISCAL YEAR THAT ARE RETAINED
20 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH AND THAT REMAIN UNEXPENDED AT
21 THE END OF THE ~~NEXT FISCAL YEAR~~ PERIOD ALLOWED UNDER SUBPARAGRAPHS (I)
22 AND (II) OF THIS PARAGRAPH shall be returned to [the customer classes proportionate
23 to how the customer classes paid into] EACH CUSTOMER CLASS IN THE PROPORTION
24 THAT THE CUSTOMER CLASS CONTRIBUTED CHARGES TO the fund FOR THE GIVEN
25 FISCAL YEAR IN THE FORM OF A CREDIT TOWARD THE CHARGE ASSESSED IN THE
26 FOLLOWING FISCAL YEAR.

27 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 7-512.1(g)
28 and (h), respectively, of Article - Public Utility Companies of the Annotated Code of
29 Maryland be renumbered to be Section(s) 7-512.1(e) and (f), respectively.

30 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding the
31 requirements of § 7-512.1(b)(3) and (h)(5) of the Public Utility Companies Article and
32 § 7-512.1(f)(5) of the Public Utility Companies Article, as enacted by this Act, the
33 Public Service Commission may retain any unexpended funds in the electric universal
34 service program fund at the end of June 30, 2003 and make the funds available for
35 disbursement through June 30, 2004 to electric customers who:

36 (1) qualify for assistance from the fund during fiscal year 2002 or 2003;
37 ~~and~~

38 (2) apply for assistance from the fund before July 1, 2003; and

39 (3) remain eligible for assistance at the time services are provided.

1 SECTION 4. AND BE IT FURTHER ENACTED, That the initial performance
2 audit of the electric universal service program under § 7-512.1(c)(3) of the Public
3 Utility Companies Article, as enacted by this Act, shall be completed on or before
4 January 7, 2004.

5 SECTION 4. 5. AND BE IT FURTHER ENACTED, That Sections ~~1 and 2~~ 1, 2,
6 and 4 of this Act shall take effect July 1, 2003.

7 SECTION ~~5.~~ 6. AND BE IT FURTHER ENACTED, That, except as provided in
8 Section ~~4~~ 5 of this Act, this Act shall take effect June 30, 2003.