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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**

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Assigned to: Economic Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 4, 2003

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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  
14 of the universal service program at certain intervals; requiring the initial audit  
15 to be completed on or before a certain date; providing for the retention of certain  
16 funds in the universal service program fund for certain purposes for certain  
17 periods; providing for the return of certain funds to certain electric customer  
18 classes in a certain proportion and a certain manner after a certain period;  
19 making stylistic changes; providing for the effective date of a portion of this Act;  
20 and generally relating to the electric universal service program and the  
21 universal service program fund.

22 BY repealing and reenacting, without amendments,  
23 Article - Public Utility Companies

1 Section 7-512.1(g) and (h)(1) through (4)  
2 Annotated Code of Maryland  
3 (1998 Volume and 2002 Supplement)

4 BY repealing and reenacting, with amendments,  
5 Article - Public Utility Companies  
6 Section 7-512.1(a), (b), (c), (d), and (h)(5)  
7 Annotated Code of Maryland  
8 (1998 Volume and 2002 Supplement)

9 BY repealing  
10 Article - Public Utility Companies  
11 Section 7-512.1(e) and (f)  
12 Annotated Code of Maryland  
13 (1998 Volume and 2002 Supplement)

14 BY renumbering  
15 Article - Public Utility Companies  
16 Section 7-512.1(g) and (h), respectively  
17 to be Section 7-512.1(e) and (f), respectively  
18 Annotated Code of Maryland  
19 (1998 Volume and 2002 Supplement)

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

22 **Article - Public Utility Companies**

23 7-512.1.

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

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

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

33 (4) The Commission shall have oversight responsibility for the universal  
34 service program.

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

1 (i) bill assistance, at a minimum of 50% of the determined need;  
2 (ii) low-income weatherization; and  
3 (iii) the retirement of arrearages ~~that were incurred prior to the~~  
4 ~~initial implementation date~~ FOR ELECTRIC CUSTOMERS WHO HAVE NOT PREVIOUSLY  
5 RECEIVED ASSISTANCE IN RETIRING ARREARAGES UNDER THE UNIVERSAL SERVICE  
6 PROGRAM, NOT TO EXCEED A TOTAL OF \$1.5 MILLION IN ANY GIVEN FISCAL YEAR.

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

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

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

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

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

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

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

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

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

36 ~~(4)~~ (1) subject to [subsections (d) and (e)] SUBSECTION (D) of this  
37 section, a recommendation on the total amount of funds for the program for the  
38 following fiscal year BASED ON:

1                   (+) 1. THE LEVEL OF PARTICIPATION IN AND THE AMOUNTS  
2 EXPENDED FROM THE UNIVERSAL SERVICE PROGRAM DURING THE PRECEDING  
3 FISCAL YEAR;

4                   (+) 2. HOW PAYMENTS TO CUSTOMERS WERE CALCULATED  
5 DURING THE PRECEDING FISCAL YEAR;

6                   (+) 3. THE PROJECTED NEEDS OF THE UNIVERSAL SERVICE  
7 PROGRAM FOR THE NEXT FISCAL YEAR; AND

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

10               (+) (II) for bill assistance:

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

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

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

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

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

32               (+) (VI) the impact on customers' rates, including the allocation among  
33 customer classes, from collecting the total amount recommended by the Commission  
34 under item (+) (I) of this ~~subsection~~ PARAGRAPH; and

35               (+) (VII) the impact of using other federal poverty level benchmarks on  
36 costs and the effectiveness of the universal service program.

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

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

8                               2.    THE COST OF OUTREACH AND EDUCATION MATERIALS  
9 PROVIDED BY THE OFFICE OF HOME ENERGY PROGRAMS FOR THE UNIVERSAL  
10 SERVICE PROGRAM.

11                            (II)   THE OFFICE OF HOME ENERGY PROGRAMS MAY SATISFY THE  
12 REPORTING REQUIREMENT OF SUBPARAGRAPH (I)1 OF THIS PARAGRAPH BY  
13 PROVIDING THE COMMISSION WITH A COPY OF MATERIAL THAT CONTAINS THE  
14 REQUIRED INFORMATION AND THAT THE OFFICE OF HOME ENERGY PROGRAMS  
15 SUBMITS TO A UNIT OF THE FEDERAL GOVERNMENT.

16                            (III)   THE COMMISSION SHALL INCLUDE THE INFORMATION  
17 PROVIDED BY THE OFFICE OF HOME ENERGY PROGRAMS UNDER SUBPARAGRAPH (I)  
18 OF THIS PARAGRAPH IN ITS REPORT TO THE GENERAL ASSEMBLY UNDER  
19 PARAGRAPH (1) OF THIS SUBSECTION.

20                            (3)    THE OFFICE OF LEGISLATIVE AUDITS SHALL CONDUCT A  
21 PERFORMANCE AUDIT OF THE UNIVERSAL SERVICE PROGRAM AT LEAST ONCE  
22 EVERY 3 YEARS AND SHALL REPORT THE RESULTS OF THE AUDIT TO THE GENERAL  
23 ASSEMBLY.

24       (d)       The total amount of funds to be collected for the universal service program  
25 [in each of the 3 years following the initial implementation date] EACH YEAR shall be  
26 \$34,000,000, allocated in the following manner:

27                   (1)       \$24.4 million shall be collected from the industrial and commercial  
28 classes; and

29                   (2)       \$9.6 million shall be collected from the residential class.

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

32                   (2)       The recommendation of the Commission may only be made after  
33 consideration of:

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

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

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

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

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

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

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

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

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

20 (ii) The fund is a continuing, nonlapsing fund that is not subject to  
21 § 7-302 of the State Finance and Procurement Article.

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

24 (4) The Department of Human Resources, with oversight by the  
25 Commission, shall disburse the funds in accordance with the provisions of this  
26 section.

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

31 1. QUALIFY FOR ASSISTANCE FROM THE FUND DURING THE  
32 GIVEN FISCAL YEAR; ~~AND~~

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

35 3. REMAIN ELIGIBLE FOR ASSISTANCE AT THE TIME  
36 SERVICES ARE PROVIDED.

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

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

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

17 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding the  
 18 requirements of § 7-512.1(b)(3) and (h)(5) of the Public Utility Companies Article and  
 19 § 7-512.1(f)(5) of the Public Utility Companies Article, as enacted by this Act, the  
 20 Public Service Commission may retain any unexpended funds in the electric universal  
 21 service program fund at the end of June 30, 2003 and make the funds available for  
 22 disbursement through June 30, 2004 to electric customers who:

- 23 (1) qualify for assistance from the fund during fiscal year 2002 or 2003;  
 24 ~~and~~
- 25 (2) apply for assistance from the fund before July 1, 2003; and
- 26 (3) remain eligible for assistance at the time services are provided.

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

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

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

