

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 1048
Finance

(Senator Middleton, *et al.*)

**Electric Restructuring - Transition to Market Rates - Continuation of Rate Caps
Until Merger is Final**

This bill requires the Public Service Commission (PSC) to determine the impact on residential customer bills of the “market total rate” in the first year following a rate cap or price freeze expiration, when it occurs on or after July 1, 2006 as compared to the previous year’s total rate. If the rate cap or price freeze expires before July 1, 2006, PSC must make the determination as compared to the market total rate for fiscal 2006. If the market total rate exceeds the previous year’s rate by more than 20%, PSC must develop a price mitigation plan to phase in market total rates gradually over a four-year period, unless a longer period is warranted.

Uncodified language also provides that the rate cap in effect on June 30, 2006 for residential customers in the Baltimore Gas and Electric (BGE) service territory will remain in effect until the date in which PSC has issued an order regarding the merger of Constellation Energy Group and FPL Group, any appeals are resolved, and the merger is final based on any other regulatory review.

The bill is effective June 1, 2006.

Fiscal Summary

State Effect: The bill’s requirements could be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: “Market total rate” is defined as the total rate paid by residential customers on an electric bill that has not been adjusted by PSC. The price mitigation plan must: (1) provide residential customers with the option of participating in the plan; (2) allow total rates to increase each year over the previous year’s rate by no more than 20%; and (3) include a revenue recovery component that consists of the portion of the market total rate that is not charged to residential customers and a utility return which does not exceed the actual cost by the utility of carrying the deferred charges.

PSC must determine a transition rate that: (1) requires the electric company to decrease the distribution rate for residential customers during high usage periods of the year; and (2) includes a portion of the revenue recovery component during low usage periods of the year. The amount of the revenue recovery component owed to the electric company must be stated separately on the residential customer’s bill. PSC must issue an order or adopt regulations to implement the bill’s requirements.

Current Law: As of July 1, 2002, all customers of electric companies have the opportunity for choice of electric suppliers. However, a customer has the option to remain with the supplier of the electric utility under standard offer service (SOS). Any obligation of the electric company to continue to offer SOS expired on July 1, 2003 unless PSC found that the market was not competitive. Then PSC could extend the requirement to provide SOS to residential and small commercial customers at a market price that permits recovery of the verifiable, prudently incurred costs to procure or produce the electricity plus a reasonable return. PSC is to reexamine whether the market is competitive annually. An electric company may procure the electricity needed to meet its SOS from any electricity supplier, including an affiliate of the electric company.

In settlement agreements with each of the State’s investor-owned utilities, PSC has extended the obligation to provide SOS. The Electric Customer Choice and Competition Act of 1999 required price caps with statewide rate reductions for four years which could be extended by settlement agreement. Under the final settlement agreements, the price caps required under the Electric Utility Restructuring Act of 1999 expired in PEPCO and Delmarva service territories on July 1, 2004, and are scheduled to expire in the BGE service territory on July 1, 2006, and in the Allegheny service territory on January 1, 2009. Because there continues to be little competition in residential electric service in the State, PSC has extended the obligation to provide SOS in the PEPCO, Delmarva, and BGE service territories by four years after the expiration of the price caps.

Background: It is anticipated that energy costs are going to increase substantially this summer, the same time that the BGE rate freeze is set to expire on July 1, 2006. Based on the recent bidding process for the market priced SOS, BGE rates will increase by an

average of 72% beginning in July 2006. The average bill will increase by 39% for PEPCO residential customers and by 35% for Delmarva Power and Light residential customers. As a proactive measure, on January 10, 2006, PSC initiated a proceeding to investigate and take actions it may find appropriate to deal with the anticipated price increases. PSC staff developed a mitigation plan for BGE's generation price increase which was adopted on March 6, 2006. The mitigation plan contains the following features:

- BGE Rate Stabilization Plan (the plan) begins in July 2006 and ends May 2008 for most residential customers. This two-year rate mitigation plan allows customers the option of more gradually adjusting to market rates over an extended period of time.
- Low-income customers participating in the Electric Universal Service Program will receive an option of a three-year rate mitigation plan.
- As part of the plan the initial increases will be limited to 21% and customers will receive credits to the distribution portion of their bill from July 2006 to February 2007. For the remaining period of the plan customers will receive a charge to the distribution portion of their bill to recover the credited amount. At the conclusion of the program, a final true-up will occur for program participants.
- The plan will serve as the default option for residential customers. Customers who wish to pay the full price of electricity beginning July 1, 2006 will have that opportunity.
- BGE will pay the full market price of the electric generation even though customers will only be paying the mitigated amount. PSC has determined that the appropriate interest rate for recovering this short-term deferred balance is 5.0%.
- BGE is required to work with PSC and other interested parties to develop a consumer education plan and enrollment details which must be submitted to PSC by March 31, 2006.

Merger of Constellation Energy Group and FPL Group

On December 19, 2005, FPL Group, Inc. and Constellation Energy Group, Inc. announced the signing of a definitive agreement to create the nation's largest competitive energy supplier. Constellation Energy is the parent company of BGE which supplies electricity to more than \$1 million residential and business customers in the State and supplies gas to over 600,000 gas customers in 10 counties and Baltimore City. On January 23, 2006, BGE submitted a petition to PSC with respect to the proposed merger resulting in PSC opening Case No. 9054. Subsequently, Constellation Energy Group has challenged PSC's jurisdiction over the matter. The Federal Energy Regulatory Commission (FERC) is also conducting a separate proceeding to consider the matter.

FERC has power under the Federal Power Act to review mergers. It must approve a merger if it finds that the consolidation will be consistent with the public interest. The analysis under its merger policy statement of whether a consolidation is consistent with the public interest generally involves consideration of three factors: (1) the effect on competition; (2) the effect on rates; and (3) the effect on regulation.

PSC's authority to oversee mergers and purchases of public service companies operating in the State is a part of its general, supervisory, and regulatory powers under the Public Utilities Article. Certain provisions explicitly require public service companies to seek permission from PSC prior to undertaking specified activities.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 9, 2006
ncs/jr

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