SB 583

Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 583 (Senator Della, *et al.*)
Finance

Electric Restructuring - Purposes and Duties of the Public Service Commission

This bill alters one of the purposes of the electric utility industry restructuring law and establishes two more. It requires the Public Service Commission to exercise its authority to ensure that electric companies • satisfy reliability needs of all customer classes; • satisfy electricity supply needs of residential and small commercial standard offer service customers; and • provide residential customers and small commercial customers with safe and reliable electricity supply at prices that reflect a specified balance of least cost and least volatility. In addition, PSC must participate in appropriate federal proceedings. Furthermore, PSC is provided oversight over any generating facilities that PSC requires an electric company to construct or lease; as well as, the electric output, the price and sale of electricity from these facilities.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: Special fund expenditures could increase by $180,000 in FY 2009 due to Office of the People's Counsel contractual costs for outside experts. Future year expenditures reflect inflation. Special fund revenues would not be affected.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Revenues	$0	$0	$0	$0	$0
SF Expenditure	(180,000)	185,400	191,000	196,700	202,600
Net Effect	$180,000	($185,400)	($191,000)	($196,700)	($202,600)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: PSC, after notice and hearings, may adopt regulations that prescribe standards for safe, adequate, reasonable, and proper service by regulated electric companies. Regulated electric companies must furnish equipment, services, and facilities that are safe, adequate, just, reasonable, economical, and efficient, while considering the conservation of natural resources and the quality of the environment.

The purpose of electric industry restructuring is to • establish customer choice of electricity supply and electricity supply services; • create competitive retail electricity supply and electricity supply services markets; • deregulate the generation, supply, and pricing of electricity; • provide economic benefits for all customer classes; • and ensure compliance with federal and State environmental standards.

When overseeing the transition process and regulation of the restructured electric industry, PSC must provide that the transition to a competitive electricity supply and electricity supply services market • is orderly; • maintains electric system reliability; • ensures compliance with federal and State environmental regulations; • is fair to customers, electric company investors, customers of municipal electric utilities, electric companies, and electricity suppliers; and • provides economic benefits to all customer classes.

In order to meet long-term, anticipated demand in the State for standard offer service (SOS) and other electricity supply, PSC may require or allow an investor-owned electric company to construct, acquire, or lease, and operate, its own generating facilities, and transmission facilities necessary to interconnect the generating facilities with the electric grid, subject to appropriate cost recovery.

Background: The Electric Customer Choice and Competition Act of 1999 restructured the electric utility industry in Maryland, introducing "customer choice" of supply services and setting a mandated rate reduction and a cap on the reduced rates. All rate cap restrictions have now expired for residential, commercial, and industrial customers except for Allegheny Power's residential standard offer service customers. With the expiration of price caps, customers are subject to market rates. The modest levels of residential and small commercial shopping may reflect the fact that competitive suppliers have not been able to offer large savings when compared with historically capped and fixed SOS rates provided by the electric utilities.

With the restructuring of the electric industry, Maryland's traditional local electric utilities have transferred their electric generation assets to unregulated subsidiaries or have sold these assets to unaffiliated companies. The bulk of the costs associated with providing and delivering power to an end user stems from costs associated with the generation of power. With the elimination of the generation functions from regulation, PSC no longer determines the need for additional supply sources as was the case prior to implementation of restructuring.

Requiring that any investor-owned electric company either own or lease and operate enough generation capacity to meet SOS demand would require significant changes in the electric utilities' market structure. Since the regulated electric companies no longer own generation resources, SOS generation is acquired from the wholesale (PJM) market through a conventional competitive bid process overseen by PSC. Legislative Services notes that a number of functions would be returned to PSC, previously removed as a result of the Electric Industry Restructuring Act of 1999. Additionally, there is a requirement for closer monitoring of the construction, acquisition or leasing of generation capacity, and the submission of reporting by electric companies that control the generating facilities.

PSC Reports and Proceedings

Chapter 5 of the 2006 special session mandated PSC to complete several reports to assist the General Assembly in assessing the impact of electric restructuring on the State and in altering it for the benefit of consumers. PSC was required to study actions taken to implement restructuring and study the impact of potential changes such as reregulating electric generation or allowing local aggregation. The majority of the studies required by the bill were not completed by the start of the 2007 legislative session, leaving much uncertainty as to the ideal structure of the electric industry in the State. Accordingly, Chapter 549 of 2007 was enacted to require PSC to initiate new proceedings to review and evaluate certain requirements of Chapter 5 of the 2006 special session, including the review and evaluation of any orders that were issued under the 2006 enactment. The Act also required PSC to conduct additional studies and complete reports on electric industry reregulation, assess the availability of adequate transmission and generation facilities to serve the electrical load demands of all customers in the State, and consider the implications of establishing an office of retail market development and establishing a long-term goal for energy efficiency and conservation, among many other matters.

A preliminary report identifying the issues relating to options for reregulation as required by Chapter 5 of the 2006 special session, including discussion of costs and benefits of returning to a regulated electric supply market was due and provided in December 2007. An additional PSC report was supplied in January 2008. A final report containing the complete set of evaluations, findings, and recommendations required under Chapter 5, as amended by Chapter 549 of 2007, is due December 1, 2008.

In response to Chapter 549 of 2007, PSC has conducted numerous proceedings. PSC found that the power purchased by BGE for SOS reflected wholesale market conditions at the time, but the procurement process approved by PSC was poorly designed. The rate caps masked the volatile and significantly increasing in power supply prices prevailing in the wholesale market, mirrored in retail market and utility service offerings.

Federal Proceedings

PSC reports that it participates in and monitors various proceedings conducted by the Federal Energy Regulatory Commission that address matters relating to wholesale transmission and energy providers in general, and matters pertaining to the PJM Interconnection's wholesale market operations, specifically.

State Fiscal Effect: Special fund expenditure could increase by $180,000 in fiscal 2009 due to OPC's expected utilization of expert consultants to analyze utility reports and ensure compliance. Future year expenditures reflect inflation. The Department of Natural Resources and PSC could handle the provisions of the bill with existing resources.

Additional Information

Prior Introductions: None.

Cross File: HB 1314 (Delegate McHale, *et al.*) – Economic Matters.

Information Source(s): Public Service Commission, Department of Natural Resources, Exeter Associates, Maryland Energy Administration, Office of the People's Counsel, Department of Legislative Services

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