

# SENATE BILL 955

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By: **Senator Klausmeier**

Introduced and read first time: February 19, 2009

Assigned to: Rules

Re-referred to: Finance, February 26, 2009

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 27, 2009

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Utility Companies – Energy Efficiency, Conservation, and Demand**  
3 **Response Programs – Selection of HVAC Service Providers**

4 FOR the purpose of requiring an electric company under certain circumstances to  
5 include procedures for the competitive selection of heating, ventilation, air  
6 conditioning, or refrigeration service providers in a certain plan to achieve  
7 certain electricity savings and demand reduction targets; authorizing the Public  
8 Service Commission to waive a certain requirement under certain  
9 circumstances on a request by an electric company; requiring a certain plan and  
10 any updates to include a certain certification or recertification; ~~prohibiting an~~  
11 affiliate of an electric company from providing heating, ventilation, air  
12 conditioning, or refrigeration services in connection with a certain program or  
13 service unless the Public Service Commission verifies requiring an electric  
14 company that enters into a contract or obligation with an affiliate of the electric  
15 company to provide certain services to notify the Commission within a certain  
16 time that the electric company has entered into a certain contract or obligation  
17 and certifies that the electric company's regulated service customers ~~are~~ will not  
18 subsidizing subsidize the operations of the affiliate; ~~requiring each electric~~  
19 company to submit to the Commission a certain updated plan or a certain  
20 statement on or before a certain date; ~~providing that nothing in this Act shall~~  
21 impair a certain obligation or contract right; defining certain terms; and  
22 generally relating to electric companies.

23 BY repealing and reenacting, with amendments,  
24 Article – Public Utility Companies

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 7–211(a), (h), and (i)  
2 Annotated Code of Maryland  
3 (2008 Replacement Volume and 2008 Supplement)

4 BY repealing and reenacting, without amendments,  
5 Article – Public Utility Companies  
6 Section 7–211(g)  
7 Annotated Code of Maryland  
8 (2008 Replacement Volume and 2008 Supplement)

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

11 **Article – Public Utility Companies**

12 7–211.

13 (a) (1) In this section the following words have the meanings indicated.

14 (2) **“AFFILIATE” HAS THE MEANING STATED IN § 7–501 OF THIS**  
15 **TITLE.**

16 (3) “Demand response program” means a program established by an  
17 electric company that promotes changes in electric usage by customers from their  
18 normal consumption patterns in response to:

19 (i) changes in the price of electricity over time; or

20 (ii) incentives designed to induce lower electricity use at times  
21 of high wholesale market prices or when system reliability is jeopardized.

22 [(3)] (4) “Electricity consumption” and “electricity consumed” mean  
23 the sum of retail electricity sales to all customers and reported electricity losses within  
24 the electric distribution system.

25 [(4)] (5) “Peak demand” means the highest level of electricity  
26 demand in the State measured in megawatts during the period from May 1 to  
27 September 30 on a weather-normalized basis.

28 [(5)] (6) “Per capita electricity consumption” means the result  
29 calculated by dividing the total gigawatt-hours of electricity consumed by electricity  
30 customers in the State as of December 31 of a year, as determined by the Commission,  
31 by the population of the State as of December 31 of that year, as determined by the  
32 Department of Planning.

33 [(6)] (7) “Plan” means an electricity savings and demand reduction  
34 plan and cost recovery proposal.

1           **(8) “PROVIDE HEATING, VENTILATION, AIR CONDITIONING, OR**  
2 **REFRIGERATION SERVICES” HAS THE MEANING STATED IN § 9A-101 OF THE**  
3 **BUSINESS REGULATION ARTICLE.**

4           (g) Except as provided in subsection (e) of this section, on or before December  
5 31, 2008, by regulation or order, the Commission shall:

6           (1) to the extent that the Commission determines that cost-effective  
7 energy efficiency and conservation programs and services are available, for each  
8 affected class, require each electric company to procure or provide for its electricity  
9 customers cost-effective energy efficiency and conservation programs and services  
10 with projected and verifiable electricity savings that are designed to achieve a targeted  
11 reduction of at least 5% by the end of 2011 and 10% by the end of 2015 of per capita  
12 electricity consumed in the electric company’s service territory during 2007; and

13           (2) require each electric company to implement a cost-effective  
14 demand response program in the electric company’s service territory that is designed  
15 to achieve a targeted reduction of at least 5% by the end of 2011, 10% by the end of  
16 2013, and 15% by the end of 2015, in per capita peak demand of electricity consumed  
17 in the electric company’s service territory during 2007.

18           (h) (1) (i) On or before July 1, 2008, and every 3 years thereafter, each  
19 electric company shall consult with the Maryland Energy Administration regarding  
20 the design and adequacy of the electric company’s plan to achieve the electricity  
21 savings and demand reduction targets specified in subsection (g) of this section.

22                           (ii) An electric company shall provide the Maryland Energy  
23 Administration with any additional information regarding the plan, as requested.

24           (2) On or before September 1, 2008, and every 3 years thereafter, an  
25 electric company shall submit its plan to the Commission that details the electric  
26 company’s proposals for achieving the electricity savings and demand reduction  
27 targets specified in subsection (g) of this section for the 3 subsequent calendar years.

28           (3) The Commission shall consider any written findings provided by  
29 the Maryland Energy Administration regarding the design and adequacy of the plan.

30           (4) Each electric company shall provide annual updates to the  
31 Commission and the Maryland Energy Administration on plan implementation and  
32 progress towards achieving the electricity savings and demand reduction targets  
33 specified in subsection (g) of this section.

34           (5) (i) The plan shall include a description of the proposed energy  
35 efficiency and conservation programs and services and the proposed demand response  
36 program, anticipated costs, projected electricity savings, and any other information  
37 requested by the Commission.

1 (ii) The plan shall address residential, commercial, and  
 2 industrial sectors as appropriate, including low-income communities and low- to  
 3 moderate-income communities.

4 (iii) **1. IF, IN CONNECTION WITH A PROGRAM OR**  
 5 **SERVICE, THE ELECTRIC COMPANY PROPOSES TO PROVIDE HEATING,**  
 6 **VENTILATION, AIR CONDITIONING, OR REFRIGERATION SERVICES FOR ITS**  
 7 **CUSTOMERS, THE PLAN SHALL INCLUDE PROCEDURES FOR THE COMPETITIVE**  
 8 **SELECTION OF HEATING, VENTILATION, AIR CONDITIONING, OR**  
 9 **REFRIGERATION SERVICE PROVIDERS.**

10 **2. ON REQUEST BY THE ELECTRIC COMPANY AND**  
 11 **FOR GOOD CAUSE SHOWN, THE COMMISSION MAY WAIVE THE REQUIREMENT**  
 12 **THAT THE ELECTRIC COMPANY COMPETITIVELY SELECT HEATING,**  
 13 **VENTILATION, AIR CONDITIONING, OR REFRIGERATION PROVIDERS UNDER**  
 14 **ITEM 1 OF THIS SUBPARAGRAPH.**

15 **(6) THE PLAN AND ANY UPDATES SHALL INCLUDE A**  
 16 **CERTIFICATION OR RECERTIFICATION BY THE ELECTRIC COMPANY THAT, IF AN**  
 17 **AFFILIATE OF THE ELECTRIC COMPANY PROVIDES HEATING, VENTILATION, AIR**  
 18 **CONDITIONING, OR REFRIGERATION SERVICES THROUGH ANY EXISTING**  
 19 **CONTRACT OR OBLIGATION IN CONNECTION WITH A PROGRAM OR SERVICE, THE**  
 20 **CUSTOMERS OF THE ELECTRIC COMPANY'S REGULATED SERVICES WILL NOT**  
 21 **SUBSIDIZE THE OPERATIONS OF THE AFFILIATE.**

22 ~~(6)~~ (7) The Commission shall review each electric company's plan to  
 23 determine if the plan is adequate and cost-effective in achieving the electricity savings  
 24 and demand reduction targets specified in subsection (g) of this section.

25 (i) (1) In determining whether a program or service encourages and  
 26 promotes the efficient use and conservation of energy, the Commission shall consider  
 27 the:

- 28 (i) cost-effectiveness;
- 29 (ii) impact on rates of each ratepayer class;
- 30 (iii) impact on jobs; and
- 31 (iv) impact on the environment.

32 (2) The Commission shall monitor and analyze the impact of each  
 33 program and service to ensure that the outcome of each program and service provides  
 34 the best possible results.

1 (3) In monitoring and analyzing the impact of a program or service  
 2 under paragraph (2) of this subsection, if the Commission finds that the outcome of the  
 3 program or services may not be providing the best possible results, the Commission  
 4 shall direct the electric company to include in its annual update under subsection  
 5 (h)(4) of this section specific measures to address the findings.

6 (4) ~~AN AFFILIATE OF THE ELECTRIC COMPANY MAY NOT PROVIDE~~  
 7 ~~HEATING, VENTILATION, AIR CONDITIONING, OR REFRIGERATION SERVICES IN~~  
 8 ~~CONNECTION WITH A PROGRAM OR SERVICE UNLESS THE COMMISSION~~  
 9 ~~VERIFIES THAT THE CUSTOMERS OF THE ELECTRIC COMPANY'S REGULATED~~  
 10 ~~SERVICES ARE NOT SUBSIDIZING THE OPERATIONS OF THE AFFILIATE~~ AN  
 11 ELECTRIC COMPANY THAT ENTERS INTO A CONTRACT OR OBLIGATION WITH AN  
 12 AFFILIATE OF THE ELECTRIC COMPANY TO PROVIDE HEATING, VENTILATION,  
 13 AIR CONDITIONING, OR REFRIGERATION SERVICES IN CONNECTION WITH A  
 14 PROGRAM OR SERVICE SHALL NOTIFY THE COMMISSION WITHIN 30 DAYS AFTER  
 15 ENTERING INTO THE CONTRACT OR OBLIGATION THAT THE ELECTRIC  
 16 COMPANY:

17 1. HAS ENTERED INTO A CONTRACT OR OBLIGATION  
 18 WITH AN AFFILIATE OF THE ELECTRIC COMPANY; AND

19 2. CERTIFIES THAT THE CUSTOMERS OF THE  
 20 ELECTRIC COMPANY'S REGULATED SERVICES WILL NOT SUBSIDIZE THE  
 21 OPERATIONS OF THE AFFILIATE.

22 ~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1,~~  
 23 ~~2009, each electric company shall submit to the Public Service Commission:~~

24 ~~(1) an updated demand reduction plan and cost recovery proposal that~~  
 25 ~~includes the competitive selection procedures required by this Act; or~~

26 ~~(2) a statement that the electric company does not propose to provide~~  
 27 ~~heating, ventilation, air conditioning, or refrigeration services for its customers under~~  
 28 ~~its demand reduction plan and cost recovery proposal.~~

29 SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act shall  
 30 impair any obligation or contract right in existence as of the effective date of this Act.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 32 June 1, 2009.