

CHAPTER 306

(House Bill 736)

AN ACT concerning

Electric Universal Service Program – Modifications

FOR the purpose of altering certain criteria for providing bill assistance under the electric universal service program; repealing a certain limitation on providing arrearage retirement assistance under the program; clarifying the scope of certain weatherization assistance funded under the program; authorizing the program to provide arrearage retirement assistance to certain customers under certain conditions; authorizing the Department of Human Resources to establish certain criteria for certain program assistance and to coordinate program benefits with certain other benefits; altering certain information that the Public Service Commission must report to the General Assembly; requiring the Office of Home Energy Programs to report certain information to the Commission and the General Assembly; altering the period within which certain funds may be retained for use in certain fiscal years; making a technical correction; *making this Act an emergency measure*; and generally relating to low-income electric customers and the electric universal service program.

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7–512.1
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

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

Article – Public Utility Companies

7–512.1.

(a) (1) The Commission shall establish an electric universal service program to assist electric customers with annual incomes at or below 175% of the federal poverty level.

(2) The components of the electric universal service program shall include:

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

(ii) low-income **RESIDENTIAL** weatherization; and

(iii) the retirement of arrearages for electric customers who have not [previously] received assistance in retiring arrearages under the universal service program[, not to exceed a total of \$1.5 million in any given] **WITHIN THE PRECEDING 7 fiscal [year] YEARS.**

(3) The Department of Housing and Community Development is responsible for administering the low-income **RESIDENTIAL** weatherization component of the electric universal service program.

(4) **(I)** The Department of Human Resources, through the Office of Home Energy Programs, is responsible for administering the bill assistance and the arrearage retirement components of the electric universal service program.

(II) THE DEPARTMENT OF HUMAN RESOURCES MAY:

1. ESTABLISH MINIMUM AND MAXIMUM BENEFITS AVAILABLE TO AN ELECTRIC CUSTOMER UNDER THE BILL ASSISTANCE AND ARREARAGE RETIREMENT COMPONENTS; AND

2. COORDINATE BENEFITS UNDER THE ELECTRIC UNIVERSAL SERVICE PROGRAM WITH BENEFITS UNDER THE MARYLAND ENERGY ASSISTANCE PROGRAM AND OTHER AVAILABLE ENERGY ASSISTANCE PROGRAMS.

(5) The Department of Human Resources may, with input from a panel or roundtable of interested parties, contract to assist in administering the bill assistance and the arrearage retirement components of the electric universal service program.

(6) The Commission has oversight responsibility for the bill assistance and the arrearage retirement components of the electric universal service program.

(7) In a specific case, the electric universal service program may waive the income eligibility limitation under paragraph (1) of this subsection in order to provide assistance to an electric customer who would qualify for a similar waiver under the Maryland Energy Assistance Program established under Title 5, Subtitle 5A of the Human Services Article.

(b) (1) All customers shall contribute to the funding of the electric universal service program through a charge collected by each electric company.

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

(3) In accordance with subsection (f)(6) of this section, any unexpended bill assistance and arrearage retirement funds returned to customers under subsection (f) of this section shall be returned to each customer class as a credit in the same proportion that the customer class contributed charges to the fund.

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

(5) As determined by the Office of Home Energy Programs, bill assistance payments to an electric company may be on a monthly basis for each customer.

(6) The Commission shall determine the allocation of the electric universal service charge among the generation, transmission, and distribution rate components of all classes.

(7) The Commission may not assess the electric universal service surcharge on a per kilowatt-hour basis.

(c) (1) On or before December 1 of each year, the Commission shall report, subject to § 2-1246 of the State Government Article, to the General Assembly on the electric universal service program, including:

(i) subject to subsection (e) of this section, a recommendation on the total amount of funds for the program for the following fiscal year based on:

1. the level of participation in and the amounts expended on bill assistance and arrearage retirement during the preceding fiscal year;

2. how bill assistance and arrearage retirement payments were calculated during the preceding fiscal year;

3. the projected needs for the bill assistance and the arrearage retirement components for the next fiscal year; and

4. the amount of any bill assistance or arrearage retirement surplus carried over in the electric universal service program fund under subsection (f)(6)(i) of this section;

(ii) for bill [assistance:

1.] **ASSISTANCE**, the total amount of need, as determined by the Commission, for electric customers with annual incomes at or below [150%] **175%** of the federal poverty level and the basis for this determination; [and

2. the percentage of need, as determined by the Commission, but at a minimum of 50%, that should be funded through the electric universal service program and the basis for this determination;]

(iii) the amount of funds needed, as determined by the Commission, to retire arrearages for electric customers who have not [previously] received assistance in retiring arrearages under the electric universal service program **WITHIN THE PRECEDING 7 FISCAL YEARS**, and the basis for this determination;

(iv) the amount of funds needed, as determined by the Commission, for bill assistance and arrearage retirement, respectively, for customers for whom income limitations may be waived under subsection (a)(7) of this section, and the basis for each determination;

(v) the impact on customers' rates, including the allocation among customer classes, from collecting the total amount recommended by the Commission under item (i) of this paragraph; and

(vi) the impact of using other federal poverty level benchmarks on costs and the effectiveness of the electric universal service program.

(2) (i) To assist the Commission in preparing its recommendations under paragraph (1) of this subsection, the Office of Home Energy Programs shall report to the Commission each year on:

1. the number of customers and the amount of distributions made to fuel customers under the Maryland Energy Assistance Program established under Title 5, Subtitle 5A of the Human Services Article, identified by funding source and fuel source; [and]

2. the cost of outreach and education materials provided by the Office of Home Energy Programs for the electric universal service program;
AND

3. THE AMOUNT OF MONEY THAT THE DEPARTMENT OF HUMAN RESOURCES RECEIVES, AND IS PROJECTED TO RECEIVE, FOR LOW-INCOME ENERGY ASSISTANCE FROM:

A. THE MARYLAND STRATEGIC ENERGY INVESTMENT FUND UNDER § 9-20B-05 OF THE STATE GOVERNMENT ARTICLE;

**B. WITH RESPECT TO ELECTRIC CUSTOMERS ONLY,
THE MARYLAND ENERGY ASSISTANCE PROGRAM; AND**

**C. ANY OTHER FEDERAL, STATE, LOCAL, OR PRIVATE
SOURCE.**

(ii) The Office of Home Energy Programs may satisfy the reporting requirement of subparagraph (i)1 of this paragraph by providing the Commission with a copy of material that contains the required information and that the Office of Home Energy Programs submits to the federal government.

(iii) The Commission shall include the information provided by the Office of Home Energy Programs under subparagraph (i) of this paragraph in its report to the General Assembly under paragraph (1) of this subsection.

(3) Subject to subsection (d)(2) of this section, the Commission shall include the information provided by the Department of Housing and Community Development under subsection (d)(1) of this section in its report to the General Assembly under paragraph (1) of this subsection.

(4) (i) The Office of Legislative Audits shall conduct a performance audit of the electric universal service program once every 3 years or at another interval as directed by the Joint Audit Committee and shall report the results of the audit to the General Assembly.

(ii) The cost of the performance audit under this paragraph shall be included in the costs of administering the electric universal service program, and funded through the electric universal service program fund under subsection (f) of this section.

(d) (1) On or before December 1 of each year, the Department of Housing and Community Development shall report, in accordance with § 2-1246 of the State Government Article, to the General Assembly on the low-income **RESIDENTIAL** weatherization component of the electric universal service program, including:

(i) the amount of funds expended during the preceding fiscal year;

(ii) the level of participation during the preceding fiscal year, including the number of households served in each area of the State; and

(iii) the types of projects, including the average cost per unit, provided to households during the preceding fiscal year.

(2) The Department of Housing and Community Development may satisfy the reporting requirement under paragraph (1) of this subsection by requesting

the Commission to include the information in the Commission's report required under subsection (c) of this section and providing the information to the Commission by the date specified by the Commission.

(e) The total amount of funds to be collected for the electric universal service program each year shall be \$37 million, allocated in the following manner:

(1) \$27.4 million shall be collected from the industrial and commercial classes; and

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

(f) (1) In this subsection, "fund" means the electric universal service program fund.

(2) There is an electric universal service program fund.

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

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

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

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

(4) The Department of Human Resources, with oversight by the Commission, shall disburse the bill assistance and arrearage retirement funds in accordance with the provisions of this section.

(5) The Comptroller annually shall disburse \$1,000,000 of low-income **RESIDENTIAL** weatherization funds to the Department of Housing and Community Development.

(6) (i) At the end of a given fiscal year, any unexpended bill assistance and arrearage retirement funds that were collected for that fiscal year shall be retained in the fund and shall be made available for disbursement through the first [3] 6 months of the next fiscal year to customers who:

1. qualify for assistance from the fund during the given fiscal year;

2. apply for assistance from the fund before the end of the given fiscal year; and
3. remain eligible for assistance at the time services are provided.

(ii) If the Commission determines that an extension is needed, the Commission may extend up to an additional 3 months the period in which unexpended bill assistance and arrearage retirement funds may be made available for disbursement under subparagraph (i) of this paragraph.

(iii) Any bill assistance and arrearage retirement funds collected for a given fiscal year that are retained under subparagraph (i) of this paragraph and that remain unexpended at the end of the period allowed under subparagraphs (i) and (ii) of this paragraph shall be returned to each customer class in the proportion that the customer class contributed charges to the fund for the given fiscal year in the form of a credit toward the charge assessed in the following fiscal year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect July 1, 2009~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 7, 2009.