

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 1095

(Senator Klausmeier)

Finance

**Public Utility Companies - Energy Efficiency and Demand Response Programs -
Review of Competitive Selection Procedures**

This bill requires the Public Service Commission (PSC) to review each electric company's annual update on the progress of a plan for energy efficiency and conservation and determine if the plan is adequate and cost-effective in achieving the electricity savings and demand reduction targets specified under the EmPOWER Maryland Energy Efficiency Act of 2008 (Chapter 131). PSC must approve or affirm an electric company's plan once each year or at any other interval PSC considers appropriate. Under current law, PSC is required to make this determination upon submission of the initial plan and the updated plan that is submitted every three years. As part of its review of the plans and each annual update submitted pursuant to current law, the bill requires PSC to determine if procedures for ensuring the competitive selection of heating, cooling, and air conditioning (HVAC) or refrigeration service providers, are competitive, fair, reasonable, and result in minimal economic impact on the HVAC and refrigeration service industries in the State.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: PSC can implement the bill with existing budgeted resources.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Electric companies are required to submit a plan offering energy conservation and energy efficiency programs and services that are designed to achieve targeted electricity savings and demand reductions for specified years through 2015 under the EmPOWER Maryland Energy Efficiency Act of 2008 (Chapter 131). Each electric company must submit a detailed plan to PSC every three years and provide an annual update on plan implementation and progress to PSC and the Maryland Energy Administration. PSC must review each electric company's plan to determine if it is adequate and cost effective in achieving the electricity savings and demand reduction targets under Chapter 131.

Chapter 333 of 2009 established the requirement that if an energy efficiency and conservation plan seeks to provide HVAC or refrigeration services for its customers, the plan must include procedures for the competitive selection for the service provider. PSC may waive this requirement on request by the electric company and for good cause shown. An electric company that enters into a contract with an affiliate to provide HVAC or refrigeration services in connection with an energy efficiency program or service must notify PSC within 30 days of entering into the contract. Each plan and any update of a plan must include certification or recertification by the electric company that, if an affiliate provides HVAC or refrigeration services in connection with an electric company's energy efficiency and conservation plan, the customers of the company's regulated service will not subsidize the operations of the affiliate.

Background: Electric Customer Choice and Competition Act of 1999 (Chapters 3 and 4) facilitated the restructuring of the electric utility industry in Maryland. Under the resulting market structure, electric companies may have unregulated affiliates that offer competitive services, including competitive electricity supply and HVAC services. State law currently requires each electric company to adopt a code of conduct to prevent its regulated customers from subsidizing the service provided by an unregulated business or affiliate of the electric company. Additionally, each electric company must file a cost allocation manual with PSC identifying a corporate organizational chart with a complete description of the types of all costs shared with an affiliate and the methodology to allocate those costs.

PSC has been investigating the issue of customers of regulated utilities subsidizing the operations of an affiliate (cross-subsidization) through docketed cases since 1999. Most recently (November 2009), PSC received a petition to investigate the practices of BGE Home, an unregulated affiliate of Baltimore Gas & Electric Company (BGE). The petition requested PSC to ensure utility ratepayers are not subsidizing unregulated utility affiliates and to determine if sufficient procedures for the competitive selection of HVAC

and refrigeration services were followed in connection with the company's energy conservation and energy efficiency programs.

There are two companies that provide HVAC services and are affiliated with an electric company in the State. Constellation Energy, the holding company that owns BGE, also owns BGE Home, an unregulated subsidiary that provides HVAC services. PEPCO Holdings, Inc., the company that owns PEPCO and Delmarva Power, also owns PEPCO Energy Services, an unregulated subsidiary that provides HVAC services.

Small Business Effect: Small businesses that provide HVAC or refrigeration services benefit to the extent that the bill increases the demand for their services in connection with an electric company's energy efficiency and conservation plan.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Public Service Commission, Department of Legislative Services

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