

HOUSE BILL 391

C5

EMERGENCY BILL

11r0328
CF SB 692

By: Delegate Feldman and the Speaker (By Request – Administration) and Delegates Arora, Barkley, Barve, Cane, Carr, Conaway, Cullison, DeBoy, Dumais, Frick, Frush, Gilchrist, Gutierrez, Healey, Hixson, Huckler, Ivey, Kaiser, A. Kelly, Kipke, Kramer, Lafferty, Lee, Luedtke, McMillan, A. Miller, Mizeur, Pendergrass, Reznik, B. Robinson, S. Robinson, Simmons, Summers, F. Turner, V. Turner, Waldstreicher, Washington, and Zucker

Introduced and read first time: February 3, 2011

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 22, 2011

CHAPTER _____

1 AN ACT concerning

2 **Maryland Electricity Service Quality and Reliability Act – Safety Violations**

3 FOR the purpose of requiring the Public Service Commission to adopt certain
4 regulations on or before a certain date that implement certain service quality
5 and reliability standards relating to the delivery of electricity to retail
6 customers by electric companies; requiring certain regulations to include certain
7 service quality and reliability standards, ~~include~~ account for certain major
8 outages, and require an electric company to file a corrective action plan if it fails
9 to meet certain service quality and reliability standards; authorizing the
10 Commission to include in certain regulations a separate reliability standard for
11 each electric company, and require the use of nationally recognized standards
12 for certain purposes; requiring the Commission, in adopting certain regulations,
13 to consider certain standards, ensure certain service quality and reliability
14 standards are cost-effective, and consider certain factors relating to vegetation
15 management; requiring the Commission, on or before a certain date, and each
16 year thereafter, to determine whether certain electric companies have met
17 certain service quality and reliability standards; requiring the Commission to
18 take certain appropriate enforcement action against ~~an~~ a certain electric
19 company if the electric company fails to meet certain service quality and

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 reliability standards; ~~requiring that certain civil penalties be credited to a~~
 2 ~~certain electric company's residential ratepayers in a manner determined by the~~
 3 ~~Commission~~ authorizing the Commission to impose certain civil penalties on or
 4 after a certain date; prohibiting an electric company from recovering the cost of
 5 a certain civil penalty from ratepayers; providing that certain provisions
 6 relating to corrective action taken by the Commission against an electric
 7 company that fails to meet certain service quality and reliability standards do
 8 not apply to electric cooperatives; requiring each electric company to submit to
 9 the Commission a certain annual performance report; setting forth required
 10 contents of the annual performance report; requiring the Commission to hold a
 11 certain hearing at the request of an electric company; altering the maximum
 12 daily civil penalty that may be imposed on a public service company for certain
 13 safety violations; removing a certain cap on the total civil penalty that may be
 14 imposed for a related series of safety violations; declaring a certain goal of the
 15 State; providing that ~~certain regulations may~~ this Act does not apply to small
 16 rural electric cooperatives or municipal electric companies; providing that this
 17 Act may not be construed to limit the Commission's authority to adopt and
 18 enforce engineering and safety standards for electric companies; providing that
 19 certain authorization for the Commission to impose certain civil penalties does
 20 not apply to a violation of a certain provision as that provision applies to electric
 21 cooperatives; requiring the Commission to establish a certain workgroup to
 22 provide certain recommendations; defining certain terms; making this Act an
 23 emergency measure; and generally relating to electricity reliability standards.

24 BY adding to

25 Article – Public Utilities
 26 Section 7–213
 27 Annotated Code of Maryland
 28 (2010 Replacement Volume)

29 BY repealing and reenacting, with amendments,

30 Article – Public Utilities
 31 Section 13–201 and 13–202
 32 Annotated Code of Maryland
 33 (2010 Replacement Volume)

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

36 **Article – Public Utilities**

37 **7–213.**

38 (A) (1) IN THIS SECTION, THE FOLLOWING WORDS HAVE THE
 39 MEANINGS INDICATED.

1 (2) “SYSTEM-AVERAGE INTERRUPTION DURATION INDEX” OR
2 “SAIDI” MEANS THE ~~AVERAGE DURATION OF POWER OUTAGES FOR EACH~~
3 ~~ELECTRICITY CUSTOMER CALCULATED BY DIVIDING THE TOTAL OF ALL~~
4 ~~CUSTOMER INTERRUPTION DURATIONS BY THE TOTAL NUMBER OF CUSTOMERS~~
5 ~~SERVED~~ SUM OF THE CUSTOMER INTERRUPTION HOURS DIVIDED BY THE TOTAL
6 NUMBER OF CUSTOMERS SERVED.

7 (3) “SYSTEM-AVERAGE INTERRUPTION FREQUENCY INDEX” OR
8 “SAIFI” MEANS THE ~~AVERAGE NUMBER OF POWER OUTAGES FOR EACH~~
9 ~~ELECTRICITY CUSTOMER CALCULATED BY DIVIDING THE TOTAL NUMBER OF~~
10 ~~CUSTOMER INTERRUPTIONS BY THE TOTAL NUMBER OF CUSTOMERS SERVED~~
11 SUM OF THE NUMBER OF CUSTOMER INTERRUPTIONS DIVIDED BY THE TOTAL
12 NUMBER OF CUSTOMERS SERVED.

13 ~~(B) IT IS THE GOAL OF THE STATE THAT EACH ELECTRIC COMPANY~~
14 ~~RANK IN THE TOP QUARTILE OF ELECTRIC COMPANIES NATIONALLY WITH THE~~
15 ~~HIGHEST LEVELS OF SERVICE QUALITY AND RELIABILITY.~~

16 (B) IT IS THE GOAL OF THE STATE THAT EACH ELECTRIC COMPANY
17 PROVIDE ITS CUSTOMERS WITH HIGH LEVELS OF SERVICE QUALITY AND
18 RELIABILITY IN A COST-EFFECTIVE MANNER, AS MEASURED BY OBJECTIVE AND
19 VERIFIABLE STANDARDS, AND THAT EACH ELECTRIC COMPANY BE HELD
20 ACCOUNTABLE IF IT FAILS TO DELIVER RELIABLE SERVICE ACCORDING TO
21 THOSE STANDARDS.

22 ~~(C) REGULATIONS ADOPTED UNDER THIS~~ THIS SECTION MAY DOES NOT
23 APPLY TO SMALL RURAL ELECTRIC COOPERATIVES OR MUNICIPAL ELECTRIC
24 COMPANIES.

25 (D) ON OR BEFORE JULY 1, 2012, THE COMMISSION SHALL ADOPT
26 REGULATIONS THAT IMPLEMENT SERVICE QUALITY AND RELIABILITY
27 STANDARDS RELATING TO THE DELIVERY OF ELECTRICITY TO RETAIL
28 CUSTOMERS BY ELECTRIC COMPANIES THROUGH THEIR DISTRIBUTION
29 SYSTEMS, USING:

30 (1) SAIFI;

31 (2) SAIDI; AND

32 (3) ANY OTHER STANDARD PERFORMANCE MEASUREMENT THAT
33 THE COMMISSION DETERMINES TO BE REASONABLE.

34 (E) (1) THE REGULATIONS ADOPTED UNDER SUBSECTION (D) OF
35 THIS SECTION SHALL:

1 ~~(I)~~ **(I) INCLUDE SERVICE QUALITY AND RELIABILITY**
2 **STANDARDS, INCLUDING STANDARDS RELATING TO:**

3 ~~(I)~~ **1. SERVICE INTERRUPTION;**

4 ~~(II)~~ **2. DOWNED WIRE ~~REPAIR~~ RESPONSE;**

5 ~~(III)~~ **3. ~~SERVICE QUALITY~~ CUSTOMER COMMUNICATIONS;**

6 ~~(IV)~~ **4. VEGETATION MANAGEMENT;**

7 **5. PERIODIC EQUIPMENT INSPECTIONS;**

8 ~~(V)~~ **6. ANNUAL RELIABILITY REPORTING; AND**

9 ~~(VI)~~ **7. ANY OTHER STANDARDS ESTABLISHED BY THE**
10 **COMMISSION;**

11 **(II) ACCOUNT FOR MAJOR OUTAGES CAUSED BY EVENTS**
12 **OUTSIDE THE CONTROL OF AN ELECTRIC COMPANY; AND**

13 **(III) FOR AN ELECTRIC COMPANY THAT FAILS TO MEET THE**
14 **APPLICABLE SERVICE QUALITY AND RELIABILITY STANDARDS, REQUIRE THE**
15 **COMPANY TO FILE A CORRECTIVE ACTION PLAN THAT DETAILS SPECIFIC**
16 **ACTIONS THE COMPANY WILL TAKE TO MEET THE STANDARDS.**

17 **(2) THE REGULATIONS ADOPTED UNDER SUBSECTION (D) OF**
18 **THIS SECTION MAY INCLUDE A SEPARATE RELIABILITY STANDARD FOR EACH**
19 **ELECTRIC COMPANY IN ORDER TO ACCOUNT FOR SYSTEM RELIABILITY**
20 **DIFFERENTIATING FACTORS, INCLUDING:**

21 **(I) SYSTEM DESIGN;**

22 **(II) EXISTING INFRASTRUCTURE;**

23 **(III) CUSTOMER DENSITY; AND**

24 **(IV) GEOGRAPHY; ~~AND.~~**

25 ~~(3) REQUIRE THE USE OF NATIONALLY RECOGNIZED STANDARDS~~
26 **~~TO NORMALIZE:~~**

27 ~~(I) MAJOR OUTAGE EVENTS;~~

1 ~~(H) ANOMALOUS EVENTS THAT DO NOT ACHIEVE MAJOR~~
2 ~~OUTAGE STATUS;~~

3 ~~(II) YEAR-TO-YEAR WEATHER IMPACTS; AND~~

4 ~~(IV) OTHER FACTORS THAT THE COMMISSION IDENTIFIES.~~

5 (3) IN ADOPTING THE REGULATIONS REQUIRED UNDER
6 SUBSECTION (D) OF THIS SECTION, THE COMMISSION SHALL:

7 (I) CONSIDER APPLICABLE STANDARDS OF THE INSTITUTE
8 OF ELECTRICAL AND ELECTRONICS ENGINEERS;

9 (II) ENSURE THAT THE SERVICE QUALITY AND RELIABILITY
10 STANDARDS ARE COST-EFFECTIVE; AND

11 (III) WITH RESPECT TO STANDARDS RELATING TO
12 VEGETATION MANAGEMENT, CONSIDER:

13 1. LIMITATIONS ON AN ELECTRIC COMPANY'S RIGHT
14 TO ACCESS PRIVATE PROPERTY; AND

15 2. CUSTOMER ACCEPTANCE OF VEGETATION
16 MANAGEMENT INITIATIVES.

17 (F) (1) ON OR BEFORE JULY 1, 2013, AND JULY 1 OF EACH YEAR
18 THEREAFTER, THE COMMISSION SHALL DETERMINE WHETHER EACH ELECTRIC
19 COMPANY HAS MET THE SERVICE QUALITY AND RELIABILITY STANDARDS
20 ADOPTED BY THE COMMISSION FOR THAT ELECTRIC COMPANY UNDER
21 SUBSECTION (D) OF THIS SECTION.

22 (2) (I) THIS PARAGRAPH DOES NOT APPLY TO ELECTRIC
23 COOPERATIVES.

24 (II) THE COMMISSION SHALL TAKE APPROPRIATE
25 CORRECTIVE ACTION AGAINST AN ELECTRIC COMPANY THAT FAILS TO MEET
26 ANY OR ALL OF THE APPLICABLE SERVICE QUALITY AND RELIABILITY
27 ~~STANDARDS ADOPTED BY THE COMMISSION UNDER THIS SECTION,~~ INCLUDING,
28 ON OR AFTER JULY 1, 2014, THE IMPOSITION OF APPROPRIATE CIVIL
29 PENALTIES FOR NONCOMPLIANCE AS PROVIDED IN § 13-201 OF THIS ARTICLE.

30 ~~(3) NOTWITHSTANDING § 13-201 OF THIS ARTICLE, CIVIL~~
31 ~~PENALTIES COLLECTED UNDER THIS SECTION SHALL BE CREDITED TO THE~~

1 ~~ELECTRIC COMPANY'S RESIDENTIAL RATEPAYERS IN A MANNER THE~~
2 ~~COMMISSION DETERMINES.~~

3 ~~(4)~~ (III) AN ELECTRIC COMPANY MAY NOT RECOVER THE COST
4 OF ANY CIVIL PENALTY PAID UNDER THIS SECTION FROM RATEPAYERS.

5 (G) (1) ON OR BEFORE ~~MAY~~ FEBRUARY 1 OF EACH YEAR, EACH
6 ELECTRIC COMPANY SHALL SUBMIT TO THE COMMISSION AN ANNUAL
7 PERFORMANCE REPORT THAT SUMMARIZES THE ACTUAL ELECTRIC SERVICE
8 RELIABILITY RESULTS FOR THE PRECEDING YEAR.

9 (2) THE ANNUAL PERFORMANCE REPORT SHALL INCLUDE:

10 (I) THE ELECTRIC COMPANY'S AVERAGE 3-YEAR
11 PERFORMANCE RESULTS;

12 (II) ACTUAL YEAR-END PERFORMANCE MEASURE RESULTS;

13 (III) AN ASSESSMENT OF THE RESULTS AND EFFECTIVENESS
14 OF THE RELIABILITY OBJECTIVES, PLANNED ACTIONS AND PROJECTS,
15 PROGRAMS, AND LOAD STUDIES IN ACHIEVING AN ACCEPTABLE RELIABILITY
16 LEVEL; AND

17 (IV) ANNUAL INFORMATION THAT THE COMMISSION
18 DETERMINES NECESSARY TO ASSESS THE ELECTRIC COMPANY'S EFFORTS TO
19 MAINTAIN RELIABLE ELECTRIC SERVICE TO ALL CUSTOMERS IN THE ELECTRIC
20 COMPANY'S SERVICE TERRITORY, INCLUDING:

21 1. CURRENT YEAR EXPENDITURES, LABOR
22 RESOURCE HOURS, AND PROGRESS MEASURES FOR EACH CAPITAL AND
23 MAINTENANCE PROGRAM DESIGNED TO SUPPORT THE MAINTENANCE OF
24 RELIABLE ELECTRIC SERVICE;

25 2. THE NUMBER OF OUTAGES BY OUTAGE TYPE;

26 3. THE NUMBER OF OUTAGES BY OUTAGE CAUSE;

27 4. THE TOTAL NUMBER OF CUSTOMERS THAT
28 EXPERIENCED AN OUTAGE; AND

29 5. THE TOTAL CUSTOMER MINUTES OF OUTAGE
30 TIME.

1 **(3) AT THE REQUEST OF AN ELECTRIC COMPANY, THE**
2 **COMMISSION SHALL HOLD A HEARING TO DISCUSS THE ANNUAL PERFORMANCE**
3 **REPORT OF THE ELECTRIC COMPANY.**

4 **(H) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE**
5 **COMMISSION'S AUTHORITY TO ADOPT AND ENFORCE ENGINEERING AND SAFETY**
6 **STANDARDS FOR ELECTRIC COMPANIES.**

7 13-201.

8 (a) This section does not apply to a violation of the following provisions of
9 this article:

10 (1) Title 5, Subtitle 4;

11 (2) Title 7, Subtitle 1;

12 (3) **§ 7-213 AS IT APPLIES TO ELECTRIC COOPERATIVES;**

13 (4) Title 8, Subtitles 1 and 3;

14 ~~[(4)]~~ (5) Title 9, Subtitle 3; and

15 ~~[(5)]~~ (6) Title 8, Subtitle 4.

16 (b) (1) Except as provided in paragraph (2) of this subsection, the
17 Commission may impose a civil penalty not exceeding \$10,000 against a person who
18 violates a provision of this division, or an effective and outstanding direction, ruling,
19 order, rule, or regulation of the Commission.

20 (2) The civil penalty that the Commission may impose on a common
21 carrier for each violation may not exceed \$2,500.

22 (c) (1) A civil penalty may be imposed in addition to any other penalty
23 authorized by this division.

24 (2) Each violation is a separate offense.

25 (3) Each day or part of a day the violation continues is a separate
26 offense.

27 (d) The Commission shall determine the amount of any civil penalty after
28 considering:

29 (1) the number of previous violations of any provision of this article;

1 (2) the gravity of the current violation;

2 (3) the good faith efforts of the violator in attempting to achieve
3 compliance after notification of the violation; and

4 (4) any other matter that the Commission considers appropriate and
5 relevant.

6 (e) A civil penalty collected under this section shall be paid into the General
7 Fund of the State.

8 13-202.

9 (a) In this section, "safety violation" means a condition or activity likely to
10 cause injury or harm to an individual or property.

11 (b) This section does not apply to a safety violation by a gas company that is
12 subject to § 13-203 of this subtitle.

13 (c) (1) Subject to paragraph (2) of this subsection, a public service
14 company that violates a provision of this division that relates to safety is subject to a
15 civil penalty not exceeding ~~[\$500]~~ **\$10,000** for each violation for each day that the
16 violation persists.

17 (2) [The maximum civil penalty may not exceed:

18 (i) \$50,000 for a related series of violations; or

19 (ii) for] **FOR** a common carrier, **THE MAXIMUM CIVIL**
20 **PENALTY MAY NOT EXCEED \$500** for each violation or related series of violations
21 stemming from a single safety inspection.

22 (d) In determining the amount of a civil penalty imposed under this section,
23 the Commission shall consider the:

24 (1) appropriateness of the penalty to the size of the public service
25 company;

26 (2) number of previous violations of this article by the public service
27 company;

28 (3) gravity of the current violation; and

29 (4) good faith of the public service company in attempting to achieve
30 compliance after notification of the violation.

1 (e) The public service company involved may request reconsideration of a
2 penalty imposed under this section within 30 days after the date of notification of the
3 determination.

4 SECTION 2. AND BE IT FURTHER ENACTED, That the Public Service
5 Commission shall convene a stakeholder workgroup to provide recommendations
6 regarding the regulations to be adopted by the Commission under this Act.

7 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act is an
8 emergency measure, is necessary for the immediate preservation of the public health
9 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
10 members elected to each of the two Houses of the General Assembly, and shall take
11 effect from the date it is enacted.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.