

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 997

(Senator Garagiola)

Finance

Economic Matters

Public Utilities - Electric Vehicle Users and Charging Stations - Exclusions

This bill excludes a person that owns or operates equipment used for charging electric vehicles from the definition of “electricity supplier” and “public service company,” including a person that owns or operates an electric vehicle charging station, electric vehicle supply equipment, or an electric vehicle charging station service company or provider. The bill also includes in the definition of “retail electric customer” a person that owns or operates specified equipment used for charging electric vehicles and a person that charges an electric vehicle at a charging station the person owns or operates. A person that charges an electric vehicle at a charging station owned and operated by another person is excluded from the definition of “retail electric customer.”

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances. The bill exempts specified persons from regulation by the Public Service Commission (PSC) as electricity suppliers or public service companies. However, these entities are not currently regulated by PSC.

Local Effect: The bill is not anticipated to materially affect local finances.

Small Business Effect: Minimal.

Analysis

Current Law: An “electricity supplier” means a person who sells electricity, electricity supply services, competitive billing services, or competitive metering services, or who purchases, brokers, arranges, or markets electricity or electricity supply services for sale

to a retail electric customer. Electricity supplier includes an electric company, an aggregator, a broker, and a marketer of electricity. Electricity supplier does not include specified persons who supply electricity and electricity supply services solely to occupants of a building for use by the occupants, or a person who generates on-site generated electricity.

“Public service company” means a common carrier company, electric company, gas company, sewage disposal company, telegraph company, telephone company, water company, or any combination of public service companies. Public service company does not include a campground that provides water, electric, gas, sewage, or telephone service to campers incident to the campground’s primary business of operating and maintaining the campground.

“Retail electric customer” means a purchaser of electricity for end use in the State, but excludes an occupant of a building in which the owner/operator or lessee/operator manages the internal distribution system serving the building and supplies electricity and electricity supply services solely to occupants of the building for used by the occupants, and a person who generates on-site generated electricity, to the extent the on-site generated electricity is consumed by that person or his or her tenants.

Customer Choice

The Electric Customer Choice and Competition Act of 1999 (Chapters 3 and 4) facilitated the restructuring of the electric utility industry in Maryland. The Act required electric companies to divest themselves of generating facilities or to create a structural separation between the unregulated generation of electricity and the regulated distribution and transmission of electricity. The resulting system of customer choice allows the customer to purchase electricity from a competitive supplier or continue receiving electricity under standard offer service (SOS). Default SOS electric service is provided by a customer’s *electric company*. Competitive electric supply is provided by competitive *electricity suppliers*.

Penalties

An electricity supplier who violates specified provisions of current law is subject to a civil penalty of up to \$10,000 per violation. Each day is a separate violation. PSC may also revoke or suspend the license of an electricity supplier and take other specified actions in response to violations. Public service companies that violate PSC provisions that relate to safety are subject to a civil penalty not exceeding \$25,000 per violation for each day that the violation persists.

In addition to any other penalty authorized, PSC may impose a civil penalty not exceeding \$25,000 against a person who violates specified provisions of law or a PSC ruling, order, rule or regulation. Each day or part of a day the violation continues is a separate offense. Civil penalties are paid into the general fund of the State.

Background: The bill addresses the issue of who the retail electric customer is in a commercial transaction of electric vehicle charging services. Much like regular gas stations, the charging station purchases the commodity (electricity) and then resells it to a customer. Under current law, it is unclear if the charging station is the customer, the supplier, or both. The bill establishes that the charging station is the retail electric customer, subject to paying for electricity on a per kilowatt-hour basis. However, the bill exempts the charging station from the definition of “electricity supplier” or “electric company.” This allows the charging station to set prices for its services through any method they wish (such as a flat fee), rather than through PSC-regulated rates. For example, NRG Energy, Inc. offers a program in other states where it leases electric vehicle charging equipment to homeowners and allows unlimited charging during off-peak hours for a flat fee of \$89 per month.

Electric Vehicles and Electric Vehicle Charging Stations

Generally, there are two types of vehicles capable of drawing energy from an electrical outlet: (1) electric vehicles; and (2) plug-in hybrid electric vehicles. Plug-in vehicles, which include hybrid-electric vehicles (*e.g.*, the Chevrolet Volt) and vehicles without gasoline-powered motors (*e.g.*, the Nissan Leaf), have experienced a recent increase in popularity. Many of the largest automakers in the world are now in various stages of development or production of at least one plug-in vehicle model line.

According to data from the Maryland Energy Administration, as of the end of summer 2011, there were 80 plug-in vehicle charging stations in Maryland, many of which were established under MEA’s Electric Vehicle Infrastructure Program, which issues one or more grants for entities to build electric vehicle charging stations in the State. The minimum grant is \$25,000. Many of these stations are not located on the street, but rather in parking lots or garages. According to the Maryland Department of Transportation, each charging station costs almost \$8,000 to construct.

Electric Vehicle Infrastructure Council

Instituting a transition to vehicles that require stored electricity for power may affect the continued availability and reliability of the State power supply due to the load requirements to charge the vehicles. To begin addressing this and other concerns, Chapters 400 and 401 of 2011 established the Maryland Electric Vehicle Infrastructure Council, which is charged with developing an action plan for facilitating the integration of electric vehicles and making recommendations on a number of policy issues with

regard to the development of electric vehicle infrastructure and the promotion of electric vehicles.

The council's January 2012 interim report to the Governor and the General Assembly made a number of recommendations, including addressing the lack of certainty surrounding the regulation of electric vehicle charging stations. The report advised that the current definitions of "electricity supplier" and "public service company" contained in the Public Utilities Article could be construed to include the owner or operator of an electric vehicle charging station. The council recommended proposed legislation to explicitly exempt electric vehicle charging stations and electricity service providers from these definitions. This bill is a result of those recommendations.

PSC Case No. 9261

In January 2011, PSC staff filed a *Request for Investigation into the Regulatory Treatment of Providers of Electric Vehicle Charging Stations and Related Services*. Through the initial proceedings, it became clear that the parties involved disagreed about the regulatory status of electric vehicle charging stations. PSC ordered a Working Group to be formed to address this concern and others. A final report was issued in February 2012, which indicated that the regulatory status of electric vehicle charging stations would be addressed through the Maryland Electric Vehicle Infrastructure Council.

Additional Electric Vehicle Infrastructure Incentives

Chapter 402 of 2011 created a State income tax credit of 20% of the cost of qualifying electric vehicle recharging equipment, while Chapters 403 and 404 of 2011 require PSC to establish a pilot program by June 30, 2013, for electric company customers to recharge electric vehicles during off-peak hours. In enacting this law and the others described above, Maryland joins 27 other states that, as of May 2011, have enacted some form of electric vehicle incentive, according to the National Conference of State Legislatures.

Small Business Effect: Small businesses excluded from the definition of "electricity supplier" and "public service company" benefit from reduced costs associated with any future regulation by PSC. The bill impacts small businesses to the extent any electric vehicle charging stations are considered small businesses.

Additional Comments: The Department of General Services advises that, because it operates a small number of electric vehicle charging stations, the bill clarifies that the department is not an electricity supplier.

Additional Information

Prior Introductions: None.

Cross File: HB 1280 (Delegate McHale, *et al.*) - Economic Matters.

Information Source(s): Public Service Commission, Department of Budget and Management, Department of General Services, Maryland Energy Administration, Maryland Electric Vehicle Infrastructure Council, National Council of State Legislatures, Maryland Department of Transportation, Department of Legislative Services

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