SB 880

Department of Legislative Services

Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 880 (Senator Kelley)
Finance

Electricity - Consumer Relations - Smart Meters

This bill requires an electric company to give written notice of the deployment of "smart meters" to each customer in the affected portion of its service territory. The notice must state that the customer has an opportunity to refuse the installation of a smart meter through specified means. On written request from a customer at any time, an electric company must exchange an analog meter for a smart meter, or a smart meter for an analog meter. An electric company is generally prohibited from penalizing or charging a customer for refusing the installation of a smart meter, continuing to use an analog meter, or requesting a meter exchange. An electric company is prohibited from disclosing usage data obtained from a smart meter to a third party – except for billing purposes or to support "customer choice" – without the customer's written consent. The bill establishes a process for complaints and investigations regarding the unauthorized disclosure of usage data and establishes penalties for violations. The bill applies retroactively and must be applied to and interpreted to enable a customer to request removal of an installed smart meter by providing written notice to an electric company.

The bill takes effect June 1, 2014.

Fiscal Summary

State Effect: The Public Service Commission (PSC) can implement the bill with existing budgeted resources. Revenues are not materially affected.

Local Effect: Minimal.

Small Business Effect: Minimal.

Analysis

Bill Summary: "Smart meter" means a digital meter that allows two-way communication between an electric customer's premises and an electric company through a wireless network.

A notice of a smart meter installation from an electric company must conspicuously state that the customer has an opportunity to refuse the installation of a smart meter by return mailing of the notice indicating the customer's decision to refuse the installation. A customer is deemed to have given permission to the electric company to install a smart meter (1) on receipt by the electric company of a returned notice explicitly granting permission or (2) if the electric company has not received a return notice within 60 days after the notice is given.

An electric company is generally prohibited from penalizing or charging a customer for refusing the installation of a smart meter, continuing to use an analog meter, or requesting a meter exchange. In recovering costs associated with administering and maintaining meters, an electric company may charge a customer only for the costs associated with administering and maintaining the specific type of meter the customer uses.

An electric company is prohibited from disclosing usage data obtained from a smart meter to a third party – except for billing purposes or to support "customer choice" – without the customer's written consent. A customer that is aggrieved by an unauthorized disclosure of usage data may file a written complaint with PSC. PSC may not require a customer to prove damage. PSC must investigate the allegations after the filing of a complaint, and may dismiss the complaint or conduct any further investigation it deems necessary. An electric company that violates the disclosure provisions of the bill is liable to each affected customer for a penalty of $1,000 for each unauthorized disclosure of usage data. The bill does not prevent a customer from exercising any right, seeking any other remedy, or filing a complaint with any other agency or court.

Current Law: In general, a person may not furnish or put in use for revenue billing purposes a gas or electric meter unless PSC has authorized the meter's use. By written request, a customer may compel PSC to inspect and test the customer's electric or gas meter. PSC regulations pertaining to the metering of electricity specify that all electricity sold by an electric company must be on the basis of meter measurement, except for installations where the usage is constant and the consumption may be readily computed, or as otherwise provided for in its filed tariff rates.

A meter may not be installed if it is mechanically or electrically defective, has incorrect constants, or has not met testing requirements. Meters must be read approximately monthly unless otherwise authorized by PSC. The meter reading records used to prepare bills must show customer and meter identifying information, meter readings, the date of the meter reading, if the reading has been estimated, and any applicable multiplier or constant.

"Customer choice" means the right of electricity suppliers and customers to utilize and interconnect with the electric distribution system on a nondiscriminatory basis at rates, terms, and conditions of service comparable to the electric company's own use of the system to distribute electricity from an electricity supplier to a customer, under which a customer has the opportunity to purchase electricity from the customer's choice of licensed electricity suppliers.

PSC Civil and Criminal Penalties

In addition to any other penalty authorized, PSC may impose a civil penalty of up to $25,000 against a person who violates specified provisions or an outstanding direction, order, rule, or regulation of PSC. Each day or part of a day the violation continues is a separate offense.

An individual who knowingly aids or abets a public service company in violating PSC rules, orders, and regulations is guilty of a misdemeanor and unless a different punishment is specified, on conviction is subject to a fine of up to $1,000 for a first offense and up to $5,000 for a subsequent offense.

Background: The State is in the process of transitioning to smart meters as its major electric companies continue to replace traditional analog meters with smart meters under plans authorized by PSC. In May 2012 PSC issued an interim order (No. 84926) allowing customers to decline smart meter installation until PSC makes a final ruling. A final order from PSC is anticipated in early 2014. For more information related to smart meters and their installation in the State, including more details related to customer opt-outs, see the **Appendix – Smart Meter Deployment**.

Additional Information

Prior Introductions: HB 1038 of 2013, a similar bill, was referred to interim study by the House Economic Matters Committee.

Cross File: None.

Information Source(s): Public Service Commission, Office of People's Counsel, Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2014
mc/lgc

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Appendix – Smart Meter Deployment

Advanced metering infrastructure (AMI), which includes "smart meters" replacing traditional analogue meters at customer residences, is seen as a key component for enabling smart grid technology. The deployment of AMI enables customers to see and respond to market-based pricing. Smart grid technology incorporating AMI can assist in increasing grid reliability, reducing blackout probabilities, reducing forced outage rates, and can help to restore power in shorter time periods.

The Public Service Commission (PSC) authorized Baltimore Gas and Electric Company (BGE) to deploy smart meters in August 2010. PSC later authorized Potomac Electric Power Company (Pepco) to deploy smart meters in September 2010 and Delmarva Power and Light (DPL) in May 2012. The Southern Maryland Electric Cooperative also has a PSC-approved pilot program in part of its service territory. Combined, PSC has authorized the installation of more than 2.6 million smart meters. As of January 2014, BGE had completed approximately 867,000 of its nearly two million installations, and Pepco had completed nearly all of its more than 550,000 installations. The companies report opt-out/deferral rates of 3.6% and 0.4%, respectively. DPL had also installed more than 175,000 smart meters as of January 2014 and anticipates completing installations in 2014.

Among the general public and the General Assembly, there remains some concern about the widespread deployment of smart meters, particularly in relation to customer privacy and safety. HB 878 of 2012 (failed) would have required electric companies to offer an "opt-out" option from smart meter installations. However, in May 2012 PSC issued an interim order (No. 84926) allowing customers to decline smart meter installation until PSC makes a final ruling. In January 2013 PSC issued another order (No. 85294) that preserved the interim opt-out and required BGE, Pepco, and DPL to submit, by July 1, 2013, their proposals regarding the overall additional costs associated with allowing customers to retain their current analog meter, cost-recovery proposals, and proposals related to offering either radio frequency (RF)-free or RF-minimizing meter options. PSC held a hearing in August 2013 concerning the proposals.

Smart meter opt-out provisions are taking place in other states, and often include a customer charge for those customers wishing to opt out to cover the cost of maintaining a separate meter reading labor force and infrastructure. In California, for example, most customers of Pacific Gas and Electric Company must pay a one-time fee of $75 and a monthly charge of $10 to opt out of the program (low-income customers pay less).