HB 1327

Department of Legislative Services

Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

House Bill 1327 (Delegate Dumais)
Economic Matters

Public Utilities - Transitional and Default Electric Service - Implementation

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This bill establishes a multi-year process to transition retail electric service for customers of investor-owned utilities (IOUs) to a more restructured market, subject to specified requirements. The transitionary period begins October 1, 2023, and lasts up to three years. Electric cooperatives and municipal electric utilities are not part of the transition. The bill also establishes the Customer Choice Clean Energy Fund (CEF), administered by the Public Service Commission (PSC), and funded through fees on electricity suppliers.

Fiscal Summary

State Effect: Special fund administrative expenditures for PSC increase by $6.1 million in FY 2022. Special/federal fund expenditures for the Department of Human Services (DHS) increase by $0.5 million in FY 2022. Future year expenditures reflect annualization and the elimination of short-term and one-time costs. Special fund revenues for PSC increase correspondingly from assessments imposed on public service companies and supplier fees authorized under the bill. Special fund revenues for CEF increase by approximately $95.0 million in FY 2024 from one-time supplier fees; special fund expenditures for CEF increase beginning as early as FY 2024 (not shown) for authorized purposes. Potential effects on other agencies and electricity costs are discussed below.

($ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
SF Revenue	$6.1	$4.6	$99.6	$1.1	$1.2
SF Expenditure	$6.1	$4.6	$4.6	$1.1	$1.2
SF/FF Exp.	$0.5	$0.1	$0.1	$0.1	$0.1
Net Effect	($0.5)	($0.1)	-	(-)	(-)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill likely does not materially affect local government finances or operations.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Transitional and Default Service

"Transitional electric service" means clean energy generation electric service, as defined, that an electricity supplier other than an electric company may offer to customers during the transition from standard offer service (SOS) to default service.

"Qualified provider" means an electricity supplier approved by PSC to submit proposals to serve transitional electric service customers as part of the competitive assignment process specified in the bill. It does not include an aggregator or a broker that is licensed as an electricity supplier.

"Default service" means electric service that an electricity supplier other than an electric company may offer to customers under the process created by the bill (after transitional electric service ends).

Transition to More Restructured Market

PSC may not approve a wholesale procurement contract for SOS that extends service beyond October 1, 2023, and IOUs are prohibited from providing SOS on or after that date. Instead, PSC must administer the transition to default service beginning that October 1 through a competitive assignment process to qualified providers that apply and bid to provide transitional electric service, as specified. Transitional electric service must be met with "clean energy generation," which generally means the supplier has procured a specified amount of renewable energy credits (RECs).

The transitionary period lasts up to three years, based on a required initial 24-month and a subsequent 12-month fixed contract price offering for residential transitional electric service customers. Nonresidential customer transitional electric service has different terms. During the transitionary period, those long-term fixed contracts are the default service, but customers may switch electricity suppliers.

After the transitionary period ends, there is still a default service – once again provided by electricity suppliers selected by PSC, as specified – but the default service cannot be provided to a customer for more than 90 days. The bill establishes other requirements related to default service.

Electricity suppliers offering transitional electric service or default service must issue a consolidated bill – meaning the supplier bills the customer for all costs associated with the electricity and its delivery (the reverse is the current standard practice in the State). Transitional/default suppliers are also required to offer at least one low-income customer assistance program, subject to specified requirements.

Electric companies must recover from distribution customers all reasonable and prudent costs incurred to implement the transition to default service, together with ongoing associated administrative costs. On successful implementation of default service, as determined by PSC, an electric company has the right to earn an enhanced rate of return on common equity for at least 10 years, calculated by adding 50 basis points to the utility's authorized general rate of return.

Consumer Protections

PSC is authorized, but not required, to adopt regulations or issue orders to require periodic electricity supplier license renewals, adopt a consumer bill of rights, and create and publish an electricity supplier report card, as specified. Electricity suppliers are prohibited from engaging in door-to-door sales. An electricity supplier may not engage in supplier consolidated billing unless the electricity supplier is licensed by PSC to offer such services.

Service Disconnections

Electricity suppliers licensed by PSC to provide consolidated billing may, in accordance with regulations adopted by PSC, direct an electric company to disconnect service to a retail customer for nonpayment of the customer's electricity bill if disconnecting service:

- reasonably protects electricity suppliers from the risks of bad debt;
- ensures customers receive sufficient notice and opportunity to pay before disconnection;
- requires the electric companies to continue to adhere to existing termination provisions in current law; and
- ensures that the electricity supplier indemnifies the electric company from liability for improper termination.

Consumer Education Program

PSC must establish a multimedia consumer education program designed to educate consumers about the changes directed by the implementation of transitional electric service and default service, subject to specified requirements. The planning process must solicit multiple stakeholder views. PSC must implement the program before the implementation of transitional electric service and default service. Transitional electric service providers must pay PSC $2 per customer enrolled through the competitive assignment process to fund the program.

Customer Choice Clean Energy Fund

CEF is established as a special, nonlapsing fund to provide resources to improve PSC's ability to support and assist in the deployment of distributed energy generation resources for low- and moderate-income residential and small commercial customers. PSC must administer CEF, as specified, but may assign administrative responsibilities to the Maryland Energy Administration (MEA) under specified conditions. In addition to other standard forms of funding, CEF consists of customer assignment fees paid under the bill by qualified providers at the start of the transition period ($50 per customer).

CEF may only be used as specified. In short, it may only be used to invest in the promotion, development, and implementation of energy efficiency and conservation programs, renewable and clean energy sources, climate change programs, and demand response programs, in addition to providing targeted low- and moderate-income programs, financial assistance to implement the Maryland Strategic Energy Investment Program, and providing public education and outreach on reducing energy consumption and greenhouse gas emissions.

Current Law: The Electric Customer Choice and Competition Act of 1999 facilitated the restructuring of the electric utility industry in Maryland. The resulting system of customer choice allows the customer to purchase electricity from a competitive supplier or to continue receiving electricity under SOS. Default SOS electric service is provided by a customer's electric company (*e.g.*, Baltimore Gas and Electric Company or Pepco). Competitive electric supply is provided by competitive electricity suppliers. In either case, the electric company delivers the electricity and recovers the costs for delivery through distribution rates. Gas supply and delivery are similarly restructured, with gas suppliers and gas companies.

In practice, to provide SOS, electric companies solicit bids for electricity through a series of rolling auctions every six months. At any one time, the SOS rate reflects the average of four separate auctions held over two years, which has a moderating effect on rate changes. Electric companies are not required to directly contract for RECs and associated electricity to meet Renewable Portfolio Standard (RPS) requirements. Instead, electric companies meet their RPS requirements through their SOS contract bidding, with wholesale electricity suppliers required to meet RPS requirements through their bids for their portion of electricity supplied. Under the current system, SOS customers pay for RECs indirectly through their SOS rates.

Under the bill, default service will no longer be provided by the electric company, but instead by PSC-approved electricity suppliers (except for electric cooperatives and municipal electric utilities). Additionally, transitional electric service providers must directly procure RECs, and in greater amounts than would otherwise be required of electricity suppliers in the 2023 to 2026 transition period.

State Fiscal Effect: Individual effects are discussed below.

Public Service Commission

PSC advises that the bill requires additional resources to support new and incremental work in the following areas: customer education; CEF administration; supplier complaints and enforcement; transitional service deployment; qualified participant review; administrative support; and the development of regulations. Broadly, costs are for new staff, technical consultants ($1,175,000 in fiscal 2022), and the customer education program ($11.0 million in total over three years). Still, even with such expenditures, PSC advises that the timeline for implementation in the bill is insufficient.

PSC is unable to assess public service companies for its estimated full costs in fiscal 2022, as PSC only has room for about $6.3 million in additional expenditures under its current assessment cap. Therefore, this estimate defers $3.0 million of fiscal 2022 expenditures associated with the customer education program into fiscal 2023 and 2024. PSC advises that customer education program costs are conservative and based on costs for a similar program implemented when the industry was originally restructured.

Accordingly, special fund expenditures for PSC increase by $6,086,424 in fiscal 2022, which accounts for the bill's October 1, 2021, effective date. This estimate reflects the cost of hiring 14 technical, legal, and administrative staff to handle PSC's incremental workload under the bill. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, technical consultant costs, and customer education program costs.

Positions	14.0
Salaries and Fringe Benefits	$807,036
Technical Consultants	1,175,000
Customer Education Program	4,000,000
Other Operating Expenses	104,388
Total FY 2022 PSC Expenditures	**$6,086,424**

Future year expenditures reflect full salaries with annual increases and employee turnover, ongoing operating expenses, and customer education program expenditures of $3.5 million in both fiscal 2023 and 2024. Some technical consultant expenditures shown above may also be deferred into fiscal 2023 or 2024. Ultimately, PSC will need to prioritize contractual expenditures in the context of programmatic needs and its assessment cap.

Special fund revenues increase correspondingly each year from assessments imposed on public service companies for PSC's administrative costs that are not otherwise covered through fees established under the bill, discussed further below.

Customer Education Program Revenues

Each electricity supplier that provides transitional electric service must pay $2 per customer assigned to PSC to support the costs of the customer education program. Transitional service begins October 1, 2023. There are approximately 1.9 million IOU customers on SOS as of December 2020. Therefore, special fund revenues for PSC increase by about $3.8 million in fiscal 2024 from customer assignment fees. These revenues offset other special fund revenues collected from PSC's assessment process.

Other Supplier Fee Revenues

Each electricity supplier that applies to provide transitional electric service must pay a nonrefundable $25,000 fee to PSC and an additional $5,000 fee for each competitive assignment group ultimately assigned to the supplier. Transitional service begins October 1, 2023. Special fund revenue received under these requirements is unknown at this time, but in the context of PSC's overall budget, is likely modest. These revenues offset other special fund revenues collected from PSC's assessment process.

Customer Choice Clean Energy Fund

Each electricity supplier that provides transitional electric service must pay $50 per customer assigned to CEF; transitional service begins October 1, 2023. There are approximately 1.9 million IOU customers on SOS as of December 2020. Therefore, special fund revenues for CEF increase by about $95.0 million in fiscal 2024 from customer assignment fees.

Special fund expenditures for CEF increase beginning as early as fiscal 2024 for authorized purposes. Although the timing and amount of such expenditures is unknown at this time, funds are likely to be expended over several fiscal years. The bill is unclear as to whether CEF may be used for administrative expenses, as it does not explicitly authorize or prohibit such use; however, PSC administrative expenditures are accounted for above under the assumption that PSC will administer the fund. PSC administrative expenditures decrease and MEA administrative expenditures increase if PSC assigns responsibilities to MEA under the voluntary process established by the bill.

Department of Human Services

The Office of Home Energy Programs within DHS administers a variety of energy assistance programs and services for residential customers using local administering agencies, including local departments of social services, in each county and Baltimore City. These programs include the Electric Universal Service Program bill payment assistance, Maryland Energy Assistance Program bill payment assistance (heating source), and gas and electric arrearage assistance programs.

The bill affects the *status quo* of electric utility billing, which affects the administration of DHS's energy assistance programs. DHS advises that it requires one permanent position, one contractual position in fiscal 2022 and 2023, and one-time information technology costs and educational materials costs, paid for with special funds (40%) and federal funds (60%).

Accordingly special/federal fund expenditures for DHS increase by $505,308 in fiscal 2022, which accounts for the bill's October 1, 2021, effective date. This estimate reflects the cost of hiring one permanent procurement specialist and one contractual human services specialist to handle the transition to and continuation of a more restructured retail electricity market. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, information technology costs ($200,000), and related costs for educational materials, worker training, and other information requirements ($200,000).

Permanent Position	1.0
Contractual Position	1.0
Salaries and Fringe Benefits	$94,145
Information Technology Costs	200,000
Educational Materials and Related Costs	200,000
Other Operating Expenses	11,163
Total FY 2022 DHS Expenditures	**$505,308**

Future year expenditures reflect full salaries with annual increases and employee turnover, ongoing operating expenses, and the termination of the contractual position after fiscal 2023.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Office of People's Counsel

The Office of People's Counsel (OPC) indicates that the bill does not affect its workload. However, as OPC is responsible for advocating on behalf of residential and noncommercial utility customers, the Department of Legislative Services (DLS) advises that the bill could result in additional expenditures for the office. OPC is funded in the same manner as PSC, through an assessment imposed on public service companies. Any increase in special fund expenditures increases special fund revenues from assessments.

Small Business Effect: Small electricity suppliers benefit significantly over time as the bill removes the availability of SOS provided by IOUs. The 80% of the residential market and 60% of the commercial market currently on SOS will ultimately be served by electricity suppliers under the bill, although the transitionary period does not begin until October 1, 2023. The effect on electricity costs is discussed below; small businesses with significant electricity needs are more exposed to potential changes in electricity costs.

Additional Comments: The effect on electricity costs under the bill is ultimately unknown. Factors include (1) the costs of implementation for PSC, OPC, and the affected utilities, which are all ultimately recoverable through assessments/rates; (2) the interaction between the SOS revenue the affected utilities currently earn and the 50 basis point increase on rates of return authorized under the bill; (3) additional costs with procuring more RECs than otherwise required for transitional electric service; and (4) electricity prices in a more restructured market versus what would be available under the current system. Further, in a more restructured market, the effect on individual electricity customers is also more likely to depend on the terms of the specific contract in effect at the time, compared to the current system, where about 80% of residential customers and 60% of nonresidential customers are on SOS.

DLS notes the distinction between the retail electricity market and the multi-state wholesale energy generation/capacity markets, which are coordinated by PJM Interconnection, the regional grid operator. The bill makes direct changes to the former.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Public Service Commission; Department of Human Services; Maryland Energy Administration; Office of People's Counsel; Department of Legislative Services

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