HB 236

Department of Legislative Services

Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 236 (Chair, Economic Matters Committee)(By Request - Departmental - Maryland Energy Administration)

Economic Matters

Public Service Commission - Electricity Supply and Consumer Protections - Regulations and Orders

---

This departmental bill requires the Public Service Commission (PSC) to adopt additional regulations or issue orders regarding the marketing of and contracting for retail electricity supply.

Fiscal Summary

State Effect: Special fund expenditures for PSC increase by $405,500 in FY 2025. Future years reflect annualization and the elimination of one-time costs. Special fund revenues increase correspondingly from fees and assessments.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
SF Revenue	$405,500	$242,000	$252,400	$263,100	$274,300
SF Expenditure	$405,500	$242,000	$252,400	$263,100	$274,300
Net Effect	$0	$0	$0	$0	$0

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

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

Small Business Effect: The Maryland Energy Administration (MEA) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services generally concurs with this assessment but notes that the contractual and compensation limitations may adjust existing business practices for some small retail suppliers.

Analysis

Bill Summary: In addition to requirements in current law, PSC must adopt regulations or issue orders to:

- establish reasonable restrictions on in-person marketing;
- establish licensing procedures, fees, and reporting requirements for door-to-door marketing by individuals and electricity suppliers;
- prohibit contract periods of more than one year for variable price residential supply contracts;
- require that all residential customers be returned to standard offer service (SOS) at the expiration of a variable price residential supply contract unless a new contract is created and executed by the residential customer;
- require that all offers and contracts for residential supply prominently display information on SOS, including the current SOS price and any other information considered necessary by PSC; and
- prohibit the use of commission-based or pay-per-contract compensation for customer choice marketing employees or contractors.

Current Law:

Retail Customer Choice

Generally

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.

Supplier Licensing and Related Enforcement Activities

An electricity supplier must be licensed by PSC before doing business in the State. PSC must adopt regulations or issue orders to:

- protect consumers, electric companies, and electricity suppliers from anticompetitive and abusive trade practices;
- require each electricity supplier to provide adequate and accurate customer information to enable customers to make informed choices regarding the purchase of any electricity services offered by the electricity supplier;
- establish reasonable restrictions on telemarketing;
- establish procedures for contracting with customers;
- establish requirements and limitations relating to deposits, billing, collections, and contract cancellations;
- establish provisions providing for the referral of a delinquent account by an electricity supplier to SOS; and
- establish procedures for dispute resolution.

An electricity supplier or person selling or offering to sell electricity in the State in violation of supplier licensing requirements, after notice and an opportunity for a hearing, is subject to a civil penalty of up to $10,000 or license revocation or suspension.

PSC is required to license gas suppliers and has the same regulatory authority as it does for electricity suppliers.

Electricity and gas supplier licenses do not expire under current law.

Limitation on Supply Offers to Households Receiving Energy Assistance

Effective July 1, 2023, unless PSC has approved the supply offer, a retail supplier may not offer to provide electricity or gas to households in the State that have received energy assistance from Office of Home Energy Programs within the Department of Human Services during the previous fiscal year or take other similar actions. An approved supply offer must include a commitment to charging at or below SOS for the duration of the offer.

Energy Supplier Contracts

PSC regulations specify minimum contract requirements for electricity and gas supply, which are similar but not identical. Broadly, a supply contract may only be executed by the appropriate electricity or gas supplier licensee. A supply contract must contain all material terms and conditions, a statement of contract duration and any rollover provision, a statement that the supplier and the customer may terminate the contract early, renewal procedures (if any), and the amount of any cancellation fee. Evergreen contracts are permitted, subject to certain disclosure requirements.

Background: MEA advises that the bill seeks to limit the disparate impact of certain marketing practices and their resulting negative economic impacts, which disproportionately affect those at the lower end of the economic spectrum.

State Fiscal Effect: PSC advises that the incremental workload required by the bill cannot be absorbed within existing resources. PSC requires additional staff to review individual door-to-door marketing license applications and to develop and enforce ongoing licensure requirements. Additional funds are also required for contractual services to develop automated licensing and citation platforms.

Accordingly, special fund expenditures for PSC increase by $405,512 in fiscal 2025, which accounts for the bill's October 1, 2024 effective date. This estimate reflects the cost of hiring two administrative specialists and one staff attorney to administer and enforce the new licensing and related provisions in the bill. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and a one-time programming expense.

Positions	3.0
Salaries and Fringe Benefits	$176,994
Programming Costs	200,000
Other Operating Expenses	28,518
Total FY 2025 State Expenditures	**$405,512**

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Generally, PSC is funded through an assessment each fiscal year on the public service companies that it regulates. Under the bill, PSC also is expected to collect initial and potentially renewal licensure fees from door-to-door energy marketers. Licensure fee revenues, though unknown, are likely minimal and assumed to offset revenues generated from the standard assessment. Accordingly, special fund revenues for PSC increase correspondingly from licensure fees and assessments imposed on public service companies.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

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

Fiscal Note History: First Reader - February 11, 2024
km/lgc

Analysis by: Stephen M. Ross

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Public Service Commission – Electricity Supply and Consumer Protections – Regulations and Orders

BILL NUMBER: HB0236

PREPARED BY: Landon R. Fahrig, Esq. – Legislative Liaison (MEA)

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

_X_ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

___ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

Though some participants in the retail electricity supply market may be small, only a few entities' business practices should be altered by the restrictions on marketing stemming from this legislative change. The combined rarity of small businesses in this market space and the relative lack of small business participation serve to limit any significant impacts whatsoever.