

## MARYLAND REGISTER

### Proposed Action on Regulations

**Date Filed with AELR Committee**

February 14, 2023

**Date Filed with Division of State Documents****Document Number**

22-359-P

**Date of Publication in MD Register**

**1. Desired date of publication in Maryland Register: March 24, 2023**

**2. COMAR Codification**

Title	Subtitle	Chapter	Regulation
20	54	01	02
20	54	02	03
20	54	02	10

**3. Promulgating Authority**

Public Service Commission

**4. Name of Regulations Coordinator**

Tonya L. Johnson

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**5. Name of Person to Call About this Document**

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**6. Check applicable items:**

<input checked="" type="checkbox"/>	New Regulations
<input checked="" type="checkbox"/>	Amendments to Existing Regulations
<input type="checkbox"/>	Repeal of Existing Regulations
<input type="checkbox"/>	Recodification
<input type="checkbox"/>	Incorporation by Reference of Documents Requiring DSD Approval

**7. Is there Emergency text that is identical to this Proposal:**

☐ Yes ☒ No

**8. Incorporation by Reference**

☐ Incorporation by Reference (IBR) approval form(s) attached and 16 copies of documents proposed for incorporation submitted to DSD. (Submit 16 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

- ☐ OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland
- ☐ OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting

## 10. Children's Environmental Health and Protection

☐

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council

## 11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by H. Robert Erwin, General Counsel, telephone #410-767-8039, on February 14, 2023. A written copy of the approval is on file at this agency.

### Name of Authorized Officer

Andrew S. Johnston

### Title

Executive Secretary

### Telephone No.

410-767-8067

### Date

February 14, 2023

## Title 20

## PUBLIC SERVICE COMMISSION

### Subtitle 54 GAS SUPPLIERS

#### 20.54.01 General Provisions

#### 20.54.02 Administrative Provisions

Authority: Public Utilities Article, §§2-113, 2-121, 4-308, 5-101, 7-507, 7-511, and 7-601—7-606, Annotated Code of Maryland

#### Notice of Proposed Action

[22-359-P]

The Public Service Commission proposes to:  
amend Regulation .02 under COMAR 20.54.01 General Provisions; amend Regulation .03 and adopt new Regulation .10 under  
COMAR 20.54.02 Administrative Provisions.  
This action was considered by the Maryland Public Service Commission at a scheduled rule-making (RM 78) meeting held on  
November 9, 2022, notice of which was given under General Provisions Article, §3-302, Annotated Code of Maryland.

#### Statement of Purpose

The purpose of this action is to provide an application process for retail suppliers to seek Commission approval of offers for energy assistance households and to define new statutory terms within regulations.

#### Estimate of Economic Impact

**I. Summary of Economic Impact.** Implementation of these regulations will provide economic benefit to customers receiving energy assistance through the Office of Home Energy Programs.

#### **II. Types of Economic Impact.**

Impacted Entity	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On Issuing agency:	NONE	
B. On other state agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Utility Companies and Retail Suppliers	(-)	Unknown
E. On other industries or trade groups:		
(1) Utility Companies and Retail Suppliers	(+)	Unknown
F. Direct and indirect effects on public:		
(1) Customers	(-)	Unknown

### III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D(1). Implementation of these regulations will require system changes and updates from both regulated utilities and retail suppliers. The magnitude of these costs is unknown until these companies have completed the programming and testing to execute the requirements.

E(1). Implementation of these regulations will require system changes and updates from both regulated utilities and retail suppliers. The magnitude of these costs is unknown until these companies have completed the programming and testing to execute the requirements.

F(1). Implementation of these regulations will provide economic benefit to customers receiving energy assistance through the Office of Home Energy Programs. The law and regulations will prevent energy assistance recipients from paying more than the applicable utility default rate for their gas supply thereby reducing bills, arrearages and utility disconnections. This will also increase the effectiveness of energy assistance payments at relieving energy burdens on the target population.

#### Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

#### Opportunity for Public Comment

Comments may be sent to Andrew S. Johnston, Executive Secretary, Maryland Public Service Commission, 6 St. Paul Street, 16th Floor, Baltimore, MD 21202, or call 410-767-8067, or email to [andrew.johnston@maryland.gov](mailto:andrew.johnston@maryland.gov). Comments will be accepted through April 24, 2023. A public hearing has not been scheduled.

ANDREW S. JOHNSTON  
Executive Secretary

### Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: **FY 2024**

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

**No**

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

**undefined**

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

**No State funds necessary.**

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

**Implementation of these regulations will not impact small businesses.**

G. Small Business Worksheet:

**1a. Intended Beneficiaries. Who are the intended beneficiaries of the proposed regulation? Are these intended beneficiaries primarily households or businesses?**

**The intended beneficiaries are low-income households participating in retail energy choice.**

**1b. Intended Beneficiaries: Households. If households are the primary intended beneficiaries, will the proposal affect their income or purchasing power such that the volume or patterns of their consumer spending will change? If so, what directions of change would you anticipate? Will these expected spending changes have a disproportionate impact on small businesses? Can you descriptively identify the industries or types of business activities that are impacted? These regulations are expected to increase low-income household purchasing power by providing a price ceiling on energy supply contracts.**

**1c. Intended Beneficiaries: Businesses. If businesses are the intended beneficiaries, identify the businesses by industry or by types of business activities. How will businesses be impacted? Are these Maryland establishments disproportionately small businesses? If so, how will these Maryland small businesses be affected? Can you identify or estimate the present number of small businesses affected? Can you estimate the present total payroll or total employment of small businesses affected?**

**Businesses are not the intended beneficiaries.**

**2a. Other Direct or Indirect Impacts: Adverse. Businesses may not be the intended beneficiaries of the proposal. Instead, the proposal may direct or otherwise cause businesses to incur additional**

expenses of doing business in Maryland. Does this proposal require Maryland businesses to respond in such a fashion that they will incur additional work-time costs or monetary costs in order to comply? Describe how Maryland establishments may be adversely affected. Will Maryland small businesses bear a disproportionate financial burden or suffer consequences that affect their ability to compete? Can you estimate the possible number of Maryland small businesses adversely affected? (Note that small business compliance costs in the area of regulation are the sum of out-of-pocket (cash) costs plus time costs — usually expressed as payroll, akin to calculations for legislative fiscal notes. Precise compliance costs may be difficult to estimate, but the general nature of procedures that businesses must accomplish to comply can be described.)

These regulations will affect public energy distribution utilities and retail energy supply businesses in Maryland by creating additional consumer protections which will require additional procedures. The implementation of those procedures will not be cost-free, however the amount of costs cannot be estimated at this time. The exact number of small businesses that might be affected is not known but is likely to be fewer than 200.

**2b. Other Direct or Indirect Impacts: Positive.** Maryland businesses may positively benefit by means other than or in addition to changed consumer spending patterns. How may Maryland businesses be positively impacted by this initiative? Will Maryland small businesses share proportionately or disproportionately in these gains? Can you estimate the possible number of Maryland small businesses positively affected?

Affected businesses will benefit from increased consumer trust and confidence. These benefits will accrue primarily to retail energy suppliers, a group that includes a mixture of large and small businesses. The exact number of small businesses that might be affected is not known but is likely to be fewer than 200.

**3. Long-Term Impacts.** There are instances where the longer run economic impact effect from regulations differ significantly from immediate impact. For example, regulations may impose immediate burdens on Maryland small businesses to comply, but the overall restructuring of the industry as a consequence of monitoring and compliance may provide offsetting benefits to the affected small businesses in subsequent years. Can you identify any long run economic impact effects on Maryland small businesses that over time (a) may compound or further aggravate the initial economic impact described above, or (b) may mitigate or offset the initial economic impact described above?

These regulations are expected to improve the health of the retail energy supply market over the long term by improving public confidence and trust, to the benefit of companies and customers.

**4. Estimates of Economic Impact.** State Government Article, §2-1505.2 requires that an agency include estimates, as appropriate, directly relating to: (1) cost of providing goods and services; (2) effect on the work force; (3) effect on the cost of housing; (4) efficiency in production and marketing; (5) capital investment, taxation, competition, and economic development; and (6) consumer choice.

(1) There will be anticipated effects on the cost of providing residential retail energy supply offers because market participants will need to comply with the new requirements of PUA 4-308. The regulations are designed to give market participants regulatory certainty and guidance on how to

comply with the requirements of the statute; (2) There is no anticipated effect on the workforce; (3) There is no anticipated effect on the cost of housing; (4) There is no anticipated effect on efficiency in production and marketing; (5) There is no anticipated capital investment, taxation, competition, and economic development; and (6) There is an anticipated effect on consumer choice in the residential retail energy supply market. The requirements of PUA 4-308 will prevent energy assistance recipients from fully participating in the retail supply market: These regulations effectuate that requirement.

## **Title 20 PUBLIC SERVICE COMMISSION**

### **Subtitle 54 GAS SUPPLIERS**

#### **Chapter 01 General Provisions**

Authority: Public Utilities Article, §§2-113, 2-121, 4-308, 5-101, 7-507, 7-511, and 7-601—7-606, Annotated Code of Maryland

##### **.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(7) (text unchanged)

(8) “Contract for Energy Assistance Households” means a residential retail energy supply contract that meets the legal requirements of PUA §4-308 and any other applicable requirements in the Public Utilities Article in connection with a supplier’s supply service for customers who are part of an energy assistance household.

(9) “Energy Assistance Household” means that the Office of Home Energy Programs found that the service address or household associated with the utility account qualified for a gas assistance program during the current or previous fiscal year. For a utility that provides both gas and electric service, an energy assistance household means that the Office of Home Energy Programs found that the service address or household associated with the utility account qualified for an electric or gas assistance program during the current or previous fiscal year.

(10) “Energy Assistance Program” means the following programs administered by the Maryland Office of Home Energy Programs by which a customer receives financial assistance paying their gas utility bills, which includes but is not necessarily limited to:

(a) The Maryland Energy Assistance Program;

(b) The Utility Service Protection Program; and

(c) The Arrearage Retirement Assistance Program.

(11) “Fiscal Year” means the 12 month period that begins on July 1 of a calendar year and ends June 30 of the next calendar year.

[(8)](12) (text unchanged)

[(9)](13) (text unchanged)

[(10)](14)—[(13)](17) (text unchanged)

(18) “Sales service” means the supply of retail gas commodity service by the customer’s gas company.

(19) “Gas Commodity Price or Net Purchased Gas Charge” is the utility rate for a given period as approved in the utility’s applicable sales service tariff that would be charged to a utility gas commodity customer, excluding any charges, adjustments, riders, or taxes related to distribution rates.

[(14)](20) (text unchanged)

#### **Chapter 02 Administrative Provisions**

Authority: Public Utilities Article, §§2-113, 2-121, 4-308, 5-101, 7-507, 7-511, and 7-601—7-606, Annotated Code of Maryland

##### **.03 Number of Copies; Service.**

A. An applicant shall file [an original and 15 paper copies and] an electronic copy of an application with the Commission.

B. (text unchanged)

##### **.10 Approving a Contract for Energy Assistance Households.**

A. Beginning July 1, 2023, an electricity supplier may not serve a customer in an energy assistance household except pursuant to a Commission approved contract for energy assistance households.

B. A gas supplier applying for approval of a contract for energy assistance households shall file on a form provided by the Commission.

C. The submission shall include:

1. Identity of the applicant;

2. Service territories and commodities applied for;

3. A copy of the contract and contract summary form that will be used for sales to energy assistance households;

- 4. Description of the price a customer will pay, as it will appear on the customer contract;*
  - 5. For any months where the utility gas commodity price or net purchased gas charge is not known at the time of application, a description of how the supplier will ensure that the retail supplier's rate for energy assistance households remains at or below the utility gas commodity price or net purchased gas charge;*
  - 6. A commitment for the entirety of the term of the supply contract to charge at or below the utility gas commodity price or net purchased gas charge;*
  - 7. A commitment to follow the terms of Public Utilities Article §4-308; and*
  - 8. A commitment to uniquely identify the offer in such a way as to distinguish the Commission approved contract for energy assistance households from other supply products the supplier may be offering for sale in Maryland.*
- D. The Commission may approve a supplier's application for a contract for energy assistance households subject to any conditions the Commission determines appropriate.*