

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 1013

(Senator Klausmeier)

Finance

Public Utilities - Billing for Noncommodity Products and Services - Prohibition

This bill prohibits a gas company or an electric company from billing its customers for a “noncommodity product or service,” which means a product or service that is (1) not related to gas supply or electricity supply and (2) offered by a third party that is not an affiliate of the gas company or electric company.

Fiscal Summary

State Effect: The Public Service Commission (PSC) can handle the bill’s requirements with existing budgeted resources.

Local Effect: Minimal.

Small Business Effect: Minimal.

Analysis

Current Law: A gas company or electric company may bill its customers for gas, electricity, or any other service it renders only on the basis of the net total cost of the service under the applicable rate that is filed for that service.

PSC regulations establish a “Utility Code of Conduct” to promote competitive markets and ensure that an electric or gas company does not subsidize its affiliates. Among other prohibitions, generally, a utility may not:

- represent to a customer or potential customer that any advantage or superior service will accrue because of the relationship between the utility and a core service affiliate or noncore service affiliate;
- give any preference to a core service affiliate, or noncore service affiliate, or a customer of either in providing regulated utility service;
- condition or tie the provision of regulated utility service to any other product or service; or
- provide sales leads to its core or noncore service affiliate.

Background: Two areas the bill potentially affects are (1) on-bill financing and (2) billing services provided by utilities on behalf of other businesses.

On-bill Financing

In 2012, as part of the distribution of funds received from the Exelon-Constellation merger, PSC authorized \$2.5 million for Baltimore Gas and Electric Company (BGE) to implement a Small Business Energy Advance program, which includes an on-bill financing component. BGE indicates that the program is expected to begin soon and that it will provide zero percent interest loans that are repaid through BGE's bill.

PSC later approved an on-bill financing program for Potomac Electric Power Company (Pepco) in 2013. The program emulates BGE's Small Business Energy Advance program and provides small businesses with a cash advance to help pay for a portion of installed energy improvements. The advance is repayable through the customer's electric bill, with zero percent interest, in monthly installments of up to 24 months. Pepco's program is budgeted for 500 participants.

Utility Billing Services – PSC Case No. 9325

An example of a utility's billing service being used by a third party is BGE Home, Inc. BGE Home is an affiliate of BGE and has used BGE's billing services in the past to bill customers. BGE charges BGE Home for its billing services. PSC recently concluded an investigation of this practice in Case No. 9325, as discussed below.

In October 2009, the Maryland Alliance for Fair Competition and a residential customer in BGE's service territory filed a *Petition to Investigate the Current Practices of BGE and BGE Home* to PSC. The petition requested that PSC establish a new proceeding to, among other things (1) investigate the practice of BGE and BGE Home's sharing resources and (2) determine if there are/were any violations of certain PSC regulations in connection with BGE's ratepayers subsidizing BGE Home's activities. Further, the petition requested PSC to take appropriate action to ensure that improper resource sharing does not occur, including revising regulations to prohibit use of a utility's corporate and

trade names, trademarks, and logos in affiliate advertising, marketing of services, customer accounting, billing, and collections.

PSC reviewed the petition and BGE Home's response, determined that a proceeding was needed to investigate the resources sharing practices of BGE and BGE Home, and delegated the issue to the Public Utility Law Judge (PULJ) Division to conduct necessary proceedings and submit a report to the commission for further consideration.

In November 2013, the PULJ prepared and submitted the required report to PSC. The PULJ reported that he could find no fact supporting a conclusion that BGE and BGE Home had violated PSC regulations by the exchange of unlawful subsidies, intentional exclusion of competitors from BGE's billing system, or any other practice. On February 12, 2014, PSC accepted the PULJ's report, found no need to take further action, and closed the investigation.

Additional Comments: The Department of Legislative Services notes that, because BGE Home is an affiliate of BGE, it is authorized to use BGE's billing services under the bill, while unaffiliated third parties are excluded.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Public Service Commission, Office of People's Counsel, Baltimore Gas and Electric Company, Potomac Electric Power Company, Department of Legislative Services

Fiscal Note History: First Reader - March 18, 2014
ncs/lgc

Analysis by: Stephen M. Ross

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