

## **ORDER NO. 90342**

RETAIL GAS AND ELECTRIC	*	Administrative Docket
SUPPLY OFFERS TO LOW INCOME	*	PC55
CUSTOMERS	*	
	*	
COMAR 20.51, 20.53, 20.54, and 20.59	*	RM78

**Issue Date: September 2, 2022**

### **NOTICE INITIATING RULEMAKING AND DIRECTING IMPLEMENTATION MEASURES FOR NEW LOW INCOME GAS AND ELECTRIC RESIDENTIAL SUPPLY PROTECTIONS**

1. On May 16, 2022, the Commission initiated Public Conference No. 55 (“PC55”) and issued a Notice and Opportunity to Comment regarding the implementation of Chapter 637 (“Chapter 637”) of the Laws of Maryland (2021), which amended Public Utilities Article (“PUA”), *Annotated Code of Maryland*, § 4-308. In response the Commission received stakeholder comments from 12 interested stakeholders.

2. After consideration of these comments, the Commission now initiates a rulemaking to develop regulations to implement Chapter 637. The Commission also directs Staff, the Competitive Markets and Customer Choice working group, and the EDI and XML<sup>1</sup> working groups to begin work as described below.

#### **Background**

3. On May 30, 2021, the General Assembly enacted Chapter 637 of the Laws of Maryland (2021), amending PUA § 4-308. Chapter 637 requires the Commission to establish an approval process for electricity or gas supply offers for households that

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<sup>1</sup> The Electronic Data Interchange (“EDI”) and Extensible Markup Language (“XML”) working groups provide technical recommendations to the Commission regarding electronic transactions in the retail energy market.

receive energy assistance from Office of Home Energy Programs (“OHEP”)-administered programs, with a statutory deadline of January 1, 2023, for establishing the approval process. Additionally, the statute establishes, effective July 1, 2023, minimum standards for energy assistance supply offers to energy assistance households and tasks the Commission with approving offers before suppliers may make them to customers.

4. On May 16, 2022, the Commission initiated PC55 to receive written comments regarding the implementation of Chapter 637.<sup>2</sup> The Commission requested that stakeholders provide comments, suggestions, and concerns on issues or procedures to be resolved ahead of implementation, including definitions, application processes, customer eligibility, data sharing, relative valuation of SOS or gas commodity rates and supply offers, and reporting. The Commission also requested that stakeholders suggest procedural timelines for Commission action and stakeholder implementation, including potential constraints that require coordination among stakeholders, as well as general implementation issues.

5. The Maryland Office of People’s Counsel (“OPC”) filed proposed regulations for implementing Chapter 637, while other parties’ comments were limited to concerns and suggestions. Maryland’s major investor-owned utilities each filed comments, with the Potomac Edison Company (“Potomac Edison”) and Baltimore Gas and Electric, Potomac Electric Power Company, and Delmarva Power & Light Company (“Joint Exelon Utilities”) disagreeing with several of OPC’s proposed regulations. Washington Gas Light Company (“Washington Gas”) and the Southern Maryland Electric Cooperative (“SMECO”) also submitted comments. Electricity and natural gas supply companies

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<sup>2</sup> Retail Gas and Electricity Supply Offers to Low Income Customers, Notice of Public Conference and Opportunity to Comment, May 16, 2022.

SFE Energy Maryland, Inc. and StateWise Energy Maryland (jointly “SFE Energy”) filed joint comments, as did the Retail Energy Supply Association with NRG Energy, Inc. (jointly “RESA”). Other parties submitting comments were the Cancer Support Foundation, Montgomery County, the National Consumer Law Center (“NCLC”), and the Energy Supplier Reform Coalition (“Coalition”). The Commission Technical Staff (“Staff”) filed recommendations.

### **Stakeholder comments and recommendations**

#### **A. OPC**

6. OPC’s proposed regulations for implementing Chapter 637 would allow retail suppliers to file an application for Commission approval and would require that an application include “a copy of all contracting materials that will be used.”<sup>3</sup> Under OPC’s proposal, the Commission could approve applications subject to any conditions deemed appropriate, including that the supplier identify the energy assistance-approved offer as distinct from other supply products.<sup>41</sup>

7. OPC’s proposed regulations also would require utilities to create screening procedures to prevent enrollment of energy assistance households by unapproved retail suppliers.<sup>5</sup>

#### **B. The Utilities**

8. The Joint Exelon Utilities proposed that the Commission establish a working group to provide recommendations on a series of issues, including the offer approval

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<sup>3</sup> OPC Proposed Regulations at 5, 13.

<sup>4</sup> *Id.*

<sup>5</sup> OPC’s comments, however, did not make specific recommendations for how this should be accomplished.

process as well as how and what information about energy assistance households will be communicated, and to whom.<sup>6</sup>

9. The Joint Exelon Utilities and Potomac Edison both argued that OPC’s proposal unfairly places the burden and cost of enforcing the statute on utilities rather than suppliers.

10. Washington Gas stated that, in order for both the utilities and the retail suppliers to be aware of a household’s energy assistance status, the utilities will need to add a flag to an energy assistance household’s account at the time they are enrolled by a supplier. According to Washington Gas, adding this flag would require a “Change Control” meeting to establish a new rejection code, track rejected enrollments, enhance the daily transaction report, and create a new report to track data for the annual report, at a minimum.<sup>7</sup>

11. Washington Gas recommended that because of the limitations in utility databases and the timing of energy assistance enrollments, the Office of Home Energy Programs (“OHEP”) is better suited to inform suppliers of which households are energy assistance households subject to the statute’s offer restrictions. The Joint Exelon Utilities also recommended that OHEP, not utilities, should provide data on customers to suppliers.

### **C. SFE Energy**

12. SFE Energy advocated for clear parameters for compliant supply offers and supporting documentation to help minimize the documentation required for each individual request and recommended that the Commission implement a “streamlined”

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<sup>6</sup> Joint Exelon Utilities Comments at 2-3.

<sup>7</sup> Washington Gas Comments at 3.

administrative process for approval.<sup>8</sup> It also suggested that any concerns that arise with an application should be communicated to the supplier, who should then receive adequate time to supplement or clarify the cause of the concerns before the Commission makes a final decision to approve or deny the supplier's application.<sup>9</sup> SFE Energy proposed that a supplier submit a filing "evincing its commitment to adhere to the product requirements."<sup>10</sup>

13. SFE Energy stated that household energy assistance status is private information and should not be widely shared.<sup>11</sup> It argued that the most straightforward way to identify energy assistance households is to require utilities to place blocks on those customers' accounts. For supply contracts existing before July 1, 2023, supply would continue for the duration of the contract, and the block on the account would prevent the customer from switching to a different, non-approved supplier during the existing contract term and after its expiration. For new contracts entered into after July 1, 2023, the block would prevent enrollment in non-approved offers. SFE Energy proposed that these account blocks would be removed promptly once a household stops receiving energy assistance and after the block has been on the account for 12 months, and suppliers with approved offers would have a specific code for the EDI enrollment transaction that would serve as verification that the supplier has an approved offer. Additionally, during supplier marketing, if a customer "affirmatively indicates" that they currently receive or

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<sup>8</sup> SFE Energy Comments at 2.

<sup>9</sup> *Id.* at 2-3.

<sup>10</sup> *Id.* at 2.

<sup>11</sup> SFE Energy Comments at 7.

have received energy assistance in the previous fiscal year, a supplier should end the sale if the supplier does not have an approved offer.<sup>12</sup>

#### **D. RESA**

14. RESA suggested that the Commission issue an order identifying how suppliers can apply for Commission approval, including confirmation of what information is needed in the applications.<sup>13</sup> RESA recommended that the application be posted on the Commission's website and that the Commission send suppliers notice of the order along with specific instructions for how to apply for approval. RESA's proposed application materials include a description of the offer, its key terms, and a copy of the contract summary and of the contract itself.

15. RESA disagreed with OPC's recommendation that the application include submission of all marketing, enrollment, and related materials, arguing that suppliers will not begin developing marketing materials until *after* they receive Commission approval.<sup>14</sup>

16. RESA proposed that the Commission start accepting applications in January 2023 and approve or deny applications within 30 days to allow suppliers sufficient time to begin marketing approved offers and communicate upcoming changes to supply to customers before the July 1, 2023, effective date.

17. RESA stated that, at present, retail suppliers do not know a customer or household's energy assistance status.<sup>15</sup> In order to help prevent customer confusion and what it describes as a "reverse" slam in July 2023, RESA recommended that the

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<sup>12</sup> *Id.* at 7-8.

<sup>13</sup> RESA Comments at 12-13.

<sup>14</sup> *Id.*

<sup>15</sup> RESA Comments at 7.

Commission direct utilities to provide suppliers with information as soon as possible to help identify which households receive energy assistance. RESA suggested that four sets of information should be shared: current enrolled customers (sync lists); whether households that were enrolled between the present and July 1, 2023, receive energy assistance; which households currently on SOS receive energy assistance; and which households enroll or stop enrollment in energy assistance programs on an ongoing basis.

18. RESA outlined a set of four potential mechanisms for how utilities can share energy assistance history and status with suppliers, based in part on the Pennsylvania Public Utility Commission's experience implementing a similar program.<sup>16</sup>

19. First, utilities could add energy assistance participation to existing sync lists, which provide suppliers with information relating to their customers and are updated every month. RESA suggested that if sync lists are used as a way to share customer information, they should be updated weekly, beginning as soon as possible so suppliers can identify current energy assistance households and prepare to transition them before July 1, 2023, as necessary.

20. Second, utilities could update enrollment flags on applicable EDI and XML transactions to include information regarding a household's energy assistance status, including the most recent date the household received energy assistance, when suppliers submit enrollment transactions for new customers. In RESA's view, this will be necessary to implement shopping restrictions, allowing the utility to reject an incidental non-approved enrollment and send the supplier a notification via the EDI or XML identifying energy assistance status as the reason for the rejection.

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<sup>16</sup> *Id.* at 7, 13-16.

21. Third, utilities could produce an energy assistance household list and provide it to suppliers to help them avoid making ineligible offers. The proposed energy assistance household lists would be updated weekly and, at a minimum, include the account name, the billing and service addresses, the utility account and choice ID numbers, energy assistance status, and the date of the last energy assistance received. RESA contended that this customer information is necessary so that suppliers know they are not inadvertently enrolling energy assistance households who will need to be dropped, which also helps to avoid customer confusion by minimizing supply changes.

22. Fourth, pre-enrollment information should be updated to include energy assistance status. Unlike the other mechanisms outlined by RESA, updating pre-enrollment information would require amending the Code of Maryland Regulations.

#### **E. Commission Staff**

23. Staff recommended that the Commission post a form on its website to allow suppliers to demonstrate that their offers qualify for approval with rates below standard offer service (“SOS”) or gas commodity rate.<sup>17</sup> Staff’s proposed application form<sup>18</sup> requires a supplier to list each service territory in which it will provide the energy assistance offer; the SOS or gas commodity price for each period throughout the term of the contract; and a complete copy of the current or application contract, including proof that rates will be charged at or below the SOS or gas commodity rate. As part of the approval process, Staff would review each contract and would allow suppliers to keep their contracts confidential if requested. Suppliers would all utilize the same application

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<sup>17</sup> Staff Comments at 3.

<sup>18</sup> *Id.* Attachments B & C.



form, and offers would be approved through the Commission's standard administrative process.

24. Like RESA, Staff disagreed with OPC's proposal that all contracting materials are necessary to approve a supplier application but acknowledged that such a requirement can be added to the application at a later date if it is found to be necessary or useful.<sup>19</sup>

25. Staff noted that, currently, only the utilities, OHEP, and individual customers have information about whether a given household receives or has received energy assistance.<sup>20</sup> Staff suggested that utilities are the primary source for information about which customers receive bill assistance and that regulations could be implemented requiring this information be shared, with the customer's consent, with suppliers through pre-enrollment information. Staff also suggested that the Commission could require utilities to share household energy assistance information through individual transactions or through a secure portal and that utilities and suppliers will likely need to use electronic transactions between themselves to implement the statute. Staff noted that OHEP-based rejections are already necessary for supplier consolidated billing, and OPC's proposal for dropping or modifying supply contracts once a household begins receiving energy assistance is similar to what will happen under supplier consolidated billing in the same situation.<sup>21</sup>

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<sup>19</sup> *Id.* at 2.

<sup>20</sup> Staff Comments at 4.

<sup>21</sup> *Id.* at 5.

## **F. Other Comments**

26. The Coalition stated that the intent of Chapter 637 is that OHEP-coded accounts be serviced only through SOS or a Commission-approved retail supply offer and that communication and compliance should occur automatically at the utility level.<sup>22</sup>

27. The Cancer Support Foundation urged the Commission to implement the protections of Chapter 637 in full.

28. NCLC did not make any specific recommendations but noted that in Illinois, which has similar low-income customer protections, suppliers can apply to the Illinois Commerce Commission to offer a “savings guarantee program” that charges a lower rate than the incumbent utility, with the Commerce Commission then required to initiate a proceeding to consider the application.<sup>23</sup>

29. Montgomery County stated that it is the Commission’s role to determine the flow of information and responsibilities amongst the pertinent stakeholders.<sup>24</sup>

### **Commission Determination**

30. Having considered the stakeholder comments, the Commission finds that a rulemaking is necessary in order to implement the statutory objectives of the statute. The Commission now initiates RM 78 to consider the attached draft regulations. Comments on the proposed rules must be e-filed by October 19, 2022. The comments should be addressed to Andrew S. Johnston, Executive Secretary, Maryland Public Service Commission, William Donald Schaefer Tower, 6 St. Paul Street, 16th Floor, Baltimore, Maryland 21202. The docket number (RM 78) must appear in the subject line of the

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<sup>22</sup> Coalition Comments at 2.

<sup>23</sup> NCLC Comments at 5.

<sup>24</sup> Montgomery County Comments at 1.

cover letter or the first page of the comments. The Commission will conduct an in-person rulemaking session on October 27, 2022, beginning at 10:00 a.m. in order to consider proposed revisions. If the Commission approves proposed regulations for publication, they will be published in the *Maryland Register* for notice and comment.

31. Given the technical nature of some of the issues involved, stakeholders are encouraged to collaborate and reach agreement ahead of filing comments.

32. Staff is directed to develop a draft retail supplier application form that satisfies the requirements of the application process outlined in the attached draft regulations. This draft application form should be submitted in comments in the RM 78 process for Commission consideration and will be modified and finalized as directed by the Commission at the conclusion of the rulemaking proceedings.

33. Applications may be filed into PC 55 beginning January 1, 2023. With a single location to review and inventory all potential contracts for energy assistance households stakeholders will have a central location to easily access all Commission-approved supply offers. The Commission will schedule hearings on applications as part of its weekly administrative meetings.

34. The Commission directs the EDI and XML working groups to develop communication capabilities that would allow a utility to provide updated energy assistance household status to suppliers for their existing customers. If this capability cannot be developed before March 1, 2023 the Commission directs each utility with customers participating in retail supply to begin providing each retail supplier servicing customers within the utility's service area a list of any enrolled customers of that supplier

meeting the regulatory definition of energy assistance household starting April 1, 2023, and provide an updated list every 30 days thereafter until the capability is functional.

35. The Commission also directs the Competitive Markets and Customer Choice working group to file with the Commission a proposed customer communications plan for informing existing and future retail supply customers impacted by the statute about coming changes. The plan should cover proposed communications changes by utilities and suppliers, and changes to the Commission's website.

36. Staff is directed to modify its contract summary form to include prohibitions on termination fees and rates above SOS for energy assistance households. Staff is further directed to: (1) coordinate with stakeholders to ensure the availability and timely transmittal of the information necessary to meet the statutory reporting requirements; and (2) to coordinate with stakeholders and develop a process for keeping stakeholders informed of which suppliers have offers that have received approval from the Commission. If Staff deems Commission input or direction necessary in completing these tasks it is directed to raise such concerns or issues in its comments filed in this rulemaking.

By Direction of the Commission

*/s/ Andrew S. Johnston*

Andrew S. Johnston  
Executive Secretary

# **Title 20 PUBLIC SERVICE COMMISSION**

## **Subtitle 51 ELECTRICITY SUPPLIERS**

### **Chapter 01 General Provisions**

**Authority: Public Utilities Article, §§2-113, 2-121, 4-308, and 7-507, Annotated Code of Maryland**

**.00 Notations** omitted, no changes

**.01 Scope** omitted, no changes

#### **.02 Definitions**

A. In this subtitle, the following terms have the meanings indicated.

##### **B. Terms Defined**

(1) "Administrator" means the person appointed as administrator for a qualified offshore wind project under COMAR 20.61.06.09.

(1-1) "Affiliate" means a person that directly or indirectly, or through one or more intermediaries, controls, is controlled by, is under common control with, or has any economic interest in another person.

##### **(2) Aggregator**

(a) "Aggregator" means an entity or an individual that acts on behalf of a customer to purchase electricity.

(b) "Aggregator" does not include:

(i) An entity or individual that purchases electricity for its own use or for the use of its subsidiaries or affiliates;

(ii) A municipal electric utility serving only in its distribution territory; or

(iii) A combination of governmental units that purchases electricity for use by the governmental units.

(3) "Applicant" means a person applying for:

*(a) an electricity supplier license; or*

*(b) approval of a contract for energy assistance households.*

(4) "Application" means a written request for:

*(a) an electricity supplier license; or*

*(b) approval of a contract for energy assistance households.*

(5) "Broker" means an entity or individual that acts as an agent or intermediary in the sale and purchase of electricity but does not take title to electricity.

(6) "Commission" means the Public Service Commission of Maryland.

(7) "Competitive billing service" means the:

(a) Invoicing for electricity supply or electricity supply services to a retail customer; and

(b) Processing of payment for electricity supply or electricity supply services to a retail customer.

*(8) "Contract for Energy Assistance Households" means a residential retail energy supply contract that meets the legal requirements to be offered to customers who are part of an energy assistance household.*

(9) "Debt service coverage" means a ratio of cash flow dedicated to pay a specific debt to the total amount of debt payments required to be made.

(10) Electric Company

(a) "Electric company" means a person that physically transmits or distributes electricity in the State to a retail electric customer.

(b) "Electric company" does not include:

(i) An owner/operator that holds ownership in and manages the internal distribution system serving a building and supplies electricity and electricity supply services solely to occupants of the building for use by occupants;

(ii) A lessee/operator that holds a leasehold interest in and manages the internal distribution system serving a building and supplies electricity and electricity supply services solely to occupants of the building for use by occupants;

(iii) Any person that generates on-site generated electricity; or

(iv) A person that transmits or distributes electricity within a site owned by the person or person's affiliate that is incidental to a primary landlord-tenant relationship.

(11) Electricity Supplier

(a) "Electricity supplier" means a licensed person that:

(i) Sells electricity, electricity supply services, competitive billing services, or competitive metering services; or

(ii) Purchases, brokers, arranges, or markets electricity or electricity supply services for sale to a retail electric customer.

(b) "Electricity supplier" includes an electric company, an aggregator, a broker, and a marketer of electricity, including by means of supplier-consolidated billing.

(c) "Electricity supplier" does not include:

(i) An owner/operator that holds ownership in and manages the internal distribution system serving a building, and supplies electricity and electricity supply services solely to occupants of the building for use by the occupants;

(ii) A lessee/operator that holds a leasehold interest in and manages the internal distribution system serving a building, and supplies electricity and electricity supply services solely to occupants of the building for use by the occupants; or

(iii) A person that generates on-site generated electricity.

(12) "Electricity supply services" means the retail procurement of:

(a) An electricity supplier;

(b) Metering, billing, including supplier-consolidated billing under Subtitle 53 of this title or meter data management services; or

(c) Other competitive services traditionally provided by an electric company.

*(13) "Energy Assistance Program" means the following programs administered by the Office of Home Energy Programs:*

*(a) The Maryland Energy Assistance Program;*

*(b) The Electric Universal Service Program; and*

*(c) The Arrearage Retirement Assistance Program.*

*(14) "Energy Assistance Household" means that the Office of Home Energy Programs found the service address associated with the utility account qualified for an energy assistance program during the current or previous fiscal year.*

*(15) "Fiscal Year" means the 12 month period between July 1 and June 30 of the following calendar year.*

(16) "Independent system operator" means an entity authorized by the Federal Energy Regulatory Commission to control a regional transmission grid.

(17) "License" means the authority granted by the Commission to a person to do business as an electricity supplier.

(18) "Marketer" means a person that purchases and takes title to electricity as an intermediary for sale to a customer.

(19) "Negative stockholders' equity" means total assets are less than the sum of total liabilities, preferred stock, and intangibles.

(20) "Net income" means sales less costs incurred from operations.

(21) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind, partnership, firm, association, corporation, or other entity.

(22) "Positive current working capital" means current assets exceed current liabilities.

(23) "Positive stockholders' equity" means total assets exceed the sum of total liabilities, preferred stock, and intangibles.

(24) "Regional transmission operator" means a person that performs the same transmission system coordination functions as an independent system operator.

(25) Retail Electric Customer

(a) "Retail electric customer" means a purchaser of electricity for end use in the State.

(b) "Retail electric customer" does not include:

(i) An occupant of a building in which the owner/operator or lessee/operator manages the internal distribution system serving the building and supplies electricity and electricity supply services solely to occupants of the building for use by the occupants; and

(ii) A person that generates on-site generated electricity, to the extent the on-site generated electricity is consumed by that person or its tenants.

*(26) "Standard Offer Service" has the meaning stated in Public Utilities Article, §7-501, Annotated Code of Maryland.*

(27) "Supplier-consolidated billing (SCB)" means a form of competitive billing service in which a gas or electricity supplier is authorized by the Commission to render a bill to a retail gas



or electric customer that includes both the supplier charges and the gas or electric company's regulated charges.

(28) "System transmission operator" means a person that performs the same transmission system coordination functions as an independent system operator.

# **Title 20 PUBLIC SERVICE COMMISSION**

## **Subtitle 51 ELECTRICITY SUPPLIERS**

### **Chapter 02 Administrative Provisions**

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

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|-----|------------------------------|---------------------|
| .01 | Electricity License Required | omitted, no changes |
| .02 | Application Requirements     | omitted, no changes |
| .03 | Number of Copies; Service    |                     |

A. An applicant shall file ~~an original and 14 copies of~~ application with the Commission.

B. In addition to filing the application with the Commission, the applicant shall simultaneously provide a copy of the completed application to the Maryland Office of People's Counsel, along with the supporting documentation and any supplemental or updated information.

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|-----|---|---------------------|
| .04 | Material Changes in Application Information | omitted, no changes |
| .05 | Fees  | omitted, no changes |
| .06 | Accuracy of Information                     | omitted, no changes |
| .07 | Classification of Information               | omitted, no changes |
| .08 | Financial Integrity                         | omitted, no changes |
| .09 | Granting a License                          | omitted, no changes |

#### ***New Section***

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

***A. 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. An electricity supplier applying for approval of a contract for energy assistance households shall file an application on a form provided by the Commission.***

***1. The application shall include:***

- i. *Identity of the applicant;*
- ii. *Service territories and commodities applied for;*
- iii. *Description of the price a customer will pay, as it will appear on the customer contract;*
- iv. *For any months where the utility standard offer service rate is not known at the time of application, a description of how the supplier will ensure that the contract for energy assistance households remains at or below the utility standard offer service rate; and*
- v. *A commitment for the entirety of the term of the supply contract to charge at or below the utility standard offer service rate.*

## **Title 20 PUBLIC SERVICE COMMISSION**

### **Subtitle 53 COMPETITIVE ELECTRICITY SUPPLY**

#### **Chapter 01 General**

**Authority: Public Utilities Article, §§2-113, 2-121, 4-308, 5-101, 7-505, 7-507, 7-511, and 7-603, Annotated Code of Maryland**

#### **.01 Scope**

omitted, no changes

#### **.02 Definitions**

A. In this subtitle, the following terms have the meanings indicated.

##### **B. Terms Defined**

##### **(1) Agent**

(a) “Agent” means a person who conducts marketing or sales activities, or both, on behalf of a licensed supplier or broker.

(b) “Agent” includes:

(i) An employee;

(ii) A representative;

(iii) An independent contractor;

(iv) A vendor;

(v) Subcontractors;

(vi) Employees;

(vii) Vendors; and

(viii) Representatives not directly contracted by the supplier who conduct marketing or sales activities on behalf of the supplier.

(2) “CAD” means the Consumer Affairs Division within the Commission pursuant to COMAR 20.32.01.02B(2).

(3) “Commission” means the Public Service Commission of Maryland.

(4) “Consent” means an agreement with an action communicated by the following:

(a) A written document with customer signature;

(b) An electronic document with electronic signature; or

(c) A voice recording only if the agreement is exempt under the Maryland Telephone Solicitations Act.

(5) “Consumer” or “customer” means the regulated utility retail electric customer account holder.

*(6) “Contract for energy assistance household” means a residential retail energy supply contract that meets the legal requirements to be offered to customers who are part of an energy assistance household.*

(7) “Contract Summary” means a summary of the material terms and conditions of a retail energy supply contract, on a form provided by the Commission.

(8) “Customer choice” has the meaning stated in Public Utilities Article, §7-501, Annotated Code of Maryland.

(9) “Drop” means the removal of a customer from a supplier's service.

(10) “Electric company” has the meaning stated in Public Utilities Article, §1-101, Annotated Code of Maryland.

(11) “Electricity supplier” or “supplier” means a person licensed under COMAR 20.51.

(12) “Electronic transaction” means a standardized data protocol or electronic transmission medium that has been accepted by the Commission for use in Maryland.

*(13) “Energy Assistance Program” means the following programs administered by the Office of Home Energy Programs:*

*(a) the Maryland Energy Assistance Program;*

*(b) the Electric Universal Service Program; and*

*(c) The Arrearage Retirement Assistance Program.*

*(14) “Energy Assistance Household” means that the Office of Home Energy Programs found the service address associated with the utility account qualified for an energy assistance program during the current or previous fiscal year.*

(15) “Enrollment” means the addition of a customer to a supplier's service.

(16) “Evergreen contract” means an existing contract that automatically renews without any action by the customer.

*(17) “Fiscal Year” means the 12 month period between June 30 and July 1 of the following calendar year.*

(18) “Overcharge” means the difference between the price the customer would have paid the customer's authorized supplier and what the customer paid to the unauthorized supplier.

(19) “Public event” means an event open to the public, which may facilitate retail electricity sales and marketing activities or may result in an electricity customer enrollment transaction.

(20) “Scheduling coordinator” means an entity or entities:

(a) Recognized by the regional transmission organization designated for Maryland by the Federal Energy Regulatory Commission;

(b) Qualified to act on behalf of the supplier in taking those actions with the regional transmission organization as are necessary to fulfill the supplier's coordination service obligations as defined in the utility tariff, including the submission of energy schedules to the regional transmission organization; and

(c) That is:

(i) A member of the regional transmission organization; or

(ii) The agent for scheduling purposes of one or more suppliers that are members of the regional transmission organization.

(21) “Supplier-consolidated billing (SCB)” means a form of competitive billing services in which a gas or an electricity supplier is authorized by the Commission to render a bill to a retail gas or electric customer that includes both the supplier charges and the gas or electric company's regulated charges.

(22) “Supply price comparison information” means the rate and language that the Commission may require to be printed on a customer's bill to permit the customer to make meaningful comparisons between competitive supplier prices and the price for standard offer service or sales service provided by the customer's utility.

(23) “Third party verification (TPV)” means consent from the customer agreeing to each of the below-listed material contract terms that is recorded by an independent person not party to the agreement or that may be performed by an automated, computerized system. To be valid, the TPV must occur without the presence of the sales agent, and at the outset must describe how the customer can cancel the TPV at any time prior to completion. The consent from the customer must include an acknowledgement:

- (a) That he or she is voluntarily choosing to enroll with a supplier;
  - (b) Of the type of product offered (variable, fixed, a combination of both);
  - (c) Of the price and duration of the contract;
  - (d) Of the amount of an early termination fee (if applicable);
  - (e) That the customer is authorized to make the switch;
  - (f) Of the contract renewal procedures;
  - (g) That the customer may access future pricing information;
  - (h) That the customer has received the supplier’s customer support contact information;
- and
- (i) If the customer is entering into a supplier-consolidated billing contract:
    - (i) That the customer is voluntarily choosing to be billed by the supplier for both supplier charges and utility charges; and
    - (ii) That the customer understands that the customer’s previous bill pSrovider may bill the customer for prior unpaid charges.

(24) “Standard offer service (SOS)” has the meaning stated in Public Utilities Article, §7-501, Annotated Code of Maryland.

*(25) “Standard Offer Service rate” is the utility rate for a given period as approved in the utility’s applicable SOS tariff, excluding any out of period adjustments.*

(26) “Utility” means an electric company as defined in Public Utilities Article, §1-101, Annotated Code of Maryland.

(27) “Utility consolidated billing” means a customer bill produced by a utility that contains both supplier and utility charges.

## **Title 20 PUBLIC SERVICE COMMISSION**

### **Subtitle 53 COMPETITIVE ELECTRICITY SUPPLY**

#### **Chapter 03 Pre-Enrollment Information**

**Authority: Public Utilities Article, §§2-113, 2-121, ~~4-308~~, 5-101, 7-505, 7-507, 7-511, and 7-603, Annotated Code of Maryland**

##### **.01 Supplier Customer Consent – Pre-Enrollment**

omitted – no change

##### **.02 Pre-Enrollment Information**

A. On request of a supplier, a utility shall provide the following applicable customer information:

(1) Account name;

(2) Billing address;

(3) Service address;

(4) Utility account number and any other number designated by the utility as necessary to process an enrollment;

(5) Bill cycle;

(6) Voltage level;

(7) Utility rate class or code;

*(8) Energy Assistance Household status;*

(9) Load profile;

(10) Meter number;

(11) Meter type;

(12) Multiple meter indicator;

(13) Peak load contribution;

(14) Metered demand;

(15) Billed demand;



- (16) Monthly historical demand for the previous 12 months;
- (17) Monthly historical consumption for the previous 12 months;
- (18) Monthly time-of-use data for the previous 12 months; and
- (19) Interval meter data for the previous 12 months.

B. A utility shall provide the information in §A of this regulation to a supplier through an electronic transaction approved by the Commission.

## **Title 20 PUBLIC SERVICE COMMISSION**

### **Subtitle 53 COMPETITIVE ELECTRICITY SUPPLY**

#### **Chapter 04 Transfers of Service**

**Authority:** Public Utilities Article, §§2-113, 2-121, 4-308, 5-101, 7-505, 7-507, 7-511, and 7-603, Annotated Code of Maryland

##### **.02 Supplier Enrollment and Drops**

A. A supplier may enroll or drop a customer by sending the appropriate electronic enrollment or drop transaction to the utility.

B. Effective Dates. A utility shall process an electronic enrollment or drop from a supplier to be effective within 3 business days after receipt of the electronic transaction.

C. The utility shall drop a customer from its current supplier when another supplier enrolls the customer.

D. A utility shall assign a customer who has been dropped by a supplier and not enrolled by another supplier to SOS.

E. A utility may not be required to process more than two enrollments and two drops per customer per bill cycle.

F. A supplier may not require that a customer provide it with advance notice, written or otherwise, before the customer switches to another supplier or to SOS.

G. A utility shall reject a customer's enrollment into supplier-consolidated billing if, at the time of switch, the customer:

(1) Has a regulated electric utility arrearage older than 30 days;

(2) Is on a payment arrangement plan with the utility; or

(3) Has applied for or is receiving funds from the Office of Home Energy Programs, including but not limited to, payments authorized as part of the Electric Universal Service Program or Maryland Energy Assistance Program or enrolled into the Utility Service Protection Program.

*H. A utility shall reject a customer's enrollment with a supplier if, at the time of switch:*

*(1) the customer is an energy assistance household; and*

*(2) the supplier does not have a Commission approved contract for energy assistance households.*

I. The supplier shall inform the customer if a customer's enrollment is rejected for the reasons specified in §G or §H of this regulation.

J. Customer Who Starts to Receive Energy Assistance While on Supplier-Consolidated Billing.

(1) The utility shall provide a supplier 3 business days notice if a supplier's customer on supplier-consolidated billing receives a Maryland Energy Assistance Program or Electric Universal Service Program grant.

(2) The utility shall drop a customer from supplier-consolidated billing to SOS after sending the supplier notice under this regulation if the supplier continues to provide the customer supplier-consolidated billing service after 3 business days.

(3) A supplier may change a customer's billing method adhering to COMAR 20.53.05.08 within 3 business days of receipt of the utility notice provided in §I(1) of this regulation, provided that the supplier issues the notices required by COMAR 20.53.05.08B after the change in billing method.

*K. Customer Who Starts to Receive Energy Assistance While Receiving Service from an Electric Supplier.*

*(1) When a utility determines that a supplier's existing customer is newly identified as an energy assistance household, the utility shall within 3 business days provide the supplier notice of that determination.*

*(2) If the supplier has a Commission approved contract for energy assistance households:*

*(a) Within 3 business days of receiving the utility notice, the supplier shall provide a cancellation notice to the customer pursuant to COMAR 20.53.07.10;*

*(b) As part of the cancellation notice, the supplier may include a solicitation for the customer to enroll in a Commission approved contract for energy assistance households;*

*(b) Within 15 business days of receiving the utility notice, the supplier shall drop the customer unless the supplier receives the customer's consent to receive service under a Commission approved contract for energy assistance households and notifies the utility of the new enrollment; and*

*(d) If the utility does not receive either notice of a new enrollment to a Commission approved contract for energy assistance households or a drop transaction within 21 business days of providing notice to the supplier, the utility shall drop the customer from the supplier and enroll them onto SOS.*

*(3) If the supplier does not have a Commission approved contract for energy assistance customers:*

*(a) Within 3 business days of receiving the utility notice, provide a cancellation notice to the customer pursuant to COMAR 20.53.07.10; and*

*(b) If the utility does not receive a drop transaction within 3 business days of providing notice to the supplier, the utility shall drop the customer from the supplier and enroll them onto SOS.*

## **Title 20 PUBLIC SERVICE COMMISSION**

### **Subtitle 53 COMPETITIVE ELECTRICITY SUPPLY**

#### **Chapter 07 Residential Customer Protection**

**Authority:** Public Utilities Article, §§2-113, 2-121, *4-308*, 5-101, 7-505, 7-507, 7-511, and 7-603, Annotated Code of Maryland

**.01 Scope** omitted, no change

#### **.02 Disclosure of Customer Information**

A. Except as provided in §B of this regulation, a supplier may not disclose a customer's billing, payment, *energy assistance household status*, and credit information without the customer's consent.

B. A supplier may disclose a customer's billing, payment, and credit information for the sole purpose of facilitating billing, bill collection, and credit reporting.

C. A supplier shall provide a customer with a copy of the supplier's customer information privacy policy.

**.03 Creditworthiness** omitted, no change

**.04 Geographic Marketing** omitted, no change

#### **.05 Unauthorized Enrollment or Service**

A. A supplier may not enroll a customer without the customer's consent.

B. A supplier may not add a new charge for a new service, existing service, or service option without first obtaining consent from the customer, verifiable to the same extent and using the same methods specified for contracting under Regulation .08 of this chapter.

*C. A supplier may not charge an energy assistance household for supply services unless those charges are for a Commission-approved contract for energy assistance households.*

#### D. Enrollment Disputes.

(1) A customer alleging a violation of this regulation may file a dispute with the Commission's Consumer Affairs Division.

(2) Upon proof of the allegations, that an enrollment was unauthorized, the Commission's Consumer Affairs Division (CAD) may order the supplier to issue a refund to the customer in an amount, determined by CAD, intended to hold the customer harmless relative to the price the customer would have paid had the unauthorized enrollment not occurred.

(a) If the charges have been billed by and the receivable purchased by the utility, the refund determined by CAD shall be remitted to the utility by the supplier. The refund determined by CAD shall be applied to the customer's utility account current balance and the excess returned to the customer upon request. If the customer is no longer served by the utility, then the refund shall be returned to the customer.

(b) Upon purchase of any receivable under this section, the utility shall be entitled to collect from the customer, and the customer shall be responsible to pay the utility the total amount billed less any refund determined by CAD.

#### (c) CAD-Directed Refund Under Supplier-Consolidated Billing.

(i) If CAD determines that a refund of regulated electric utility charges is warranted and the supplier has purchased those receivables from the utility, then the utility shall issue a refund to the supplier for the amount purchased.

(ii) A refund received by a supplier under §C(2)(c)(i) of this regulation shall be refunded to the customer by the supplier.

(iii) If CAD determines that a refund of supply charges is warranted, the supplier shall issue the refund to the customer.

E. This regulation does not limit the authority of the Commission under Public Utilities Article, §7-507(k), Annotated Code of Maryland.

#### **.06 Termination**

omitted, no change

#### **.07 Advertising and Solicitations**

##### A. Advertising Permitted

(1) A supplier may advertise its services.

(2) A supplier may not engage in a marketing or trade practice that is unfair, false, misleading, or deceptive.

*(3) A supplier may not market an offer to energy assistance households unless it is a Commission approved contract for energy assistance households.*

*(a) A supplier must make reasonable efforts to determine whether a customer lives in an energy assistance household during solicitations.*

## B. Disclosures

(1) All supplier marketing or solicitation information, including that used by its agents or employees, shall include the supplier's Maryland license number in a clear and conspicuous manner.

(2) If a price is quoted, the following statements are required:

(a) The price quoted is only for the specified commodity provided by the supplier;

(b) The price quoted does not include any tax, utility distribution charge, or other utility fee or charge;

*(c) An energy assistance household cannot be charged more than the utility's standard offer service rate; and*

(d) The supplier's price is not regulated by the Commission.

## C. Internet

(1) Internet Advertising. A supplier shall post on the Internet:

(a) Readily understandable information about its services, prices, and emissions; and

(b) A description of its supplier-consolidated billing offering, including a sample bill, if the supplier is licensed to provide supplier-consolidated billing services and is offering supplier-consolidated billing services.

(2) Commission Website.

(a) Suppliers shall submit open offers to the Commission's website according to instructions provided by the Commission; *and*

(b) In the event of a discrepancy between a supplier's open offer posted on the Commission's website and the supplier's corresponding open offer displayed on the supplier's website, the supplier shall honor the terms that are more favorable to the customer.

#### D. Telephone Solicitation

(1) A supplier soliciting customers by telephone shall comply with all applicable State and federal law, including the Maryland Telephone Solicitations Act, Commercial Law Article, §§14-2201—14-2205, Annotated Code of Maryland.

(2) A supplier may not conduct a residential customer telephone solicitation before 8 a.m. or after 9 p.m.

#### **.08 Supplier Contracts.**

##### A. Minimum Contract Requirements

(1) Only a person licensed under COMAR 20.51 may execute an electricity supply contract with a customer.

(2) A supplier contract shall contain all material terms and conditions, including:

(a) A list and description of the contract services;

(b) A statement of minimum use requirements, if any;

(c) A description of any time-of-use restrictions, including the time of day or season;

(d) A clear and concise price description of each service, including, but not limited to, any condition of variability or limits on price variability;

(i) if there is a limit on price variability, such as a specific price cap, a maximum percentage increase in price between billing cycles or minimum/maximum charges per kilowatt-hour for electricity during the term of the contract, the supplier shall clearly explain applicable limits; *and*

(ii) if there is not a limit on price variability, the supplier shall clearly and conspicuously state that there is not a limit on how much the price may change from one billing cycle to the next.

(e) A notice that the contract does not include utility charges;

(f) A billing procedure description explicitly identifying the billing method that will be used by the supplier;



(g) A notice that the customer acknowledges that customer billing and payment information may be provided to:

(i) The supplier if the customer receives utility-consolidated billing services; or

(ii) The utility if the customer receives supplier-consolidated billing services.

(h) The frequency of the customer's bill, if the customer receives supplier-consolidated billing services;

(i) The method by which the customer will receive the bill from the supplier if the customer receives supplier-consolidated billing;

(j) A statement of contract duration, including the initial time period and any rollover provision;

(k) A deposit requirement, if any, including:

(i) The amount of the deposit;

(ii) A description of when and under what circumstances the deposit will be returned;

(iii) A description of how the deposit may be used; and

(iv) A description of how the deposit will be protected;

(l) A description of any fee or charge and the circumstances under which a customer may incur a fee or charge;

(m) A statement that the supplier may terminate the contract early, including the:

(i) Circumstances under which early cancellation by the supplier may occur;

(ii) Manner in which the supplier shall notify the customer of the early cancellation of the contract;

(iii) Duration of the notice period before early supplier cancellation; and

(iv) Remedies available to the customer if early cancellation occurs;

- (n) A statement that the customer may terminate the contract early, including the:
  - (i) Circumstances under which early cancellation by the customer may occur;
  - (ii) Manner in which the customer shall notify the supplier of the early cancellation of the contract;
  - (iii) Duration of the notice period before early cancellation;
  - (iv) Remedies available to the supplier if early cancellation occurs;
  - (v) Amount of any early cancellation fee; *and*
  - (vi) A statement that the supplier cannot charge a termination fee to energy assistance households.*
- (o) A statement describing contract renewal procedures, if any;
- (p) A statement describing how the customer may access future pricing information;
- (q) A dispute procedure;
- (r) A statement that energy assistance households cannot be charged more than the utility's standard offer service rate; and*
- (s) The Commission's toll-free number and Internet address.

## B. Contract Summary

- (1) At the time of completion of the contracting process, a supplier shall provide the customer a copy of the executed contract and completed Contract Summary on the form provided by the Commission.
- (2) If the contract is completed through telephone solicitation, the supplier shall send the Contract Summary to the customer along with the contract that must be signed by the customer and returned as required by the Maryland Telephone Solicitations Act. If the contract is exempt from the Maryland Telephone Solicitations Act, the supplier shall send the Contract Summary with the contract to the customer.
- (3) If the contract is completed through the Internet, the Contract Summary shall be:
  - (a) Available online and made available for download by the customer at the time of contracting; and
  - (b) Shall be transmitted to the customer by the supplier by mail or by email if the customer consents to receipt of email disclosures.

(4) If the contract is completed in person, the contract and the Contract Summary shall be reviewed with and provided to the customer by the supplier in hard copy or electronically, and the executed contract and Contract Summary provided to the customer at the time of contracting in hard copy or electronically if the customer consents to electronic disclosures.

### C. Methods of Contracting

(1) A supplier may not enroll a customer using a process that does not require affirmative confirmation by the customer.

(2) If a supplier solicitation is in writing or a supplier contract is provided in response to documents submitted upon personal contact, a signed contract is required.

#### (3) Internet Contracts

(a) A supplier that contracts with a customer by means of the Internet shall:

- (i) Confirm the identity of the person making the contract;
- (ii) Comply with applicable Maryland and federal law; and
- (iii) Take appropriate steps to safeguard customer privacy.

(b) A supplier that sends a contract over the Internet to a valid email address of the contracting customer is considered to have complied with §B(3)(a)(i) of this regulation.

#### (4) Telephone Contracts

(a) A supplier may contract with a customer through a telephone solicitation.

(b) In the event a supplier is contracting with a customer as a result of a telephone solicitation that is exempt from all applicable State and federal law, including the Maryland Telephone Solicitations Act, Commercial Law Article, §§14-2201—14-2205, Annotated Code of Maryland, a supplier shall:

- (i) Comply with this regulation;
- (ii) Confirm that customer questions relating to the contract are answered;
- (iii) Confirm that an independent third party verifies the contract or records the entire telephone conversation and maintains the recording for the duration of the contract;

(iv) Mail or otherwise transmit to the customer a complete written contract within 3 business days of the contracting conversation; and

(v) Disclose all material contract terms and conditions to the customer over the telephone.

(c) A supplier that sends a contract over the Internet to a valid email address of the contracting customer is considered to have complied with §B(4)(b)(iv) of this regulation.

#### D. Evergreen Contracts

(1) A supplier shall provide a customer with a notice of the pending renewal of an evergreen contract 45 days before the automatic renewal is scheduled to occur.

(2) The supplier notice required under §C(1) of this regulation shall:

(a) Provide a clearly stated and highlighted notice to a customer of any changes in the material terms and conditions of the agreement;

(b) Inform the customer how to terminate the contract without penalty;

(c) Inform the customer that terminating the evergreen contract without selecting another supplier will return the customer to utility commodity service; and

(d) Inform the customer how to access the customer's rate for the next billing cycle in accordance with 20.53.07.13.

(3) A clear and concise price description of each service, including, but not limited to, any condition of variability or limits on price variability.

(a) If there is a limit on price variability, such as a specific price cap, a maximum percentage increase in price between billing cycles or minimum/maximum charges per kilowatt-hour for electricity during the term of the contract, the supplier shall clearly explain applicable limits; *or*

(b) If there is not a limit on price variability, the supplier shall clearly and conspicuously state that there is not a limit on how much the price may change from one billing cycle to the next.

(4) A supplier that provides supplier-consolidated billing services may transmit the notice required in §D(1) of this regulation with the customer's bill if the notice is also provided in a separate mailing.

(5) If the supplier includes with a customer's bill the notice of pending renewal required in §D(1) of this regulation, the notice shall be prominently displayed.

(6) *A supplier may not renew a contract for an energy assistance household unless the renewal is a Commission approved contract for energy assistance households.*

## **.09 Customer Disclosure**

omitted, no changes

## **.10 Notice of Contract Expiration or Cancellation**

A. Notice. Except as permitted in §D *and §G* of this regulation, a supplier shall provide the customer with notice at least 30 days before expiration or cancellation of a supply contract.

B. Contents of Notice. The supplier's expiration or cancellation notice required under §A of this regulation shall include:

(1) Final bill payment instructions;

(2) A statement informing the customer that, unless the customer selects a new service provider, cancellation of the contract shall return the customer to the utility; and

(3) The toll free telephone number and the web site address of the Commission.

### **C. Early Cancellation**

(1) Notice of early cancellation by the supplier shall comply with §B of this regulation.

(2) Early Cancellation Fee.

(a) A supplier may impose a reasonable early cancellation fee if a customer cancels the contract before the expiration date;

(b) A supplier may deduct a cancellation fee from a customer deposit; *and*

*(c) A supplier may not impose a cancellation fee on an energy assistance household.*

(3) Except as provided in *COMAR 20.53.04.02, or* a tariff regarding supplier default, a utility may remove a customer from supplier services only if directed by a supplier, subject to applicable bankruptcy law.

(4) When a supplier contracts with a customer, the newly contracting supplier shall notify the customer that the customer may incur early cancellation penalties under a current supplier contract.

### **D. Drop for Nonpayment Under Supplier-Consolidated Billing**

(1) A supplier providing supplier-consolidated billing services shall provide a nonpaying customer a minimum notice of 5 days before cancellation of the customer's contract.

(2) A supplier's notice to a nonpaying customer shall include the information in §B of this regulation and the following:

- (a) The total amount due;
- (b) The date by which the payment is due to the supplier;
- (c) The date on or after which the supplier will transmit the drop request to the utility if payment is not received; and
- (d) The telephone number at which the supplier representatives who handle payment arrangements, payment plans, and customer complaints may be reached.

E. A supplier that provides supplier-consolidated billing services may transmit the notice required in §A or D of this regulation with the customer's bill.

F. The supplier shall provide a notice required by §E of this regulation in a prominent manner.

#### *G. Cancellation of Contract for Customers Who Start Receiving Energy Assistance*

*(1) A supplier which receives notice from the Utility that a customer is newly identified as an energy assistance household shall provide notice to the customer within 3 business days.*

*(2) The Notice shall inform the customer that:*

*(a) The supplier can no longer serve the customer under their existing contract under PUA 4-308;*

*(b) That unless the customer selects a new service provider with a Commission approved contract for energy assistance households, cancellation of the contract shall return the customer to the utility's standard offer service;*

*(c) That the supplier cannot charge a termination or early cancellation fee; and*

*(d) The toll-free telephone number and the web site address of the Commission.*

*(3) If the supplier has a Commission approved contract for energy assistance households the supplier may include in the notice:*

*(a) The commission approved contract for energy assistance households, including the contract summary, all terms and conditions; and*

*(b) Instructions for the customer to provide consent to receive service under the Commission approved energy assistance household.*

**.11 Rescission Period**

omitted, no changes

**.12 Assignment of Contract**

omitted, no changes

**.13 Notice of Change in Rate**

omitted, no changes

***.14 Energy Assistance Households***

***NEW***

*A. An energy assistance household may only be enrolled by a supplier onto a Commission approved contract for energy assistance households.*

*(1) When a utility receives a supplier enrollment the utility shall determine the customer's energy assistance household status and reject the enrollment if the supplier does not have a Commission approved contract for energy assistance households.*

*(i) The utility shall record the number of rejected enrollments and provide annual reporting to the Commission.*

***B. Contracts for Energy Assistance Households***

*(1) A contract for energy assistance households must guarantee service at rates at or below the utility's SOS rate for each month of the entirety of the term of the supply contract.*

*(2) The standard offer service rate is the rate listed in the utility's standard offer service tariff.*

*(a) This rate does not need to account for out of period adjustments;*

*(b) For billing periods which extend over more than one SOS rate the rate for comparison will be the weighted average based on the number of days on each SOS rate; and*

*(c) The retail supplier's rate for comparison will include all commodity charges, including fixed charges divided by the kWh consumed.*

*C. If a supplier charges a customer in an energy assistance household pursuant to a contract that is not a Commission approved contract for energy assistance households the customer is entitled to remedies as defined in §D.*

***D. Customer Remedies***

*(1) Customer Remedies for a violation of §B of this subchapter shall be a refund of monies paid during a billing period where the supplier charged more than the standard offer service rate.*

*(a) The refund shall be calculated as the difference between the monies paid during the billing period and the standard offer service rate during that period.*

**.9999 Administrative History**

omitted, no changes



# **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**

#### **.01 Scope**

omitted, no changes

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

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Affiliate" means a person that directly or indirectly, or through one or more intermediaries, controls, is controlled by, is under common control with, or has any economic interest in another person.

(2) Aggregator.

(a) "Aggregator" means an entity or an individual that acts on behalf of a customer to purchase gas.

(b) "Aggregator" does not include:

(i) An entity or individual that purchases gas for its own use or for the use of its subsidiaries or affiliates;

(ii) A municipal gas utility serving only in its distribution territory; or

(iii) A combination of governmental units that purchases gas for use by the governmental units.

(3) "Applicant" means a person applying for:

*(a) a gas supplier license; or*

*(b) approval of a contract for energy assistance households.*

(4) "Application" means a written request for:

*(a) a gas supplier license; or*

*(b) approval of a contract for energy assistance households.*

(5) "Broker" means an entity or individual that acts as an agent or intermediary in the sale and purchase of gas but does not take title to the gas.

(6) "Commission" means the Public Service Commission of Maryland.

(7) "Competitive billing service" means the:

- (a) Invoicing for gas supply or gas supply services to a retail customer; and
- (b) Processing of payment for gas supply or gas supply services to a retail customer.

*(9) "Contract for Energy Assistance Households" means a residential retail energy supply contract that meets the legal requirements to be offered to customer who are part of an energy assistance household.*

*(10) "Energy Assistance Program" means the following programs administered by the Office of Home Energy Programs:*

- (a) The Maryland Energy Assistance Program*
- (b) The Electric Universal Service Program; and*
- (c) The Arrearage Retirement Assistance Program.*

*(11) "Energy Assistance Household" means that the Office of Home Energy Programs found the service address associated with the utility account qualified for an energy assistance program during the current or previous fiscal year.*

*(12) "Fiscal Year" means the 12 month period between July 1 and June 30 of the following calendar year.*

(13) "Gas company" has the meaning stated in Public Utilities Article, §1-101, Annotated Code of Maryland.

(14) Gas Supplier.

(a) "Gas supplier" means a licensed person that:

- (i) Sells gas, gas supply services, or competitive billing services; or
- (ii) Purchases, brokers, arranges, or markets, including by means of supplier-consolidated billing, gas or gas supply services for sale to a retail gas customer.

(b) "Gas supplier" includes an aggregator, a broker, and a marketer of gas.

(c) "Gas supplier" does not include:

- (i) A gas company to the extent that the gas company provides gas sales or delivery service at rates regulated by the Commission;
- (ii) An owner/operator that holds ownership in and manages the internal distribution system serving a building, and supplies gas solely to occupants of the building for use by the occupants;
- (iii) A lessee/operator that holds a leasehold interest in and manages the internal distribution system serving a building, and supplies gas solely to occupants of the building for use by the occupants; or
- (iv) A person that transmits or distributes gas within a site owned by the person or the person's affiliate that is incidental to the primary landlord-tenant relationship.

(15) "License" means the authority granted by the Commission to a person to do business as a gas supplier.

(17) "Marketer" means a person that purchases and takes title to gas as an intermediary for sale to a customer.

(18) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(19) Retail Gas Customer.

(a) "Retail gas customer" means a purchaser of gas for end use in the State.

(b) "Retail gas customer" does not include an occupant of a building in which the owner or operator or lessee or operator manages the internal distribution system serving the building and supplies gas and gas supply services solely to occupants of the building for use by the occupants.

*(20) "Sales service" means the supply of retail gas commodity service by the customer's gas company.*

*(21) "Sales Service rate" is the utility rate for a given period as approved in the utility's applicable sales service tariff, excluding any out of period adjustments.*

(22) "Supplier-consolidated billing (SCB)" • means a form of competitive billing service in which a gas or electricity supplier is authorized by the Commission to render a bill to a retail gas or electric customer that includes both the supplier charges and the gas or electric company's regulated charges.

## **Title 20 PUBLIC SERVICE COMMISSION**

### **Subtitle 54 GAS SUPPLIERS**

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

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

**.01 Gas Supplier License Required** omitted, no changes

**.02 Application Requirements** omitted, no changes

**.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. In addition to filing the application with the Commission, the applicant shall simultaneously provide a copy of the completed application to the Maryland Office of People's Counsel, along with the supporting documentation and any supplemental or updated information.

**.04 Material Change in Application Information** omitted, no changes

**.05 Fees** omitted, no changes

**.06 Accuracy of Information** omitted, no changes

**.07 Classification of Information** omitted, no changes

**.08 Financial Integrity** omitted, no changes

**.09 Granting a License** omitted, no changes

#### ***New Section***

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

*A. A gas 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 an application on a form provided by the Commission.*

*1. The application shall include:*

- i. Identity of the applicant;*
- ii. Service territories and commodities applied for;*
- iii. Description of the price a customer will pay, as it will appear on the customer contract;*
- iv. For any months where the utility's sales service rate is not known at the time of application, a description of how the supplier will ensure that the contract for energy assistance households remains at or below the utility's sales service rate; and*
- v. A commitment for the entirety of the term of the supply contract to charge at or below the utility's sales service rate.*

# **Title 20 PUBLIC SERVICE COMMISSION**

## **Subtitle 59 COMPETITIVE GAS SUPPLY**

### **Chapter 01 General**

**Authority: Public Utilities Article, §§2-113, 2-121, 4-308, 5-101, 7-507, 7-511, 7-603, 7-604(b), and 7-606, Annotated Code of Maryland**

#### **.01 Scope**

#### **.02 Definitions**

A. In this subtitle, the following terms have the meanings indicated.

##### **B. Terms Defined**

##### **(1) Agent**

(a) “Agent” means a person who conducts marketing or sales activities, or both, on behalf of a licensed supplier or broker.

(b) “Agent” includes:

(i) An employee;

(ii) A representative;

(iii) An independent contractor;

(iv) A vendor;

(v) Subcontractors;

(vi) Employees;

(vii) Vendors; and

(viii) Representatives not directly contracted by the supplier who conduct marketing or sales activities on behalf of the supplier.

(2) "Account" means the record of customer information that is designated by a unique utility identifier for premises receiving gas service.

(3) “CAD” means the Consumer Affairs Division within the Commission pursuant to COMAR 20.32.01.02B(2).

(4) "Commission" means the Public Service Commission of Maryland.

(5) "Consent" means an agreement with an action communicated by the following:

(a) A written document with customer signature;

(b) An electronic document with electronic signature; or

(c) A voice recording only if the agreement is exempt under the Maryland Telephone Solicitations Act.

(6) "Consumer" or "customer" means the regulated utility retail natural gas customer account holder.

*(7) "Contract for energy assistance household" means a residential retail energy supply contract that meets the legal requirements to be offered to customers who are part of an energy assistance household.*

(8) "Contract Summary" means a summary of the material terms and conditions of a retail energy supply contract, on a form provided by the Commission.

(9) "Daily-metered account" means a nonresidential gas account for which a customer:

(a) Purchases gas from a retail supplier; and

(b) Has a gas meter installed for the purpose of recording and reporting gas usage on at least a daily basis for the purpose of utility management of gas supply for the account.

(10) "Drop" means the removal of a customer from a supplier's service.

(11) "Electronic transaction" means a standardized data protocol or electronic transmission medium that has been accepted by the Commission for use in Maryland.

*(12) "Energy Assistance Program" means the following programs administered by the Office of Home Energy Programs:*

*(a) the Maryland Energy Assistance Program;*

*(b) the Electric Universal Service Program; and*

*(c) The Arrearage Retirement Assistance Program.*

*(13) "Energy Assistance Household" means that the Office of Home Energy Programs found the service address associated with the utility account qualified for an energy assistance program during the current or previous fiscal year.*

(14) "Enrollment" means the addition of a customer to a supplier's service.

(15) "Evergreen contract" means an existing contract that automatically renews without any action by the customer.

*(16) "Fiscal Year" means the 12 month period between June 30 and July 1 of the following calendar year.*

(17) "Gas company" has the meaning stated in Public Utilities Article, §1-101, Annotated Code of Maryland.

(18) "Gas supplier" or "supplier" means a person licensed under COMAR 20.54.

(19) "Interruptible service account" means a nonresidential gas account for which a customer:

(a) Purchases gas from a retail gas supplier; and

(b) Elects to receive utility service subject to interruption.

(20) "Overcharge" means the difference between the price a customer would have paid the customer's authorized supplier and what the customer paid to an unauthorized supplier.

(21) "Public event" means an event open to the public, which may facilitate retail natural gas sales and marketing activities or may result in a natural gas customer enrollment transaction.

(22) "Supplier-consolidated billing (SCB)" means a form of competitive billing service in which a gas or an electricity supplier is authorized by the Commission to render a bill to a retail gas or electric customer that includes both the supplier charges and the gas or electric company's regulated charges.

(23) "Supply price comparison information" means the rate and language that the Commission may require to be printed on a customer's bill to permit the customer to make meaningful comparisons between competitive supplier prices and the price for standard offer service or sales service provided by the customer's utility.

(24) "Third party verification (TPV)" means consent from the customer agreeing to each of the below-listed material contract terms that is recorded by an independent person not party to the agreement or may be performed by an automated, computerized system. To be valid, the TPV must occur without the presence of the sales agent, and at the outset must describe how the customer can cancel the TPV at any time prior to completion. The consent from the customer must include an acknowledgement:

(a) That he or she is voluntarily choosing to enroll with a supplier;

(b) Of the type of product offered such as variable, fixed, a combination of both;



- (c) Of the price and duration of the contract;
- (d) Of the amount of an early termination fee if applicable;
- (e) That the customer is authorized to make the switch;
- (f) Of the contract renewal procedures;
- (g) That the customer may access future pricing information;
- (h) That the customer has received the supplier's customer support contact information;

*and*

~~(g) That the customer may access future pricing information;~~

~~(h) That the customer has received the supplier's customer support contact information;~~

*and*

(i) If the customer is entering into a supplier-consolidated billing contract:

(i) That the customer is voluntarily choosing to be billed by the supplier for both supplier charges and utility charges; and

(ii) That the customer understands that the customer's previous bill provider may bill the customer for prior unpaid charges.

(25) "Sales service" means the supply of retail gas commodity service by the customer's gas company.

*(26) "Sales Service rate" is the utility rate for a given period as approved in the utility's applicable sales service tariff, excluding any out of period adjustments.*

(27) "Utility" means a gas company as defined in Public Utilities Article, §1-101, Annotated Code of Maryland.

(28) "Utility consolidated billing" means a customer bill produced by a utility that contains both utility charges and supplier gas sales commodity charges.

## **Title 20 PUBLIC SERVICE COMMISSION**

### **Subtitle 59 COMPETITIVE GAS SUPPLY**

#### **Chapter 03 Pre-Enrollment Information**

**Authority:** Public Utilities Article, §§2-113, 2-121, 5-101, 7-507, 7-511, 7-603, 7-604(b), 7-606, and 7-607, Annotated Code of Maryland

**.01 Supplier Customer Consent — Pre-Enrollment** omitted, no changes

#### **.02 Pre-Enrollment Information**

A. On request of a supplier, a utility shall provide the following applicable customer information:

(1) Account name;

(2) Billing address;

*(3) Energy assistance household status;*

(4) Service address;

(5) Utility account number and any other number designated by the utility as necessary to process an enrollment;

(6) Bill cycle;

(7) Utility rate class or code; and

(8) Monthly historical consumption for the previous 12 months.

B. A utility shall provide the information in §A of this regulation to a supplier through an electronic transaction approved by the Commission.

## **Title 20 PUBLIC SERVICE COMMISSION**

### **Subtitle 59 COMPETITIVE GAS SUPPLY**

#### **Chapter 04 Transfers of Service *Authority***

**Authority: Public Utilities Article, §§2-113, 2-121, 5-101, 7-507, 7-511, 7-603, 7-604(b), and 7-606, Annotated Code of Maryland**

**.01 Scope** omitted, no changes

#### **.02 Enrollment**

##### **A. Effective Dates**

(1) Except as provided under §A(2) of this regulation, a utility shall process an electronic transaction for enrollment from a supplier to be effective on the first day of the next month.

(2) An electronic transaction for enrollment from a supplier received by a utility less than 7 days before the first day of the next month shall take effect on the first day of the next subsequent month.

(3) Enrollments shall be processed on a first-in basis during any given month.

**B.** The utility shall drop a customer from its current supplier when another supplier enrolls the customer.

**C.** A utility shall process an electronic transaction for enrollment regardless of whether the customer is currently supplied by another supplier or by the utility.

**D.** A utility shall compensate a retail supplier through a cash exchange, an adjustment of gas usage, or an adjustment of delivery volumes for the portion of the first month during which gas is delivered to a customer of the retail supplier within 90 days of the first supply of gas to the customer.

**E.** A supplier may not require that a customer provide it with advance notice, written or otherwise, before the customer switches to another supplier or to sales service.

**F.** A utility shall reject a customer's enrollment into supplier-consolidated billing if, at the time of switch, the customer:

(1) Has a regulated gas utility arrearage older than 30 days;

(2) Is on a payment arrangement plan with the utility; or

(3) Has applied for or is receiving funds from the Office of Home Energy Programs, including but not limited to, payments authorized as part of the universal service program or Maryland Energy Assistance Program.

*G. A utility shall reject a customer's enrollment with a supplier if, at the time of switch:*

*(1) the customer is an energy assistance household; and*

*(2) the supplier does not have a Commission approved contract for energy assistance households.*

H. The supplier shall inform the customer if a customer's enrollment is rejected for the reasons specified in §F or §G of this regulation.

I. Customer Who Starts to Receive Energy Assistance While on Supplier-Consolidated Billing

(1) The utility shall provide a supplier 3 business days notice if a supplier's customer on supplier-consolidated billing receives a Maryland Energy Assistance Program or universal service program grant.

(2) The utility shall drop a customer from supplier-consolidated billing to sales service after sending the supplier notice under this regulation if the supplier continues to provide the customer supplier-consolidated billing service after 3 business days.

(3) A supplier may change a customer's billing method adhering to COMAR 20.59.05.06 within 3 business days of receipt of the utility notice provided in §H(1) of this regulation, provided that the supplier issues the notices required by COMAR 20.59.05.06B after the change in billing method.

*K. Customer Who Starts to Receive Energy Assistance While Receiving Service from a Gas Supplier*

*(1) When a utility determines that a supplier's existing customer is newly identified as an energy assistance household, the utility shall within 3 business days provide the supplier notice of that determination.*

*(2) If the supplier has a Commission approved contract for energy assistance households:*

*(a) Within 3 business days of receiving the utility notice, the supplier shall provide a cancellation notice to the customer pursuant to COMAR 20.59.07.10;*

*(b) As part of the cancellation notice, the supplier may include a solicitation for the customer to enroll in a Commission approved contract for energy assistance households;*

*(c) Within 15 business days of receiving the utility notice, the supplier shall drop the customer unless the supplier receives the customer's consent to receive service under a*

*Commission approved contract for energy assistance households and notifies the utility of the new enrollment; and*

*(d) If the utility does not receive either notice of a new enrollment to a Commission approved contract for energy assistance households or a drop transaction within 21 business days of providing notice to the supplier, the utility shall drop the customer from the supplier and enroll them onto SOS.*

*(3) If the supplier does not have a Commission approved contract for energy assistance customers:*

*(a) Within 3 business days of receiving the utility notice, provide a cancellation notice to the customer pursuant to COMAR 20.53.07.10; and*

*(b) If the utility does not receive a drop transaction within 3 business days of providing notice to the supplier, the utility shall drop the customer from the supplier and enroll them onto SOS.*

## **Title 20 PUBLIC SERVICE COMMISSION**

### **Subtitle 59 COMPETITIVE GAS SUPPLY**

#### **Chapter 07 Residential Customer Protection**

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

**.01 Scope** omitted, no changes

#### **.02 Disclosure of Customer Information**

A. Except as provided in §B of this regulation, a supplier may not disclose a customer's billing, payment, *energy assistance household status*, or credit information without the customer's consent.

B. A supplier may disclose a customer's billing, payment, or credit information for the sole purpose of facilitating billing, bill collection, or credit reporting.

C. A supplier shall provide a customer with a copy of the supplier's customer information privacy policy.

**.03 Creditworthiness** omitted, no change

**.04 Geographic Marketing** omitted, no change

#### **.05 Unauthorized Enrollment or Service**

A. A supplier may not enroll a customer without the customer's consent.

B. A supplier may not add a new charge for a new service, existing service, or service option without first obtaining consent from the customer, verifiable to the same extent and using the same methods specified for contracting under Regulation .08 of this chapter.

*C. A supplier may not charge an energy assistance household for supply services unless those charges are for a Commission-approved contract for energy assistance households.*

D. Enrollment Disputes

(1) A customer alleging a violation of this regulation may file a dispute with the Commission's Consumer Affairs Division.

(2) Upon proof of the allegations that an enrollment was unauthorized, the Commission's Consumer Affairs Division (CAD) may order the supplier to issue a refund to the customer in an

amount, determined by CAD, intended to hold the customer harmless relative to the price the customer would have paid had the unauthorized enrollment not occurred.

(a) If the charges have been billed by and the receivable purchased by the utility, the refund determined by CAD shall be remitted to the utility by the supplier. The refund determined by CAD shall be applied to the customer's utility account current balance, and the excess returned to the customer upon request. If the customer is no longer served by the utility, then the refund shall be returned to the customer;

(b) Upon purchase of any receivable under this section, the utility shall be entitled to collect from the customer, and the customer shall be responsible to pay the utility the total amount billed, less any refund determined by CAD; *or*

(c) CAD-Directed Refund Under Supplier-Consolidated Billing

(i) If CAD determines that a refund of regulated gas utility charges is warranted and the supplier has purchased those receivables from the utility, then the utility shall issue a refund to the supplier for the amount purchased;

(ii) A refund received by a supplier under §C(2)(c)(i) of this regulation shall be refunded to the customer by the supplier; *and*

(iii) If CAD determines that a refund of supply charges is warranted, the supplier shall issue the refund to the customer.

E. This regulation may not be construed to limit the authority of the Commission under Public Utilities Article, §7-507(k), Annotated Code of Maryland.

**.06 Termination**

omitted, no change

**.07 Advertising and Solicitations**

A. Advertising Permitted

(1) A supplier may advertise its services.

(2) A supplier may not engage in a marketing or trade practice that is unfair, false, misleading, or deceptive.

*(3) A supplier may not market an offer to energy assistance households unless it is a Commission approved contract for energy assistance households.*

*(a) A supplier must make reasonable efforts to determine whether a customer lives in an energy assistance household during solicitations.*

## B. Disclosures

(1) All supplier marketing or solicitation information, including that used by its agents or employees, shall include the supplier's Maryland license number in a clear and conspicuous manner.

(2) If a price is quoted, the following statements are required:

(a) The price quoted is only for the specified commodity provided by the supplier;

(b) The price quoted does not include any tax, utility distribution charge, or other utility fee or charge;

(c) *An energy assistance household cannot be charged more than the utility's sales service rate;* and

(d) The supplier's price is not regulated by the Commission.

## C. Internet

(1) Internet Advertising. A supplier shall post on the Internet:

(a) Readily understandable information about its services and prices; and

(b) A description of its supplier-consolidated billing offering, including a sample bill, if the supplier is licensed to provide supplier-consolidated billing services and is offering supplier-consolidated billing services.

(2) Commission Website

(a) Suppliers shall submit open offers to the Commission's website according to instructions provided by the Commission; *and*

(b) In the event of a discrepancy between a supplier's open offer posted on the Commission's website and the supplier's corresponding open offer displayed on the supplier's website, the supplier shall honor the terms that are more favorable to the customer.

## D. Telephone Solicitation

(1) A supplier soliciting customers by telephone shall comply with all applicable State and federal law, including the Maryland Telephone Solicitations Act, Commercial Law Article, §§14-2201—14-2205, Annotated Code of Maryland.

(2) A supplier may not conduct a residential customer telephone solicitation before 8 a.m. or after 9 p.m.



## **.08 Supplier Contracts**

### **A. Minimum Contract Requirements**

(1) Only a person licensed under COMAR 20.54 may execute a gas supply contract with a customer.

(2) A supplier contract shall contain all material terms and conditions, including:

(a) A list and description of the contract services;

(b) A statement of minimum use requirements, if any;

(c) A description of any time-of-use restrictions, including seasonal or monthly pricing, if applicable;

(d) A clear and concise price description of each service, including but not limited to any condition of variability or limits on price variability;

(i) If there is a limit on price variability, such as a specific price cap, a maximum percentage increase in price between billing cycles or minimum/maximum charges per therm for natural gas during the term of the contract, the supplier shall clearly explain applicable limits; or

(ii) If there is not a limit on price variability, the supplier shall clearly and conspicuously state that there is not a limit on how much the price may change from one billing cycle to the next.

(e) A notice that the contract does not include utility charges;

(f) A billing procedure description explicitly identifying the billing method that will be used by the supplier;

(g) A notice that the customer acknowledges that customer billing and payment information may be provided to:

(i) The supplier if the customer receives utility-consolidated billing services; or

(ii) The utility if the customer receives supplier-consolidated billing services;

(h) The frequency of the customer's bill, if the customer receives supplier-consolidated billing services;

(i) The method by which the customer will receive the bill from the supplier if the customer receives supplier-consolidated billing;

(j) A statement of contract duration, including the initial time period and any rollover provision;

(k) A deposit requirement, if any, including:

(i) The amount of the deposit;

(ii) A description of when and under what circumstances the deposit will be returned;

(iii) A description of how the deposit may be used; and

(iv) A description of how the deposit will be protected.

(l) A description of any fee or charge and the circumstances under which a customer may incur a fee or charge;

(m) A statement that the supplier may terminate the contract early, including the:

(i) Circumstances under which early cancellation by the supplier may occur;

(ii) Manner in which the supplier shall notify the customer of the early cancellation of the contract;

(iii) Duration of the notice period before early supplier cancellation; and

(iv) Remedies available to the customer if early cancellation *occurs*.

(n) A statement that the customer may terminate the contract early, including the:

(i) Circumstances under which early cancellation by the customer may occur;

(ii) Manner in which the customer shall notify the supplier of the early cancellation of the contract;

(iii) Duration of the notice period before early cancellation;

(iv) Remedies available to the supplier if early cancellation occurs; ~~and~~

(v) Amount of any early cancellation fee; ~~and~~

*(vi) A statement that the supplier cannot charge a termination fee to energy assistance households.*

(o) A statement describing contract renewal procedures, if any;

(p) A statement describing how the customer may access future pricing information;

(q) A dispute procedure;

*(r) A statement that energy assistance households cannot be charged more than the utility's sales service rate;* and

(s) The Commission's toll-free number and Internet address.

## B. Contract Summary

(1) At the time of completion of the contracting process, a supplier shall provide the customer a copy of the executed contract and completed Contract Summary on the form provided by the Commission.

(2) If the contract is completed through telephone solicitation, the supplier shall send the Contract Summary to the customer along with the contract that must be signed by the customer and returned as required by the Maryland Telephone Solicitations Act. If the contract is exempt from the Maryland Telephone Solicitations Act, the supplier shall send the Contract Summary with the contract to the customer.

(3) If enrollment is completed through the internet, the Contract Summary shall be:

(a) Available online and made available for download by the customer at the time of contracting; and

(b) Shall be transmitted to the customer by the supplier by mail or by email if the customer consents to receipt of email disclosures.

(4) If the contract is completed in person, the contract and the Contract Summary shall be reviewed with and provided to the customer by the supplier in hard copy or electronically, and the executed contract and Contract Summary provided to the customer at the time of contracting in hard copy or electronically if the customer consents to electronic disclosures.

## C. Methods of Contracting

(1) A supplier may not enroll a customer using a process that does not require affirmative confirmation by the customer.

(2) If a supplier solicitation is in writing or a supplier contract is provided in response to documents submitted upon personal contact, a signed contract is required.

(3) Internet Contracts

(a) A supplier that contracts with a customer by means of the Internet shall:

(i) Confirm the identity of the person making the contract;

(ii) Comply with applicable Maryland and federal law; and

(iii) Take appropriate steps to safeguard customer privacy.

(b) A supplier that sends a contract over the Internet to a valid email address of the contracting customer is considered to have complied with §B(3)(a)(i) of this regulation.

#### (4) Telephone Contracts

(a) A supplier may contract with a customer through a telephone solicitation.

(b) If a supplier is contracting with a customer as a result of a telephone solicitation that is exempt from all applicable State and federal law, including the Maryland Telephone Solicitations Act, Commercial Law Article, §§14-2201—14-2205, Annotated Code of Maryland, a supplier shall:

(i) Comply with this chapter;

(ii) Confirm that customer questions relating to the contract are answered;

(iii) Confirm that an independent third party verifies the contract, or record the entire telephone conversation and maintain the recording for the duration of the contract;

(iv) Mail or otherwise transmit to the customer a complete written contract within 3 business days of the contracting conversation; and

(v) Disclose all material contract terms and conditions to the customer over the telephone.

(c) A supplier that sends a contract over the Internet to a valid email address of the contracting customer is considered to have complied with §B(4)(b)(iv) of this regulation.

#### D. Evergreen Contracts

(1) A supplier shall provide a customer with a notice of the pending renewal of an evergreen contract 45 days before the automatic renewal is scheduled to occur.

(2) The supplier notice required under §C(1) of this regulation shall:

(a) Provide a clearly stated and highlighted notice to a customer of any changes in the material terms and conditions of the agreement;

(b) Inform the customer how to terminate the contract without penalty;

(c) Inform the customer that terminating the evergreen contract without selecting another supplier will return the customer to utility commodity service; and

(d) Inform the customer how to access the customer's rate for the next billing cycle in accordance with 20.59.07.13.

(3) A clear and concise price description of each service, including, but not limited to, any condition of variability or limits on price variability.

(a) If there is a limit on price variability, such as a specific price cap, a maximum percentage increase in price between billing cycles or minimum/maximum charges per therm of natural gas during the term of the contract, the supplier shall clearly explain applicable limits; or

(b) If there is not a limit on price variability, the supplier shall clearly and conspicuously state that there is not a limit on how much the price may change from one billing cycle to the next.

(4) A supplier that provides supplier-consolidated billing services may transmit the notice required in §D(1) of this regulation with the customer's bill if the notice is also provided in a separate mailing.

(5) If the supplier includes with a customer's bill the notice of pending renewal required in §D(1) of this regulation, the notice shall be prominently displayed.

*(6) A supplier may not renew a contract for an energy assistance household unless the renewal is onto a Commission approved contract for energy assistance households.*

#### **.09 Customer Disclosure**

omitted, no changes

#### **.10 Notice of Contract Expiration or Cancellation**

A. Notice. Except as permitted in §D *and §G* of this regulation, a supplier shall provide the customer with notice at least 30 days before expiration or cancellation of a supply contract.

B. Contents of Notice. The supplier's expiration or cancellation notice required under §A of this regulation shall include:

(1) Final bill payment instructions;

(2) A statement informing the customer that, unless the customer selects a new service provider, cancellation of the contract shall return the customer to the utility; and

(3) The toll-free telephone number and the web site address of the Commission.

#### **C. Early Cancellation**

(1) Notice of early cancellation by the supplier shall comply with §B of this regulation.

(2) Early Cancellation Fee

(a) A supplier may impose a reasonable early cancellation fee if a customer cancels the contract before the expiration date.

(b) A supplier may deduct a cancellation fee from a customer deposit.

*(c) A supplier may not impose a cancellation fee on an energy assistance household.*

(3) Except as provided in COMAR 20.59.04.02~~04~~ and ~~.04~~ *.04* ~~.05~~, or in a tariff providing for a supplier default, a utility may remove a customer from supplier services only if directed by a supplier, subject to applicable bankruptcy law.

(4) On request of a customer to cancel supply service with the supplier, a supplier shall process the customer's cancellation request for gas service within 2 utility business days after receipt of the cancellation request.

(5) When a supplier contracts with a customer, the newly contracting supplier shall notify the customer that the customer may incur early cancellation penalties under a current supplier contract.

#### D. Drop for Nonpayment Under Supplier-Consolidated Billing

(1) A supplier providing supplier-consolidated billing services shall provide a nonpaying customer a minimum notice of 5 days before cancellation of the customer's contract.

(2) A supplier's notice to a nonpaying customer shall include the information in §B of this regulation and the following:

(a) The total amount due;

(b) The date by which the payment is due to the supplier;

(c) The date on or after which the supplier will transmit the drop request to the utility if payment is not received;

(d) Notice that the customer may still receive gas supply from the supplier until the end of the current month or the next month after the customer is dropped; and

(e) The telephone number at which the supplier representatives who handle payment arrangements, payment plans, and customer complaints may be reached.

E. A supplier that provides supplier-consolidated billing services may transmit the notice required in §A or D of this regulation with the customer's bill.

F. The supplier shall provide a notice required by §E of this regulation in a prominent manner.

### *G. Cancellation of Contract for Customers Who Start Receiving Energy Assistance*

*(1) A supplier which receives notice from the Utility that a customer is newly identified as an energy assistance household shall provide notice to the customer within 3 business days.*

*(2) The Notice shall inform the customer that:*

*(a) The supplier can no longer serve the customer under their existing contract under PUA 4-308;*

*(b) That unless the customer selects a new service provider with a Commission approved contract for energy assistance households, cancellation of the contract shall return the customer to the utility's sales service;*

*(c) That the supplier cannot charge a termination or early cancellation fee; and*

*(d) The ~~toH~~-free toll-free telephone number and the web site address of the Commission.*

*(3) If the supplier has a Commission approved contract for energy assistance households the supplier may include in the notice:*

*(a) The commission approved contract for energy assistance households, including the contract summary, all terms and conditions; and*

*(b) Instructions for the customer to provide consent to receive service under the Commission approved energy assistance household.*

### **.11 Rescission Period**

omitted, no changes

### **.12 Assignment of Contract**

omitted, no changes

### **.13 Notice of Change in Rate**

omitted, no changes

### **New Section**

### ***.14 Energy Assistance Households***

***NEW***

*A. An energy assistance household may only be enrolled by a supplier onto a Commission approved contract for energy assistance households.*

*(1) When a utility receives a supplier enrollment the utility shall determine the customer's energy assistance household status and reject the enrollment if the supplier does not have a Commission approved contract for energy assistance households.*

*(i) The utility shall record the number of rejected enrollments and provide annual reporting to the Commission.*

*B. Contracts for Energy Assistance Households*

*(1) A contract for energy assistance households must guarantee service at rates at or below the utility's SOS rate for each month of the entirety of the term of the supply contract.*

*(2) The sales service rate is the rate calculated based on the utility' sales service tariff*

*(a) This rate does not need to account for out of period adjustments;*

*(b) For billing periods which extend over more than one sales service rate the rate for comparison will be the weighted average based on the number of days on each sales service rate; and*

*(c) The retail supplier's rate for comparison will include all commodity charges, including fixed charges divided by the therms consumed.*

*C. If a supplier charges a customer in an energy assistance household pursuant to a contract that is not a Commission approved contract for energy assistance households the customer is entitled to remedies as defined in §D.*

*D. Customer Remedies*

*(1) Customer Remedies for a violation of §B of this subchapter shall be a refund of monies paid during a billing period where the supplier charged more than the sales service rate.*

*(a) The refund shall be calculated as the difference between the monies paid during the billing period and the sales service rate during that period.*