

Chapter 167

(Senate Bill 692)

AN ACT concerning

Maryland Electricity Service Quality and Reliability Act – Safety Violations

FOR the purpose of requiring the Public Service Commission to adopt certain regulations on or before a certain date that implement certain service quality and reliability standards relating to the delivery of electricity to retail customers by electric companies; requiring certain regulations to include certain service quality and reliability standards, ~~include~~ account for certain major outages, and require an electric company to file a corrective action plan if it fails to meet certain service quality and reliability standards; authorizing the Commission to include in certain regulations a separate reliability standard for each electric company,~~and require the use of nationally recognized standards for certain purposes;~~ requiring the Commission, in adopting certain regulations, to consider certain standards, ensure certain service quality and reliability standards are cost-effective, and consider certain factors relating to vegetation management; requiring the Commission, on or before a certain date, and each year thereafter, to determine whether certain electric companies have met certain service quality and reliability standards; requiring the Commission to take certain appropriate enforcement action against ~~an~~ a certain electric company if the electric company fails to meet certain service quality and reliability standards; ~~requiring that certain civil penalties be credited to a certain electric company's residential ratepayers in a certain manner determined by the Commission and in accordance with a certain principle authorizing the Commission to impose a certain civil penalties on or after a certain date~~ penalty; prohibiting an electric company from recovering the cost of a certain civil penalty from ratepayers; ~~providing that a certain provisions provision provisions relating to corrective action taken penalties imposed corrective action taken~~ by the Commission against an electric company that fails to meet certain service quality and reliability standards do not apply to electric cooperatives; requiring each electric company to submit to the Commission a certain annual performance report; setting forth required contents of the annual performance report; requiring the Commission to hold a certain hearing at the request of an electric company; ~~altering the maximum daily civil penalty that may be imposed on a public service company for certain safety violations; removing a certain cap on the total civil penalty that may be imposed for a related series of safety violations;~~ altering the maximum daily civil penalty that may be imposed on a public service company for certain violations; altering the maximum daily civil penalty that may be imposed on a public service company for certain safety violations; removing a certain cap on the total civil penalty that may be imposed for a related series of safety violations; declaring a certain goal

of the State; providing that ~~certain regulations may~~ this Act does not apply to small rural electric cooperatives or municipal electric companies; providing that this Act may not be construed to limit the Commission's authority to adopt and enforce engineering and safety standards for electric companies; ~~providing that certain authorization for the Commission to impose certain civil penalties does not apply to a violation of a certain provision as that provision applies to electric cooperatives;~~ requiring the Commission to establish a certain workgroup to provide certain recommendations; *providing that this Act may not be construed to limit the Commission's authority to impose penalties for certain violations;* ~~requiring the Commission to review certain regulations, tariffs, or standards, conduct certain studies, and report its findings to certain committees on or before a certain date;~~ defining certain terms; making this Act an emergency measure; and generally relating to electricity safety and reliability standards.

BY adding to

Article – Public Utilities
Section 7–213
Annotated Code of Maryland
(2010 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~

~~Article – Public Utilities
Section 13–201 and 13–202
Annotated Code of Maryland
(2010 Replacement Volume)~~

BY repealing and reenacting, with amendments,

*Article – Public Utilities
Section 13–201 and 13–202
Annotated Code of Maryland
(2010 Replacement Volume)*

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Public Utilities

7–213.

(A) (1) IN THIS SECTION, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “SYSTEM-AVERAGE INTERRUPTION DURATION INDEX” OR “SAIDI” MEANS THE ~~AVERAGE DURATION OF POWER OUTAGES FOR EACH ELECTRICITY CUSTOMER CALCULATED BY DIVIDING THE TOTAL OF ALL~~

~~CUSTOMER INTERRUPTION DURATIONS BY THE TOTAL NUMBER OF CUSTOMERS SERVED~~ SUM OF THE CUSTOMER INTERRUPTION HOURS DIVIDED BY THE TOTAL NUMBER OF CUSTOMERS SERVED.

(3) ~~“SYSTEM-AVERAGE INTERRUPTION FREQUENCY INDEX” OR “SAIFI” MEANS THE AVERAGE NUMBER OF POWER OUTAGES FOR EACH ELECTRICITY CUSTOMER CALCULATED BY DIVIDING THE TOTAL NUMBER OF CUSTOMER INTERRUPTIONS BY THE TOTAL NUMBER OF CUSTOMERS SERVED~~ SUM OF THE NUMBER OF CUSTOMER INTERRUPTIONS DIVIDED BY THE TOTAL NUMBER OF CUSTOMERS SERVED.

~~(B) IT IS THE GOAL OF THE STATE THAT EACH ELECTRIC COMPANY RANK IN THE TOP QUARTILE OF ELECTRIC COMPANIES NATIONALLY WITH THE HIGHEST LEVELS OF SERVICE QUALITY AND RELIABILITY.~~

(B) IT IS THE GOAL OF THE STATE THAT EACH ELECTRIC COMPANY PROVIDE ITS CUSTOMERS WITH HIGH LEVELS OF SERVICE QUALITY AND RELIABILITY IN A COST-EFFECTIVE MANNER, AS MEASURED BY OBJECTIVE AND VERIFIABLE STANDARDS, AND THAT EACH ELECTRIC COMPANY BE HELD ACCOUNTABLE IF IT FAILS TO DELIVER RELIABLE SERVICE ACCORDING TO THOSE STANDARDS.

(C) ~~REGULATIONS ADOPTED UNDER THIS~~ THIS SECTION MAY DOES NOT APPLY TO SMALL RURAL ELECTRIC COOPERATIVES OR MUNICIPAL ELECTRIC COMPANIES.

(D) ON OR BEFORE JULY 1, 2012, THE COMMISSION SHALL ADOPT REGULATIONS THAT IMPLEMENT SERVICE QUALITY AND RELIABILITY STANDARDS RELATING TO THE DELIVERY OF ELECTRICITY TO RETAIL CUSTOMERS BY ELECTRIC COMPANIES THROUGH THEIR DISTRIBUTION SYSTEMS, USING:

(1) SAIFI;

(2) SAIDI; AND

(3) ANY OTHER ~~STANDARD~~ PERFORMANCE MEASUREMENT THAT THE COMMISSION DETERMINES TO BE REASONABLE.

(E) (1) THE REGULATIONS ADOPTED UNDER SUBSECTION (D) OF THIS SECTION SHALL:

~~(1)~~ (1) INCLUDE SERVICE QUALITY AND RELIABILITY STANDARDS, INCLUDING STANDARDS RELATING TO:

~~(I)~~ 1. SERVICE INTERRUPTION;
~~(II)~~ 2. DOWNED WIRE ~~REPAIR~~ RESPONSE;
~~(III)~~ 3. ~~SERVICE QUALITY~~ CUSTOMER COMMUNICATIONS;
~~(IV)~~ 4. VEGETATION MANAGEMENT;
5. PERIODIC EQUIPMENT INSPECTIONS;
~~(V)~~ 6. ANNUAL RELIABILITY REPORTING; AND
~~(VI)~~ 7. ANY OTHER STANDARDS ESTABLISHED BY THE
 COMMISSION;

(II) ACCOUNT FOR MAJOR OUTAGES CAUSED BY EVENTS OUTSIDE THE CONTROL OF AN ELECTRIC COMPANY; AND

(III) FOR AN ELECTRIC COMPANY THAT FAILS TO MEET THE APPLICABLE SERVICE QUALITY AND RELIABILITY STANDARDS, REQUIRE THE COMPANY TO FILE A CORRECTIVE ACTION PLAN THAT DETAILS SPECIFIC ACTIONS THE COMPANY WILL TAKE TO MEET THE STANDARDS.

(2) THE REGULATIONS ADOPTED UNDER SUBSECTION (D) OF THIS SECTION MAY INCLUDE A SEPARATE RELIABILITY STANDARD FOR EACH ELECTRIC COMPANY IN ORDER TO ACCOUNT FOR SYSTEM RELIABILITY DIFFERENTIATING FACTORS , INCLUDING:

- (I) SYSTEM DESIGN;
- (II) EXISTING INFRASTRUCTURE;
- (III) CUSTOMER DENSITY; AND
- (IV) GEOGRAPHY; AND.

~~(3) REQUIRE THE USE OF NATIONALLY RECOGNIZED STANDARDS TO NORMALIZE:~~

~~(I) MAJOR OUTAGE EVENTS;~~
~~(II) ANOMALOUS EVENTS THAT DO NOT ACHIEVE MAJOR OUTAGE STATUS;~~

~~(III) YEAR TO YEAR WEATHER IMPACTS; AND~~

~~(IV) OTHER FACTORS THAT THE COMMISSION IDENTIFIES.~~

(3) IN ADOPTING THE REGULATIONS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION, THE COMMISSION SHALL:

(I) CONSIDER APPLICABLE STANDARDS OF THE INSTITUTE OF ELECTRICAL AND ELECTRONICS ENGINEERS;

(II) ENSURE THAT THE SERVICE QUALITY AND RELIABILITY STANDARDS ARE COST-EFFECTIVE; AND

(III) WITH RESPECT TO STANDARDS RELATING TO VEGETATION MANAGEMENT, CONSIDER:

1. LIMITATIONS ON AN ELECTRIC COMPANY'S RIGHT TO ACCESS PRIVATE PROPERTY; AND

2. CUSTOMER ACCEPTANCE OF VEGETATION MANAGEMENT INITIATIVES.

(F) (1) ON OR BEFORE JULY 1, 2013, AND JULY 1 OF EACH YEAR THEREAFTER, THE COMMISSION SHALL DETERMINE WHETHER EACH ELECTRIC COMPANY HAS MET THE SERVICE QUALITY AND RELIABILITY STANDARDS ADOPTED BY THE COMMISSION FOR THAT ELECTRIC COMPANY UNDER SUBSECTION (D) OF THIS SECTION.

(2) (I) THIS PARAGRAPH DOES NOT APPLY TO ELECTRIC COOPERATIVES.

~~(II) THE COMMISSION SHALL TAKE APPROPRIATE CORRECTIVE ACTION MAY IMPOSE A PENALTY SHALL TAKE APPROPRIATE CORRECTIVE ACTION AGAINST AN ELECTRIC COMPANY THAT FAILS TO MEET ANY OR ALL OF THE APPLICABLE SERVICE QUALITY AND RELIABILITY STANDARDS ADOPTED BY THE COMMISSION UNDER THIS SECTION, INCLUDING, ON OR AFTER JULY 1, 2014, THE IMPOSITION OF APPROPRIATE CIVIL PENALTIES FOR NONCOMPLIANCE IN AN AMOUNT NOT EXCEEDING 2.5% OF THE ELECTRIC COMPANY'S TRANSMISSION AND DISTRIBUTION REVENUES FOR THE PREVIOUS CALENDAR YEAR, INCLUDING THE IMPOSITION OF APPROPRIATE CIVIL PENALTIES FOR NONCOMPLIANCE AS PROVIDED IN § 13-201 OF THIS ARTICLE AS PROVIDED IN § 13-201 OF THIS ARTICLE.~~

~~(3) NOTWITHSTANDING THE PROVISIONS OF § 13-201 OF THIS ARTICLE, CIVIL PENALTIES COLLECTED UNDER THIS SECTION SHALL BE CREDITED TO THE ELECTRIC COMPANY'S RESIDENTIAL RATEPAYERS:~~

~~(I) IN A MANNER THE COMMISSION DETERMINES; AND~~

~~(II) IN ACCORDANCE WITH THE PRINCIPLE THAT RATEPAYERS SHOULD BE COMPENSATED PROPORTIONALLY ACCORDING TO THE NUMBER OF DAYS OF ELECTRIC SERVICE LOST AND THE ESTIMATED OUT-OF-POCKET EXPENSES TO RATEPAYERS RESULTING FROM A POWER OUTAGE.~~

~~(4) (III) AN ELECTRIC COMPANY MAY NOT RECOVER THE COST OF ANY CIVIL PENALTY PAID UNDER THIS SECTION FROM RATEPAYERS.~~

(G) (1) ON OR BEFORE ~~MAY~~ FEBRUARY 1 OF EACH YEAR, EACH ELECTRIC COMPANY SHALL SUBMIT TO THE COMMISSION AN ANNUAL PERFORMANCE REPORT THAT SUMMARIZES THE ACTUAL ELECTRIC SERVICE RELIABILITY RESULTS FOR THE PRECEDING YEAR.

(2) THE ANNUAL PERFORMANCE REPORT SHALL INCLUDE:

(I) THE ELECTRIC COMPANY'S AVERAGE 3-YEAR PERFORMANCE RESULTS;

(II) ACTUAL YEAR-END PERFORMANCE MEASURE RESULTS;

(III) AN ASSESSMENT OF THE RESULTS AND EFFECTIVENESS OF THE RELIABILITY OBJECTIVES, PLANNED ACTIONS AND PROJECTS, PROGRAMS, AND LOAD STUDIES IN ACHIEVING AN ACCEPTABLE RELIABILITY LEVEL; AND

(IV) ANNUAL INFORMATION THAT THE COMMISSION DETERMINES NECESSARY TO ASSESS THE ELECTRIC COMPANY'S EFFORTS TO MAINTAIN RELIABLE ELECTRIC SERVICE TO ALL CUSTOMERS IN THE ELECTRIC COMPANY'S SERVICE TERRITORY, INCLUDING:

1. CURRENT YEAR EXPENDITURES, LABOR RESOURCE HOURS, AND PROGRESS MEASURES FOR EACH CAPITAL AND MAINTENANCE PROGRAM DESIGNED TO SUPPORT THE MAINTENANCE OF RELIABLE ELECTRIC SERVICE;

2. THE NUMBER OF OUTAGES BY OUTAGE TYPE;

3. THE NUMBER OF OUTAGES BY OUTAGE CAUSE;

4. THE TOTAL NUMBER OF CUSTOMERS THAT EXPERIENCED AN OUTAGE; ~~AND~~

5. THE TOTAL CUSTOMER MINUTES OF OUTAGE TIME; AND

6. TO THE EXTENT PRACTICABLE, A BREAKDOWN, BY THE NUMBER OF DAYS EACH CUSTOMER WAS WITHOUT ELECTRIC SERVICE, OF THE NUMBER OF CUSTOMERS THAT EXPERIENCED AN OUTAGE.

(3) AT THE REQUEST OF AN ELECTRIC COMPANY, THE COMMISSION SHALL HOLD A HEARING TO DISCUSS THE ANNUAL PERFORMANCE REPORT OF THE ELECTRIC COMPANY.

(H) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE COMMISSION'S AUTHORITY TO ADOPT AND ENFORCE ENGINEERING AND SAFETY STANDARDS FOR ELECTRIC COMPANIES.

~~13-201.~~

~~(a) This section does not apply to a violation of the following provisions of this article:~~

~~(1) Title 5, Subtitle 4;~~

~~(2) Title 7, Subtitle 1;~~

~~(3) § 7-213 AS IT APPLIES TO ELECTRIC COOPERATIVES;~~

~~(4) Title 8, Subtitles 1 and 3;~~

~~[(4)] (5) Title 9, Subtitle 3; and~~

~~[(5)] (6) Title 8, Subtitle 4.~~

~~(b) (1) Except as provided in paragraph (2) of this subsection, the Commission may impose a civil penalty not exceeding \$10,000 against a person who violates a provision of this division, or an effective and outstanding direction, ruling, order, rule, or regulation of the Commission.~~

~~(2) The civil penalty that the Commission may impose on a common carrier for each violation may not exceed \$2,500.~~

~~(c) (1) A civil penalty may be imposed in addition to any other penalty authorized by this division.~~

~~(2) Each violation is a separate offense.~~

~~(3) Each day or part of a day the violation continues is a separate offense.~~

~~(d) The Commission shall determine the amount of any civil penalty after considering:~~

~~(1) the number of previous violations of any provision of this article;~~

~~(2) the gravity of the current violation;~~

~~(3) the good faith efforts of the violator in attempting to achieve compliance after notification of the violation; and~~

~~(4) any other matter that the Commission considers appropriate and relevant.~~

~~(e) A civil penalty collected under this section shall be paid into the General Fund of the State.~~

~~13-202~~

~~(a) In this section, "safety violation" means a condition or activity likely to cause injury or harm to an individual or property.~~

~~(b) This section does not apply to a safety violation by a gas company that is subject to § 13-203 of this subtitle.~~

~~(c) (1) Subject to paragraph (2) of this subsection, a public service company that violates a provision of this division that relates to safety is subject to a civil penalty not exceeding ~~[\$500] \$10,000~~ for each violation for each day that the violation persists.~~

~~(2) [The maximum civil penalty may not exceed:~~

~~(i) \$50,000 for a related series of violations; or~~

~~(ii) for] **FOR** a common carrier, **THE MAXIMUM CIVIL PENALTY MAY NOT EXCEED** \$500 for each violation or related series of violations stemming from a single safety inspection.~~

~~(d) In determining the amount of a civil penalty imposed under this section, the Commission shall consider the:~~

~~(1) appropriateness of the penalty to the size of the public service company;~~

~~(2) number of previous violations of this article by the public service company;~~

~~(3) gravity of the current violation; and~~

~~(4) good faith of the public service company in attempting to achieve compliance after notification of the violation.~~

~~(e) The public service company involved may request reconsideration of a penalty imposed under this section within 30 days after the date of notification of the determination.~~

13-201.

(a) This section does not apply to a violation of the following provisions of this article:

(1) Title 5, Subtitle 4;

(2) Title 7, Subtitle 1;

(3) **§ 7-213 AS IT APPLIES TO ELECTRIC COOPERATIVES;**

(4) Title 8, Subtitles 1 and 3;

[(4)] (5) Title 9, Subtitle 3; and

[(5)] (6) Title 8, Subtitle 4.

(b) (1) Except as provided in paragraph (2) of this subsection, the Commission may impose a civil penalty not exceeding ~~[\$10,000]~~ **\$25,000** against a person who violates a provision of this division, or an effective and outstanding direction, ruling, order, rule, or regulation of the Commission.

(2) The civil penalty that the Commission may impose on a common carrier for each violation may not exceed \$2,500.

(c) (1) A civil penalty may be imposed in addition to any other penalty authorized by this division.

(2) Each violation is a separate offense.

(3) Each day or part of a day the violation continues is a separate offense.

(d) The Commission shall determine the amount of any civil penalty after considering:

(1) the number of previous violations of any provision of this article;

(2) the gravity of the current violation;

(3) the good faith efforts of the violator in attempting to achieve compliance after notification of the violation; and

(4) any other matter that the Commission considers appropriate and relevant.

(e) A civil penalty collected under this section shall be paid into the General Fund of the State.

13-202.

(a) In this section, "safety violation" means a condition or activity likely to cause injury or harm to an individual or property.

(b) This section does not apply to a safety violation by a gas company that is subject to § 13-203 of this subtitle.

(c) (1) Subject to paragraph (2) of this subsection, a public service company that violates a provision of this division that relates to safety is subject to a civil penalty not exceeding ~~[\$500]~~ **\$25,000** for each violation for each day that the violation persists.

(2) ~~[The maximum civil penalty may not exceed:~~

(i) \$50,000 for a related series of violations; or

(ii) ~~for]~~ **FOR** a common carrier, **THE MAXIMUM CIVIL PENALTY MAY NOT EXCEED \$500** for each violation or related series of violations stemming from a single safety inspection.

(d) In determining the amount of a civil penalty imposed under this section, the Commission shall consider the:

(1) appropriateness of the penalty to the size of the public service company;

(2) number of previous violations of this article by the public service company;

(3) gravity of the current violation; and

(4) good faith of the public service company in attempting to achieve compliance after notification of the violation.

(e) The public service company involved may request reconsideration of a penalty imposed under this section within 30 days after the date of notification of the determination.

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Public Service Commission shall:

(1) review current regulations, tariffs, or standards relating to electric company responsibility for customer damages caused by electrical surges and assess the feasibility of obtaining information from electric companies regarding the extent of electrical surges and customer damages that result from electrical surges;

(2) study the feasibility of incorporating an electric company's service restoration plan into the electric company's reliability plan; ~~and~~

(3) study and consider whether to prohibit an electric company from calculating the rate charged by the electric company using a formula that decouples the electric company's revenue from the sale of kilowatt-hours unless the formula provides for the suspension of decoupling during any extended service disruption; and

(4) on or before January 1, 2012, report its findings to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2-1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That the Public Service Commission shall convene a stakeholder workgroup to provide recommendations regarding the regulations to be adopted by the Commission under this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That nothing in this Act shall be construed as limiting the authority of the Public Service Commission to impose penalties for violations of law or regulation in existence before the effective date of this Act.

SECTION ~~2~~ ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the

members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 10, 2011.