

**STATE OF MARYLAND
OFFICE OF PEOPLE'S COUNSEL**

Paula M. Carmody, People's Counsel

6 St. Paul Street, Suite 2102
Baltimore, Maryland 21202
410-767-8150; 800-207-4055
www.opc.state.md.us

BILL NO.: **Senate Bill 373**
Gas and Electric Companies—Use of Trade
Name or Trademark--Royalties

COMMITTEE: **Finance**

HEARING DATE: **February 14, 2012**

SPONSOR: **Senators Middleton and Klausmeier**

POSITION: **Support with Amendment**

Senate Bill 373 requires an affiliate of a gas and electric company that provides heating, ventilation, air conditioning or refrigeration services to pay royalties if it uses the trade name or trademark of the gas and electric company as part of its own trade name or trademark. The royalties would be paid to the gas and electric company which would then pay them to the Comptroller. The Comptroller would then place the revenues collected in the Electric Universal Service Program (EUSP) fund. The Public Service Commission (PSC) is required to verify the annual gross receipts of an affiliate subject to the bill, the collection of royalties by the gas and electric company and subsequent payments to the Comptroller.

The Office of People's Counsel supports this Bill as a novel way to increase funding for the Electric Universal Service Program. Based upon the analysis of the Office of Home Energy Programs (OHEP) at the Department of Human Resources (DHR), continued adequate funding to meet the needs of qualified families is increasingly at risk. Job loss and wage deflation have created more demand for energy assistance program such as EUSP. According to OHEP, increased demand for assistance without concomitant increases in available funding has resulted in the average bill assistance benefit to families being decreased. In its 2011 Annual Report¹, OHEP provided a chart showing the average bill assistance benefit provided per household since 2001:

¹ See Office of Home Energy Programs Fiscal Year 2011 Electric Universal Service Annual Report, pp.3-5 (November 16, 2011).

Table 1. EUSP Summary Data FY 2001-2011

Program and Year	Applicants Served	Average Grant	Ratepayer Funds (millions)	Other Funds (millions)	Total Benefit Expenditures (millions)
Arrearage					
2011	19,243	\$931	-	\$17.9	\$17.9
2010	30,078	\$1,025	-	\$30.8	\$30.8
2009	22,295	\$936	\$1.5	\$19.4	\$20.9
2008	7,957	\$801	\$1.5	\$4.9	\$6.4
2007	10,486	\$486	\$1.15	\$3.6	\$5.1
2006	3,937	\$435	\$1.7	\$.2	\$1.9
2005	3,894	\$390	\$1.5	-	\$1.5
2004	4,888	\$307	\$1.5	-	\$1.5
2003	3,551	\$432	\$1.5	-	\$1.5
2002	5,148	\$415	\$2.0	-	\$2.0
2001	26,211	\$270	\$7.7	-	\$7.7
Bill Assistance					
2011	132,504	\$446	\$38.5	\$20.7	\$59.2
2010	129,670	\$612	\$37.0	\$42.5	\$79.5
2009	116,136	\$688	\$30.8	\$49.3	\$80.1
2008	100,670	\$601	\$30.8	\$27.8	\$58.6
2007	93,323	\$510	\$30.5	\$16.1	\$46.6
2006	83,853	\$410	\$34.3		\$34.3
2005	78,668	\$362	\$28.6		\$28.6
2004	72,390	\$396	\$28.7		\$28.7
2003	69,781	\$419	\$29.2		\$29.2
2002	57,585	\$287	\$16.7		\$16.7
2001	56,245	\$270	\$17.6		\$17.6

Source: Maryland Department of Human Resources
Family Investment Administration
Office of Home Energy Programs

Significantly, OHEP projects that the average bill assistance grant per household will decrease from \$446 in Fiscal Year 2011 to \$396 for Fiscal Year 2012², about 11% less than the average for Fiscal Year 2011. That also represents average bill assistance decrease of \$216(or 35 %) from 2010 levels. This Bill would help to ameliorate the reduction in available funding to eligible families.

However, to meet what appears to be the goal of the Bill, the Office of People's Counsel suggests certain amendments. The amendments are attached.

² OHEP originally projected bill assistance of \$323 per household in its Operations Plan for Fiscal Year 2012, p.14.

First, to make clear that the Bill applies to all companies that have the types of affiliates described in the Bill, OPC suggests that the Bill apply to a person that is a “gas , electric or combined gas and electric company.” That would bring companies such as Washington Gas Light Company (WGL) and Potomac Electric Power Company (PEPCO) under the operation of the Bill and maximize potential sources of funding. To the extent royalties are collected from gas companies, OPC suggests that the Comptroller place those royalties either in the Maryland Energy Assistance Program or with the Department of Housing and Community Development to provide additional weatherization assistance.

Second, OPC suggests that the definition be broadened to make clear that the annual gross receipts subject to royalties include revenues from the sale of gas or electric supply by affiliates that use utility names to provide electricity or gas supply services.

With those amendments, OPC respectfully requests a FAVORABLE report.

Senate Bill 373 –Royalties for Use of Name or Trademark

Proposed Amendments of the Office of People's Counsel

February 14, 2012

Sections 7-512.1(f)(3)(i)3; 7-801 (B)(1), (C), (D)(1) and (E):

STRIKE “gas and electric company”

INSERT “Gas, electric or combined gas and electric company”

Section 7-801(B) (2):

After “refrigeration services” **ADD** “sells gas or electric supply or supply services.”

Section 7-801 (D) (2):

After “ Home Energy Programs” **ADD** “ and for revenue collected from gas companies, the Comptroller shall place the revenue collected in the Maryland Energy Assistance Program or the Weatherization Program of the Department of Housing and Community Development.”