

UNOFFICIAL COPY OF SENATE BILL 1
EMERGENCY BILL

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By: **The President and Chairman, Finance Committee**
Introduced and read first time: June 14, 2006
Assigned to: Finance

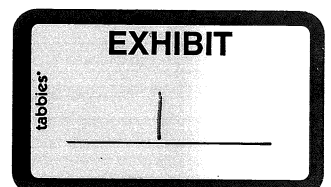
Rules suspended
Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: June 14, 2006

CHAPTER _____

1 AN ACT concerning

2 **Public Service Commission - Electric Industry Restructuring**

3 FOR the purpose of altering the criteria for appointment to the Public Service
4 Commission; altering the method of appointment of the People's Counsel and
5 providing a term of office for the People's Counsel; providing for the extension of
6 the obligation to provide standard offer service to certain electric customers;
7 requiring the Commission to report to the Governor and the General Assembly
8 on the status of standard offer service on certain dates; requiring the
9 Commission to adopt certain regulations concerning the wholesale procurement
10 of electricity for standard offer service to certain customers; altering certain
11 findings and terms for certain extended service; requiring certain electric
12 companies to obtain electricity supply for certain extended service to certain
13 customers in certain manners; authorizing the Commission to take certain
14 actions concerning certain competitive auctions and implementation of certain
15 electricity rates; authorizing the procurement of electricity supply for certain
16 service in certain manners, including by a competitive process that includes
17 certain methods and strategies and by negotiated bilateral contracts;
18 authorizing the rejection of certain bids in accordance with certain standards;
19 requiring the disclosure of certain information concerning certain bids and
20 contracts; authorizing the Commission to require or allow the construction or
21 acquisition of certain facilities by certain electric companies; requiring the
22 Commission to conduct certain proceedings if certain electric rates are to
23 increase by certain amounts; authorizing the recovery of certain deferred costs
24 in certain manners in accordance with certain plans and certain provisions;
25 altering the amount and sources of funds to be assessed for the Electric
26 Universal Service Program each year; altering the eligibility of certain
27 customers for the Program; authorizing bill assistance under the Program to be
28 paid on a monthly basis; requiring the collection of certain funds for the



1 Program in a certain manner; authorizing an electric company to file certain
2 rate stabilization plans and tariffs with the Commission; providing for the
3 deferral and collection of certain costs and expenses; providing for the
4 establishment and characteristics of rate stabilization property; providing for
5 the issuance of qualified rate orders for certain purposes under certain
6 circumstances; providing for the issuance of certain rate stabilization bonds for
7 certain purposes; providing for the establishment, collection, and adjustment of
8 certain rate stabilization charges in certain manners; providing for certain
9 property rights in certain rate stabilization property; providing that certain
10 transfers of certain property are true sales; requiring disclosure of certain
11 information to certain consumers in a certain manner; providing for certain
12 actions in the event of certain defaults; establishing certain rights and duties for
13 a successor to an electric company for certain purposes; establishing certain
14 maximum rates for certain residential electric customers for certain periods;
15 providing for the deferral and collection of certain costs and expenses of certain
16 electric companies related to those customers in certain manners; providing for
17 the determination and application of certain credits of a certain amount for a
18 certain number of years by certain electric companies in certain manners;
19 providing that this Act binds the Commission and any successor body in a
20 certain manner; repealing a credit against the corporate income tax for certain
21 property taxes paid on certain operating real property used to generate
22 electricity for sale; providing for the distribution of certain corporate income tax
23 revenue for a certain fiscal year to a certain special fund; altering certain
24 provisions relating to acquisition and issuance of stock and debt by certain
25 public service companies incorporated in the State to apply to public service
26 companies operating in the State; prohibiting the lending of money from a
27 public service company to an affiliate on certain terms without the prior
28 approval of the Commission; prohibiting a person from acquiring certain public
29 service companies without the prior approval of the Commission; providing for
30 the application and review of certain proposed acquisitions; requiring the
31 disclosure of certain information by certain persons in connection with certain
32 proposed acquisitions; establishing certain factors that the Commission must
33 consider in assessing certain acquisitions; providing that the Commission may
34 only approve certain acquisitions if the acquisitions are consistent with the
35 public interest, convenience, and necessity; stating certain findings and
36 declarations of the General Assembly; requiring the inclusion of certain
37 conditions in any approval of a merger between two certain companies;
38 prohibiting the Commission from approving a certain proposed merger before
39 the occurrence of certain events; requiring the Commission to conduct certain
40 proceedings in connection with a certain merger and in connection with
41 reevaluation of certain matters relating to the Electric Customer Choice and
42 Competition Act of 1999 and related matters, including the determination of and
43 allowance for certain stranded costs; requiring the Commission to incorporate
44 certain funds and adjustments in a certain plan for certain residential
45 customers; requiring the Commission to initiate certain other proceedings to
46 study and report on certain matters; requiring the State Department of
47 Assessments and Taxation to study and report on certain matters; requiring
48 that certain costs be borne by public service companies in a certain manner;

1 providing for a certain mitigation plan for certain electric companies; requiring
2 the Commission to initiate a certain proceeding to investigate certain options for
3 standard offer service in a certain service territory; providing for the
4 termination of the terms of the current members of the Commission and the
5 appointment and terms of new members of the Commission in a certain manner;
6 providing for the continued service of the current People's Counsel at the
7 pleasure of the Attorney General; directing the Attorney General to intervene in
8 certain proceedings regarding a certain merger; providing certain
9 appropriations to certain units; providing for the venue and certain related
10 matters concerning actions to challenge provisions of this Act; prohibiting the
11 use of State funds for certain purposes; requiring the Commission, through the
12 modification of a certain order, to require certain electric companies to provide
13 an additional time period in which residential customers may opt in to a certain
14 rate mitigation plan; authorizing certain electric companies to continue to
15 collect an authorized reasonable return for providing certain service under
16 certain circumstances; defining certain terms; providing for the construction of
17 this Act; providing that certain portions of this Act are contingent on the
18 occurrence of certain events; providing for the application of this Act; making
19 the provisions of this Act severable; making this Act an emergency measure;
20 providing for the effective dates of portions of this Act; and generally relating to
21 the Public Service Commission, the Office of People's Counsel, electric utility
22 industry restructuring and standard offer service, and public service companies,
23 mergers, acquisitions, and financial structures.

24 BY repealing and reenacting, with amendments,

25 Article - Public Utility Companies

26 Section 2-102, 2-202(a) and (b), 5-203, 6-101 through 6-103, 7-510(c), and
27 7-512.1(a), (b), and (e)

28 Annotated Code of Maryland

29 (1998 Volume and 2005 Supplement)

30 BY repealing and reenacting, without amendments,

31 Article - Public Utility Companies

32 Section 2-103, 2-113, and 5-104

33 Annotated Code of Maryland

34 (1998 Volume and 2005 Supplement)

35 BY adding to

36 Article - Public Utility Companies

37 Section 2-202(g), 6-105, and 7-513(f); 7-520 through 7-544, inclusive, to be
38 under the new part "Part III. Rate Stabilization - In General"; and 7-547
39 through 7-549, inclusive, to be under the new part "Part IV. Rate
40 Stabilization - Special Provisions"

41 Annotated Code of Maryland

42 (1998 Volume and 2005 Supplement)

1 BY repealing
2 Article - Tax - General
3 Section 10-712
4 Annotated Code of Maryland
5 (2004 Replacement Volume and 2005 Supplement)

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

8 **Article - Public Utility Companies**

9 2-102.

10 (a) The Commission consists of five commissioners, appointed by the Governor
11 with the advice and consent of the Senate.

12 (b) (1) Each commissioner shall be a registered voter of the State.

13 (2) The Commission shall be:

14 (I) broadly representative of THE GEOGRAPHIC AND
15 DEMOGRAPHIC DIVERSITY OF THE STATE AND OF the public [interest]; and [shall
16 be]

17 (II) composed of individuals with diverse training and experience.

18 (c) Each commissioner shall devote full time to the duties of office.

19 (d) (1) The term of a commissioner is 5 years and begins on July 1.

20 (2) The terms of commissioners are staggered as required by the terms in
21 effect for commissioners on [October 1, 1998] JULY 1, 2006.

22 (3) At the end of a term, a commissioner continues to serve until a
23 successor qualifies.

24 (4) A commissioner who is appointed after a term has begun serves for
25 the rest of the term and until a successor qualifies.

26 (e) Before taking office, each appointee to the Commission shall take the oath
27 required by Article I, § 9 of the Maryland Constitution.

28 (f) The Governor may remove a commissioner for incompetence or misconduct
29 in accordance with § 3-307 of the State Government Article.

30 2-103.

31 (a) With the advice and consent of the Senate, the Governor shall appoint a
32 Chairman.

1 (b) (1) The term of the Chairman is 5 years and begins on July 1.

2 (2) At the end of a term, the Chairman continues to serve until a
3 successor qualifies.

4 (3) A Chairman who is appointed after a term has begun serves for the
5 rest of the term and until a successor qualifies.

6 2-113.

7 (a) (1) The Commission shall:

8 (i) supervise and regulate the public service companies subject to
9 the jurisdiction of the Commission to:

10 1. ensure their operation in the interest of the public; and

11 2. promote adequate, economical, and efficient delivery of
12 utility services in the State without unjust discrimination; and

13 (ii) enforce compliance with the requirements of law by public
14 service companies, including requirements with respect to financial condition,
15 capitalization, franchises, plant, manner of operation, rates, and service.

16 (2) In supervising and regulating public service companies, the
17 Commission shall consider the public safety, the economy of the State, the
18 conservation of natural resources, and the preservation of environmental quality.

19 (b) The powers and duties listed in this title do not limit the scope of the
20 general powers and duties of the Commission provided for by this article.

21 2-202.

22 (a) With the advice and consent of the Senate, the [Governor] ATTORNEY
23 GENERAL shall appoint the People's Counsel.

24 (b) (1) The TERM OF THE People's Counsel [serves at the pleasure of the
25 Governor] IS 5 YEARS AND BEGINS ON JULY 1.

26 (2) AT THE END OF A TERM, THE PEOPLE'S COUNSEL CONTINUES TO
27 SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

28 (3) A PEOPLE'S COUNSEL WHO IS APPOINTED AFTER A TERM HAS BEGUN
29 SERVES FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
30 QUALIFIES.

31 (G) THE ATTORNEY GENERAL MAY REMOVE THE PEOPLE'S COUNSEL FOR
32 GOOD CAUSE SHOWN AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD.

1 7-510.

2 (c) (1) Beginning on the initial implementation date, an electric company's
3 obligation to provide electricity supply and electricity supply service is stated by this
4 subsection.

5 (2) Electricity supply purchased from a customer's electric company is
6 known as standard offer service. A customer is considered to have chosen the
7 standard offer service if the customer:

8 (i) is not allowed to choose an electricity supplier under the phase
9 in of customer choice in subsection (a) of this section;

10 (ii) contracts for electricity with an electricity supplier and it is not
11 delivered;

12 (iii) cannot arrange for electricity from an electricity supplier;

13 (iv) does not choose an electricity supplier;

14 (v) chooses the standard offer service; or

15 (vi) has been denied service or referred to the standard offer service
16 by an electricity supplier in accordance with § 7-507(e)(6) of this subtitle.

17 (3) (I) [Any] EXCEPT AS PROVIDED UNDER SUBPARAGRAPH (II) OF
18 THIS PARAGRAPH, ANY obligation of an electric company to provide standard offer
19 service shall cease on July 1, 2003[, except that:

20 (i) electric].

21 (II) 1. ELECTRIC cooperatives and municipal electric utilities
22 may choose to continue providing standard offer service in their respective
23 distribution territories[, and may cease offering that service after notifying the
24 Commission at least 12 months in advance; and].

25 [(ii) 1. if the Commission finds that the electricity supply market
26 is not competitive or that no acceptable competitive proposal has been received to
27 supply electricity to those customers described under paragraph (2) of this subsection,
28 the Commission shall extend]

29 2. ON AND AFTER JULY 1, 2003, AN ELECTRIC COMPANY
30 CONTINUES TO HAVE the obligation to provide standard offer service to residential
31 and small commercial customers at a market price that permits recovery of the
32 verifiable, prudently incurred costs to procure or produce the electricity plus a
33 reasonable return.

34 [2. The Commission shall reexamine the finding made under
35 this subparagraph at least annually.]

1 (III) 1. ON OR BEFORE DECEMBER 31, 2008, AND EVERY 5 YEARS
2 THEREAFTER, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN
3 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE
4 GENERAL ASSEMBLY ON THE STATUS OF THE STANDARD OFFER SERVICE, THE
5 DEVELOPMENT OF COMPETITION, AND THE TRANSITION OF STANDARD OFFER
6 SERVICE TO A DEFAULT SERVICE.

7 2. THE COMMISSION SHALL ESTABLISH, BY ORDER OR
8 REGULATION, THE DEFINITION OF "DEFAULT SERVICE".

9 (4) (I) On or before July 1, 2001, the Commission shall adopt
10 regulations or issue orders to establish procedures for the competitive selection of
11 WHOLESALE electricity suppliers, including an affiliate of an electric company, to
12 provide ELECTRICITY FOR standard offer service to customers of electric companies
13 under paragraph (2) of this subsection, except for customers of electric cooperatives
14 and municipal electric utilities. Unless delayed by the Commission, the competitive
15 selection shall take effect no later than July 1, 2003.

16 (II) 1. UNDER AN EXTENSION OF THE OBLIGATION TO PROVIDE
17 STANDARD OFFER SERVICE IN ACCORDANCE WITH PARAGRAPH (3)(II) OF THIS
18 SUBSECTION, THE COMMISSION, BY REGULATION OR ORDER, AND IN A MANNER
19 THAT IS DESIGNED TO OBTAIN THE BEST PRICE FOR RESIDENTIAL AND SMALL
20 COMMERCIAL CUSTOMERS IN LIGHT OF MARKET CONDITIONS AT THE TIME OF
21 PROCUREMENT AND THE NEED TO PROTECT THESE CUSTOMERS FROM EXCESSIVE
22 PRICE INCREASES:

23 A. SHALL REQUIRE EACH INVESTOR-OWNED ELECTRIC
24 COMPANY TO OBTAIN ITS ELECTRICITY SUPPLY FOR RESIDENTIAL AND SMALL
25 COMMERCIAL CUSTOMERS PARTICIPATING IN STANDARD OFFER SERVICE THROUGH
26 A COMPETITIVE PROCESS IN ACCORDANCE WITH THIS PARAGRAPH; AND

27 B. MAY REQUIRE OR ALLOW AN INVESTOR-OWNED
28 ELECTRIC COMPANY TO PROCURE ELECTRICITY FOR THESE CUSTOMERS DIRECTLY
29 FROM AN ELECTRICITY SUPPLIER THROUGH ONE OR MORE BILATERAL CONTRACTS
30 OUTSIDE THE COMPETITIVE PROCESS.

31 2. A. AS THE COMMISSION DIRECTS, THE COMPETITIVE
32 PROCESS SHALL INCLUDE A SERIES OF COMPETITIVE WHOLESALE BIDS IN WHICH
33 THE INVESTOR-OWNED ELECTRIC COMPANY SOLICITS BIDS TO SUPPLY
34 ANTICIPATED STANDARD OFFER SERVICE LOAD FOR RESIDENTIAL AND SMALL
35 COMMERCIAL CUSTOMERS AS PART OF A PORTFOLIO OF BLENDED WHOLESALE
36 SUPPLY CONTRACTS OF SHORT, MEDIUM, OR LONG TERMS, AND OTHER
37 APPROPRIATE ELECTRICITY PRODUCTS AND STRATEGIES, AS NEEDED TO MEET
38 DEMAND IN A COST-EFFECTIVE MANNER.

39 B. THE COMPETITIVE PROCESS MAY INCLUDE DIFFERENT
40 BIDDING STRUCTURES AND MECHANISMS FOR BASE LOAD, PEAK LOAD, AND VERY
41 SHORT-TERM PROCUREMENT.

1 C. BY REGULATION OR ORDER, AS A PART OF THE
2 COMPETITIVE PROCESS, THE COMMISSION SHALL REQUIRE OR ALLOW THE
3 PROCUREMENT OF COST-EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION
4 MEASURES AND SERVICES WITH PROJECTED AND VERIFIABLE ENERGY SAVINGS TO
5 OFFSET ANTICIPATED DEMAND TO BE SERVED BY STANDARD OFFER SERVICE, AND
6 THE IMPOSITION OF OTHER COST-EFFECTIVE DEMAND-SIDE MANAGEMENT
7 PROGRAMS.

8 3. A. IN ORDER TO PREVENT AN EXCESSIVE AMOUNT OF
9 LOAD BEING EXPOSED TO UPWARD PRICE RISKS AND VOLATILITY, THE COMMISSION
10 MAY STAGGER THE DATES FOR THE COMPETITIVE WHOLESALE AUCTIONS.

11 B. BY REGULATION OR ORDER, THE COMMISSION MAY
12 ALLOW A DATE ON WHICH A COMPETITIVE WHOLESALE AUCTION TAKES PLACE TO
13 BE ALTERED BASED ON CURRENT MARKET CONDITIONS.

14 4. BY REGULATION OR ORDER, THE COMMISSION MAY
15 ALLOW AN INVESTOR-OWNED ELECTRIC COMPANY TO REFUSE TO ACCEPT SOME OR
16 ALL OF THE BIDS MADE IN A COMPETITIVE WHOLESALE AUCTION IN ACCORDANCE
17 WITH STANDARDS ADOPTED BY THE COMMISSION.

18 5. THE INVESTOR-OWNED ELECTRIC COMPANY SHALL
19 PUBLICLY DISCLOSE THE NAMES OF ALL BIDDERS AND THE NAMES AND LOAD
20 ALLOCATION OF ALL SUCCESSFUL BIDDERS 90 DAYS AFTER ALL CONTRACTS FOR
21 SUPPLY ARE EXECUTED.

22 (5) An electric company may procure the electricity needed to meet its
23 standard offer service electricity supply obligation from any electricity supplier,
24 including an affiliate of the electric company.

25 (6) IN ORDER TO MEET LONG-TERM, ANTICIPATED DEMAND IN THE
26 STATE FOR STANDARD OFFER SERVICE AND OTHER ELECTRICITY SUPPLY, THE
27 COMMISSION MAY REQUIRE OR ALLOW AN INVESTOR-OWNED ELECTRIC COMPANY
28 TO CONSTRUCT OR, ACQUIRE, OR LEASE, AND OPERATE, ITS OWN GENERATING
29 FACILITIES, AND TRANSMISSION FACILITIES NECESSARY TO INTERCONNECT THE
30 GENERATING FACILITIES WITH THE ELECTRIC GRID, SUBJECT TO APPROPRIATE
31 COST RECOVERY.

32 (7) (I) TO DETERMINE WHETHER AN APPROPRIATE PHASED
33 IMPLEMENTATION OF ELECTRICITY RATES THAT IS NECESSARY TO PROTECT
34 RESIDENTIAL CUSTOMERS FROM THE IMPACT OF SUDDEN AND SIGNIFICANT
35 INCREASES IN ELECTRICITY RATES, THE COMMISSION IN THE CASE OF AN INCREASE
36 OF 20% OR MORE OVER THE PREVIOUS YEAR'S TOTAL ELECTRICITY RATES, SHALL
37 CONDUCT EVIDENTIARY PROCEEDINGS, INCLUDING PUBLIC HEARINGS.

38 (II) 1. A DEFERRAL OF COSTS AS PART OF A PHASED
39 IMPLEMENTATION OF ELECTRICITY RATES BY AN INVESTOR-OWNED ELECTRIC
40 COMPANY SHALL BE TREATED AS A REGULATORY ASSET TO BE RECOVERED IN
41 ACCORDANCE WITH A RATE STABILIZATION PLAN UNDER PART III OF THIS SUBTITLE

1 OR ANY OTHER PLAN FOR PHASED IMPLEMENTATION APPROVED BY THE
2 COMMISSION.

3 2. A DEFERRAL OF COSTS UNDER THIS PARAGRAPH MUST BE
4 JUST, REASONABLE, AND IN THE PUBLIC INTEREST.

5 (III) THE COMMISSION SHALL APPROVE THE RECOVERY OF
6 DEFERRED COSTS UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH AS:

7 1. LONG-TERM RECOVERY IN ACCORDANCE WITH A RATE
8 STABILIZATION PLAN UNDER PART III OF THIS SUBTITLE; OR

9 2. SHORT-TERM RECOVERY THROUGH A RATE PROCEEDING
10 ~~UNDER TITLE 4 OF THIS ARTICLE~~ MECHANISM APPROVED BY THE COMMISSION.

11 (IV) THE COMMISSION MAY APPROVE A PHASING IN OF INCREASED
12 COSTS BY:

13 1. PLACING A CAP ON RATES AND ALLOWING RECOVERY
14 OVER TIME; OR

15 2. ALLOWING RATES TO INCREASE AND PROVIDING FOR A
16 REBATE TO CUSTOMERS OF ANY EXCESS COSTS PAID.

17 (8) (I) THE COMMISSION, ON REQUEST BY AN ELECTRIC
18 COOPERATIVE OR ON ITS OWN INITIATIVE, SHALL INITIATE A PROCEEDING TO
19 INVESTIGATE OPTIONS FOR A RATE STABILIZATION PLAN TO ASSIST RESIDENTIAL
20 ELECTRIC CUSTOMERS TO GRADUALLY ADJUST TO MARKET RATES OVER AN
21 EXTENDED PERIOD OF TIME.

22 (II) IF AN ELECTRIC COOPERATIVE DETERMINES THAT TOTAL
23 ELECTRIC RATES FOR RESIDENTIAL CUSTOMERS ARE ANTICIPATED TO INCREASE BY
24 MORE THAN 20% IN A 12-MONTH PERIOD RESULTING FROM AN INCREASE IN THE
25 COST OF GENERATION, THE ELECTRIC COOPERATIVE SHALL SURVEY ITS
26 MEMBERSHIP TO DETERMINE WHETHER TO MAKE A REQUEST TO THE COMMISSION
27 TO INITIATE A PROCEEDING UNDER SUBSECTION (A) OF THIS SECTION.

28 (III) NOTWITHSTANDING SUBPARAGRAPHS (I) AND (II) OF THIS
29 PARAGRAPH, AS APPROVED BY THE COMMISSION, AN ELECTRIC COOPERATIVE MAY
30 RECEIVE A MODIFICATION IN DISTRIBUTION AND TRANSMISSION RATES.

31 7-512.1.

32 (a) (1) The Commission shall establish an electric universal service program
33 to assist electric customers with annual incomes at or below [150%] 175% of the
34 federal poverty level.

35 (2) The components of the electric universal service program shall
36 include:

- 1 (i) bill assistance, at a minimum of 50% of the determined need;
- 2 (ii) low-income weatherization; and
- 3 (iii) the retirement of arrearages for electric customers who have not
- 4 previously received assistance in retiring arrearages under the universal service
- 5 program, not to exceed a total of \$1.5 million in any given fiscal year.

6 (3) The Department of Housing and Community Development is

7 responsible for administering the low-income weatherization component of the

8 electric universal service program.

9 (4) The Department of Human Resources, through the Office of Home

10 Energy Programs, is responsible for administering the bill assistance and the

11 arrearage retirement components of the electric universal service program.

12 (5) The Department of Human Resources may, with input from a panel

13 or roundtable of interested parties, contract to assist in administering the bill

14 assistance and the arrearage retirement components of the electric universal service

15 program.

16 (6) The Commission has oversight responsibility for the bill assistance

17 and the arrearage retirement components of the electric universal service program.

18 (7) In a specific case, the electric universal service program may waive

19 the income eligibility limitation under paragraph (1) of this subsection in order to

20 provide assistance to an electric customer who would qualify for a similar waiver

21 under the Maryland Energy Assistance Program established under Article 41, § 6-406

22 of the Code.

23 (b) (1) All customers shall contribute to the funding of the electric universal

24 service program through a charge collected by each electric company.

25 (2) The Commission shall determine a fair and equitable allocation for

26 collecting the charges among all customer classes pursuant to subsection (e) of this

27 section.

28 (3) In accordance with subsection (f)(6) of this section, any unexpended

29 bill assistance and arrearage retirement funds returned to customers under

30 subsection (f) of this section shall be returned to each customer class as a credit in the

31 same proportion that the customer class contributed charges to the fund.

32 (4) An electric company shall recover electric universal service program

33 costs in accordance with § 7-512 of this subtitle.

34 (5) AS DETERMINED BY THE OFFICE OF HOME ENERGY PROGRAMS, BILL

35 ASSISTANCE PAYMENTS TO AN ELECTRIC COMPANY MAY BE ON A MONTHLY BASIS

36 FOR EACH CUSTOMER.

1 (6) The Commission shall determine the allocation of the electric
2 universal service charge among the generation, transmission, and distribution rate
3 components of all classes.

4 [(6)] (7) The Commission may not assess the electric universal service
5 surcharge on a per kilowatt-hour basis.

6 (e) The total amount of funds to be collected for the electric universal service
7 program each year shall be [\$34,000,000] \$37 MILLION, allocated in the following
8 manner:

9 (1) [\$24.4] \$27.4 million shall be collected from the industrial and
10 commercial classes; and

11 (2) \$9.6 million shall be collected from the residential class.

12 7-513.

13 (F) THIS SECTION DOES NOT APPLY TO RATE STABILIZATION COSTS
14 ESTABLISHED OR QUALIFIED RATE ORDERS ISSUED UNDER PART III OR PART IV OF
15 THIS SUBTITLE.

16 7-519. RESERVED.

17 PART III. RATE STABILIZATION.

18 7-520.

19 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

20 (B) "ASSIGNEE" MEANS ANY INDIVIDUAL, CORPORATION, OR OTHER LEGALLY
21 RECOGNIZED ENTITY TO WHICH AN ELECTRIC COMPANY TRANSFERS ALL OR A
22 PORTION OF ITS INTEREST IN RATE STABILIZATION PROPERTY, OTHER THAN AS
23 SECURITY, INCLUDING ANY ASSIGNEE OF THAT PARTY.

24 (C) (1) "FINANCING PARTY" MEANS A HOLDER OF RATE STABILIZATION
25 BONDS.

26 (2) "FINANCING PARTY" INCLUDES A TRUSTEE, COLLATERAL AGENT,
27 AND ANY OTHER PERSON ACTING FOR THE BENEFIT OF THE HOLDER.

28 (D) "QUALIFIED RATE ORDER" MEANS AN ORDER OF THE COMMISSION
29 APPROVING ONE OR MORE QUALIFIED RATE STABILIZATION CHARGES.

30 (E) "QUALIFIED RATE STABILIZATION CHARGE" MEANS THAT PORTION OF A
31 USAGE-BASED NONBYPASSABLE RATE, CHARGE, OR SIMILAR APPROPRIATE
32 MECHANISM FOR THE PROVISION, AVAILABILITY, OR TERMINATION OF ELECTRIC
33 SERVICE, APPROVED IN CONNECTION WITH A RATE STABILIZATION PLAN IN
34 ACCORDANCE WITH § 7-522 OR § 7-548 OF THIS SUBTITLE, THAT A QUALIFIED RATE

1 ORDER OF THE COMMISSION AUTHORIZES TO BE IMPOSED FOR THE RECOVERY OF
2 RATE STABILIZATION COSTS.

3 (F) "RATE STABILIZATION BOND" MEANS A BOND, DEBENTURE, NOTE,
4 CERTIFICATE OF PARTICIPATION OR BENEFICIAL INTEREST, OR OTHER EVIDENCE
5 OF INDEBTEDNESS OR OWNERSHIP THAT:

6 (1) IS AUTHORIZED IN A QUALIFIED RATE ORDER AND ISSUED UNDER
7 AN EXECUTED TRUST INDENTURE OR OTHER AGREEMENT OF AN ELECTRIC
8 COMPANY OR ASSIGNEE; AND

9 (2) IS SECURED BY, EVIDENCES AN OWNERSHIP INTEREST IN, OR IS
10 PAYABLE FROM RATE STABILIZATION PROPERTY.

11 (G) (1) "RATE STABILIZATION COST" MEANS A COST, LIABILITY, OR
12 INVESTMENT THAT AN ELECTRIC COMPANY INCURS OR WILL INCUR UNDER A RATE
13 STABILIZATION PLAN APPROVED BY THE COMMISSION.

14 (2) "RATE STABILIZATION COST" INCLUDES:

15 (I) THE EXCESS OF THE CONTRACTED PRICE INCURRED BY AN
16 ELECTRIC COMPANY FOR THE PURCHASE OF ENERGY SUPPLIES TO BE REQUIRED
17 FOR RETAIL CUSTOMERS TO WHOM IT PROVIDES STANDARD OFFER SERVICE, OVER
18 THE AMOUNTS THAT IT IS AUTHORIZED TO CHARGE CURRENTLY TO THOSE
19 CUSTOMERS UNDER THE RATE STABILIZATION PLAN;

20 (II) THE APPROVED COSTS OF ISSUING, SUPPORTING, AND
21 SERVICING RATE STABILIZATION BONDS; AND

22 (III) ANY APPROVED COSTS FOR RETIRING AND REFUNDING
23 EXISTING DEBT AND EQUITY SECURITIES OF THE ELECTRIC COMPANY ISSUED TO
24 TEMPORARILY FINANCE THOSE RATE STABILIZATION COSTS.

25 (H) "RATE STABILIZATION PLAN" MEANS A PLAN APPROVED BY THE
26 COMMISSION IN ACCORDANCE WITH THIS PART.

27 (I) (1) "RATE STABILIZATION PROPERTY" MEANS THE RIGHT, TITLE, AND
28 INTEREST OF AN ELECTRIC COMPANY OR ASSIGNEE IN A QUALIFIED RATE ORDER.

29 (2) "RATE STABILIZATION PROPERTY" INCLUDES:

30 (I) ALL RIGHTS IN, TO, AND UNDER A QUALIFIED RATE ORDER,
31 INCLUDING THE RIGHT TO IMPOSE AND COLLECT RATE STABILIZATION CHARGES
32 AND RIGHTS TO REVENUES, COLLECTIONS, CLAIMS, PAYMENTS, MONEY, OR OTHER
33 PROPERTY AND AMOUNTS ARISING FROM THE IMPOSITION OF RATE STABILIZATION
34 CHARGES UNDER THE QUALIFIED RATE ORDER; AND

35 (II) IN THE HANDS OF AN ASSIGNEE, THE RIGHT TO REQUIRE THE
36 ELECTRIC COMPANY TO PROVIDE ELECTRIC SERVICES AND TO COLLECT AND REMIT

1 THE QUALIFIED RATE STABILIZATION CHARGES AUTHORIZED IN THE QUALIFIED
2 RATE ORDER, BUT NOT THE RIGHT OR DUTY TO PROVIDE ELECTRIC SERVICES.

3 7-521.

4 THIS PART APPLIES TO AN ELECTRIC COMPANY THAT:

5 (1) HAS AN OBLIGATION TO PROVIDE STANDARD OFFER SERVICE TO
6 RESIDENTIAL ELECTRICITY CUSTOMERS IN ACCORDANCE WITH § 7-510(C) OF THIS
7 SUBTITLE; AND

8 (2) IS NOT SUBJECT TO A RATE CAP OR PRICE FREEZE UNDER § 7-505(D)
9 OF THIS SUBTITLE DURING THE PERIOD FOR WHICH A RATE STABILIZATION PLAN IS
10 REQUESTED UNDER THIS PART.

11 7-522.

12 (A) AN ELECTRIC COMPANY SUBJECT TO THIS PART MAY FILE A RATE
13 STABILIZATION PLAN WITH THE COMMISSION FOR APPROVAL.

14 (B) THE RATE STABILIZATION PLAN MAY INCLUDE BOTH SHORT-TERM AND
15 LONG-TERM DEFERRALS OF INCREMENTAL EXPENSES OF ELECTRICITY SUPPLIES.

16 7-523.

17 (A) THE COMMISSION MAY REQUIRE THAT A DEFERRAL OF EXPENSES UNDER
18 A RATE STABILIZATION PLAN BE EITHER VOLUNTARY OR MANDATORY IF THE
19 COMMISSION FINDS THAT THE REQUIRED TYPE OF DEFERRAL IS IN THE PUBLIC
20 INTEREST.

21 (B) THE RATE STABILIZATION PLAN MAY PROVIDE THAT A DEFERRAL SHALL
22 BE SECURED THROUGH THE ISSUANCE OF RATE STABILIZATION BONDS
23 AUTHORIZED BY A QUALIFIED RATE ORDER UNDER THIS PART.

24 7-524.

25 (A) TARIFFS IMPLEMENTING A RATE STABILIZATION PLAN MAY PROVIDE
26 THAT:

27 (1) RESIDENTIAL CUSTOMERS SHALL BE CHARGED THE FULL COST OF
28 RESIDENTIAL STANDARD OFFER SERVICE NECESSARY TO RECOVER THE ELECTRIC
29 COMPANY'S COSTS UNDER § 7- 510(C)(3) OF THIS SUBTITLE; AND

30 (2) ANY CREDITS OR RECOVERIES REQUIRED OR AUTHORIZED UNDER
31 THIS PART SHALL BE REFLECTED AS NONBYPASSABLE CREDITS OR CHARGES ON
32 THE ELECTRIC DISTRIBUTION PORTION OF EACH RESIDENTIAL CUSTOMER'S BILL.

33 (B) AS PART OF THE SUBMISSION OF A RATE STABILIZATION PLAN, AN
34 ELECTRIC COMPANY MAY APPLY TO THE COMMISSION FOR A QUALIFIED RATE
35 ORDER FOR THE FINANCING AND RECOVERY OF ITS APPROVED RATE STABILIZATION
36 COSTS IN ACCORDANCE WITH THIS PART.

1 7-525.

2 (A) THE COMMISSION MAY AUTHORIZE AN ELECTRIC COMPANY TO RECOVER,
3 AS ADDITIONAL RATE STABILIZATION COSTS, THE ACTUAL COST TO THE ELECTRIC
4 COMPANY OF CARRYING THE DEFERRED EXPENSES AS REGULATORY ASSETS UNDER
5 SHORT-TERM AND LONG-TERM DEFERRAL PLANS.

6 (B) THE ACTUAL COST IS EQUAL TO THE DEFERRED EXPENSES AS
7 REGULATORY ASSETS MULTIPLIED BY THE ELECTRIC COMPANY'S COST OF DEBT.

8 (C) IF THE ELECTRIC COMPANY SECURES THE DEBT IN ACCORDANCE WITH
9 THIS PART, THE COST OF THE SECURED DEBT IS SUBSTITUTED FOR THE ELECTRIC
10 COMPANY'S COST OF DEBT.

11 7-526.

12 (A) AN ELECTRIC COMPANY MAY APPLY TO THE COMMISSION FOR A
13 QUALIFIED RATE ORDER FOR THE FINANCING AND RECOVERY OF ITS RATE
14 STABILIZATION COSTS.

15 (B) ON APPLICATION OF AN ELECTRIC COMPANY, THE COMMISSION MAY
16 ADOPT A QUALIFIED RATE ORDER IF THE COMMISSION FINDS THAT THE TOTAL
17 AMOUNT OF REVENUE TO BE COLLECTED UNDER THE QUALIFIED RATE ORDER IS
18 LESS THAN THE RATE STABILIZATION COSTS REVENUE THAT WOULD BE RECOVERED
19 OVER THE SAME PERIOD USING THE ELECTRIC COMPANY'S WEIGHTED AVERAGE
20 COST OF CAPITAL.

21 (C) THE RATE STABILIZATION COSTS TO BE FINANCED AND RECOVERED
22 UNDER A QUALIFIED RATE ORDER MAY BE REDUCED BY FUNDS CONTRIBUTED FROM
23 OTHER SOURCES.

24 7-527.

25 (A) THE QUALIFIED RATE ORDER SHALL SET FORTH THE RATE
26 STABILIZATION COSTS TO BE RECOVERED AND THE PERIOD OVER WHICH THE
27 NONBYPASSABLE QUALIFIED RATE STABILIZATION CHARGES SHALL BE RECOVERED.

28 (B) THE RECOVERY PERIOD MAY NOT EXCEED 12 YEARS.

29 7-528.

30 (A) A QUALIFIED RATE ORDER SHALL BECOME EFFECTIVE IN ACCORDANCE
31 WITH ITS TERMS.

32 (B) AFTER A QUALIFIED RATE ORDER BECOMES EFFECTIVE, THE QUALIFIED
33 RATE ORDER AND THE QUALIFIED RATE STABILIZATION CHARGES AUTHORIZED IN
34 THE QUALIFIED RATE ORDER ARE IRREVOCABLE AND ARE NOT SUBJECT TO
35 REDUCTION, IMPAIRMENT, OR ADJUSTMENT BY FURTHER ACTION OF THE
36 COMMISSION EXCEPT IN ACCORDANCE WITH §§ 7-531, 7-533, AND 7-534 OF THIS
37 SUBTITLE.

1 (C) (1) A QUALIFIED RATE ORDER IS NOT SUBJECT TO REHEARING BY THE
2 COMMISSION.

3 (2) A QUALIFIED RATE ORDER MAY BE REVIEWED BY APPEAL ONLY TO
4 THE CIRCUIT COURT OF BALTIMORE CITY BY A PARTY TO THE PROCEEDING FILED
5 WITHIN 15 DAYS AFTER THE QUALIFIED RATE ORDER IS SIGNED BY THE
6 COMMISSION.

7 (3) THE JUDGMENT OF THE CIRCUIT COURT MAY BE REVIEWED ONLY
8 BY DIRECT APPEAL TO THE COURT OF APPEALS OF MARYLAND FILED WITHIN 15
9 DAYS AFTER ENTRY OF JUDGMENT.

10 (4) ALL APPEALS SHALL BE HEARD AND DETERMINED BY THE CIRCUIT
11 COURT AND BY THE COURT OF APPEALS OF MARYLAND AS EXPEDITIOUSLY AS
12 POSSIBLE WITH LAWFUL PRECEDENCE OVER OTHER MATTERS.

13 (5) REVIEW ON APPEAL SHALL BE BASED SOLELY ON THE RECORD
14 BEFORE THE COMMISSION AND BRIEFS TO THE COURTS AND SHALL BE LIMITED TO
15 WHETHER THE QUALIFIED RATE ORDER CONFORMS TO THE CONSTITUTION AND
16 LAWS OF THIS STATE AND THE UNITED STATES AND IS WITHIN THE AUTHORITY OF
17 THE COMMISSION UNDER THIS SUBTITLE.

18 (6) THE REVIEW PROCESS IN THIS SUBSECTION SHALL BE THE
19 EXCLUSIVE REMEDY TO CHALLENGE OR REVIEW A QUALIFIED RATE ORDER.

20 7-529.

21 THE COMMISSION SHALL MAKE A FINAL DECISION ON THE ISSUANCE OF A
22 QUALIFIED RATE ORDER UNDER THIS PART NO LATER THAN 60 DAYS AFTER THE
23 ELECTRIC COMPANY FILES ITS REQUEST FOR THE QUALIFIED RATE ORDER.

24 7-530.

25 A QUALIFIED RATE ORDER APPROVED BY THE COMMISSION SHALL INCLUDE
26 TERMS ENSURING THAT THE IMPOSITION AND COLLECTION OF QUALIFIED RATE
27 STABILIZATION CHARGES AUTHORIZED IN THE ORDER ARE NONBYPASSABLE.

28 7-531.

29 THE COMMISSION SHALL ESTABLISH SPECIFIC PROCEDURES AND TIME
30 FRAMES FOR THE REVIEW AND ADJUSTMENT OF QUALIFIED RATE STABILIZATION
31 CHARGES AT LEAST ONCE EACH YEAR, WITHIN 90 DAYS BEFORE THE ANNIVERSARY
32 DATE OF THE ISSUANCE OF THE RATE STABILIZATION BONDS, TO CORRECT ANY
33 OVERCOLLECTIONS OR UNDERCOLLECTIONS OF THE PRECEDING 12 MONTHS AND
34 TO ENSURE THE EXPECTED RECOVERY OF AMOUNTS SUFFICIENT TO TIMELY
35 PROVIDE ALL PAYMENTS OF DEBT SERVICE AND OTHER REQUIRED AMOUNTS AND
36 CHARGES IN CONNECTION WITH THE RATE STABILIZATION BONDS.

1 7-532.

2 (A) A QUALIFIED RATE ORDER SHALL TERMINATE AND EXPIRE 1 YEAR AFTER
3 THE DATE OF ITS ADOPTION IF, DURING THAT PERIOD, NO RATE STABILIZATION
4 BONDS AUTHORIZED IN THE QUALIFIED RATE ORDER SHALL HAVE BEEN ISSUED.

5 (B) THIS PERIOD SHALL BE EXTENDED BY ANY PERIOD DURING WHICH
6 JUDICIAL PROCEEDINGS FOR REVIEW MAY BE PENDING IN ACCORDANCE WITH §
7 7-528(C) OF THIS SUBTITLE.

8 7-533.

9 (A) AT THE REQUEST OF AN ELECTRIC COMPANY, THE COMMISSION MAY
10 ADOPT A QUALIFIED RATE ORDER PROVIDING FOR RETIRING AND REFUNDING RATE
11 STABILIZATION BONDS IF THE COMMISSION FINDS THAT THE FUTURE QUALIFIED
12 RATE STABILIZATION CHARGES REQUIRED TO SERVICE THE NEW RATE
13 STABILIZATION BONDS, INCLUDING TRANSACTION COSTS, WILL BE LESS THAN THE
14 FUTURE QUALIFIED RATE STABILIZATION CHARGES REQUIRED TO SERVICE THE
15 RATE STABILIZATION BONDS BEING REFUNDED.

16 (B) ON THE RETIREMENT OF THE REFUNDED RATE STABILIZATION BONDS,
17 THE COMMISSION SHALL ADJUST THE RELATED QUALIFIED RATE STABILIZATION
18 CHARGES ACCORDINGLY.

19 7-534.

20 (A) AT THE REQUEST OF AN ELECTRIC COMPANY, THE COMMISSION MAY
21 MODIFY AN EXISTING QUALIFIED RATE ORDER, OR ISSUE AN ADDITIONAL
22 QUALIFIED RATE ORDER, PROVIDING FOR THE ISSUANCE OF:

23 (1) ADDITIONAL RATE STABILIZATION BONDS FOR RATE STABILIZATION
24 COSTS NOT RECOVERED UNDER AN ORIGINAL QUALIFIED RATE ORDER; OR

25 (2) NEW RATE STABILIZATION BONDS FOR THE COMBINED PURPOSES
26 OF:

27 (I) FINANCING AND RECOVERING RATE STABILIZATION COSTS
28 NOT RECOVERED UNDER AN ORIGINAL QUALIFIED RATE ORDER; AND

29 (II) SUBJECT TO § 7-533 OF THIS SUBTITLE, RETIRING AND
30 REFUNDING EXISTING RATE STABILIZATION BONDS.

31 (B) UNLESS OTHERWISE PROVIDED IN THE MODIFIED OR ADDITIONAL
32 QUALIFIED RATE ORDER OR IN THE TRUST AGREEMENT SECURING THE ADDITIONAL
33 OR NEW RATE STABILIZATION BONDS, THE ADDITIONAL OR NEW RATE
34 STABILIZATION BONDS ARE:

35 (1) CONSIDERED TO BE OF THE SAME ISSUE AS THE ORIGINAL ISSUE;
36 AND

1 (2) ENTITLED TO PAYMENT FROM THE SAME FUNDS AS THE ORIGINAL
2 ISSUE, WITHOUT PREFERENCE OR PRIORITY OF THE RATE STABILIZATION BONDS OF
3 THE ORIGINAL ISSUE.

4 7-535.

5 (A) A RATE STABILIZATION BOND ISSUED UNDER THIS PART IS NOT A DEBT,
6 LIABILITY, OR A PLEDGE OF THE FULL FAITH AND CREDIT OF THE STATE OR ANY
7 OTHER GOVERNMENTAL UNIT.

8 (B) THE ISSUANCE OF A RATE STABILIZATION BOND UNDER THIS PART IS NOT
9 DIRECTLY, INDIRECTLY, OR CONTINGENTLY A MORAL OR OTHER OBLIGATION OF THE
10 STATE OR ANY OTHER GOVERNMENTAL UNIT TO LEVY OR PLEDGE ANY TAX OR TO
11 MAKE AN APPROPRIATION TO PAY THE RATE STABILIZATION BOND.

12 (C) EACH RATE STABILIZATION BOND ISSUED UNDER THIS PART SHALL
13 STATE ON ITS FACE THAT:

14 (1) THE STATE AND ANY GOVERNMENTAL UNIT ARE NOT OBLIGED TO
15 PAY THE PRINCIPAL OF OR INTEREST ON THE BOND; AND

16 (2) NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF
17 THE STATE OR ANY OTHER GOVERNMENTAL UNIT IS PLEDGED TO THE PAYMENT OF
18 THE PRINCIPAL OF OR INTEREST ON A RATE STABILIZATION BOND.

19 (D) (1) THE STATE PLEDGES, FOR THE BENEFIT AND PROTECTION OF
20 FINANCING PARTIES AND THE ELECTRIC COMPANY, THAT IT WILL NOT TAKE OR
21 ALLOW ANY ACTION THAT WOULD IMPAIR THE VALUE OF RATE STABILIZATION
22 PROPERTY, OR, EXCEPT AS ALLOWED IN ACCORDANCE WITH §§ 7-531, 7-533, AND 7-534
23 OF THIS SUBTITLE, REDUCE, ALTER, OR IMPAIR THE QUALIFIED RATE
24 STABILIZATION CHARGES TO BE IMPOSED, COLLECTED, AND REMITTED TO
25 FINANCING PARTIES, UNTIL THE PRINCIPAL, INTEREST, AND PREMIUM, AND ANY
26 OTHER CHARGES INCURRED AND CONTRACTS TO BE PERFORMED IN CONNECTION
27 WITH THE RELATED RATE STABILIZATION BONDS HAVE BEEN PAID AND PERFORMED
28 IN FULL.

29 (2) ANY PARTY ISSUING RATE STABILIZATION BONDS IS AUTHORIZED TO
30 INCLUDE THIS PLEDGE IN ANY DOCUMENTATION RELATING TO THOSE BONDS.

31 7-536.

32 A QUALIFIED RATE ORDER UNDER THIS PART THAT AUTHORIZES THE
33 ISSUANCE OF RATE STABILIZATION BONDS MAY:

34 (1) STATE THE RIGHTS AND REMEDIES OF BONDHOLDERS AND ANY
35 ASSIGNEE; AND

36 (2) CONTAIN PROVISIONS TO PROTECT AND ENFORCE THE RIGHTS AND
37 REMEDIES OF BONDHOLDERS AND ANY ASSIGNEE.

1 7-537.

2 (A) THE RIGHTS AND INTERESTS OF AN ELECTRIC COMPANY OR SUCCESSOR
3 UNDER A QUALIFIED RATE ORDER, INCLUDING THE RIGHT TO IMPOSE, COLLECT,
4 AND RECEIVE QUALIFIED RATE STABILIZATION CHARGES AUTHORIZED IN THE
5 ORDER:

6 (1) BECOME RATE STABILIZATION PROPERTY WHEN THEY ARE FIRST
7 TRANSFERRED TO AN ASSIGNEE OR ARE PLEDGED IN CONNECTION WITH THE
8 ISSUANCE OF RATE STABILIZATION BONDS; BUT

9 (2) ARE ONLY CONTRACT RIGHTS BEFORE THAT FIRST TRANSFER OR
10 PLEDGE.

11 (B) RATE STABILIZATION PROPERTY CONSTITUTES A PRESENT PROPERTY
12 RIGHT:

13 (1) FOR PURPOSES OF CONTRACTS CONCERNING THE SALE OR PLEDGE
14 OF PROPERTY, EVEN THOUGH THE IMPOSITION AND COLLECTION OF QUALIFIED
15 RATE STABILIZATION CHARGES DEPENDS ON FURTHER ACTS OF THE ELECTRIC
16 COMPANY OR OTHERS THAT HAVE NOT YET OCCURRED; AND

17 (2) FOR ALL PURPOSES UNTIL THE LATER OF:

18 (I) THE PERIOD PROVIDED IN THE QUALIFIED RATE ORDER, TO
19 THE EXTENT PROVIDED IN THAT ORDER; OR

20 (II) THE PAYMENT IN FULL OF THE RATE STABILIZATION BONDS,
21 INCLUDING ALL PRINCIPAL, INTEREST, PREMIUM, COSTS, AND ARREARAGES ON THE
22 BONDS.

23 (C) ALL REVENUES AND COLLECTIONS RESULTING FROM QUALIFIED RATE
24 STABILIZATION CHARGES ARE PROCEEDS ONLY OF THE RATE STABILIZATION
25 PROPERTY ARISING FROM THE QUALIFIED RATE ORDER.

26 7-538.

27 A TRANSACTION THAT INVOLVES THE TRANSFER AND OWNERSHIP OF RATE
28 STABILIZATION PROPERTY AND THE RECEIPT OF RATE STABILIZATION CHARGES ARE
29 EXEMPT FROM STATE AND LOCAL INCOME, SALES, FRANCHISE, GROSS RECEIPTS,
30 AND OTHER TAXES OR SIMILAR CHARGES.

31 7-539.

32 (A) AN AGREEMENT BY AN ELECTRIC COMPANY OR ASSIGNEE TO TRANSFER
33 RATE STABILIZATION PROPERTY THAT EXPRESSLY STATES THAT THE TRANSFER IS A
34 SALE OR OTHER ABSOLUTE TRANSFER SIGNIFIES THAT:

35 (1) THE TRANSACTION IS A TRUE SALE AND IS NOT A SECURED
36 TRANSACTION; AND

1 (2) LEGAL AND EQUITABLE TITLE HAS PASSED TO THE ENTITY TO
2 WHICH THE RATE STABILIZATION PROPERTY IS TRANSFERRED.

3 (B) THE STATUS OF THE TRANSFER AS A TRUE SALE PREVAILS REGARDLESS
4 OF ANY RECOURSE THE PURCHASER MAY HAVE AGAINST THE SELLER, OR ANY
5 OTHER TERM OF THE PARTIES' AGREEMENT, INCLUDING:

6 (1) THE SELLER'S RETENTION OF AN EQUITY INTEREST IN THE RATE
7 STABILIZATION PROPERTY;

8 (2) THE FACT THAT THE ELECTRIC COMPANY ACTS AS THE COLLECTOR
9 OF QUALIFIED RATE STABILIZATION CHARGES RELATING TO THE RATE
10 STABILIZATION PROPERTY; AND

11 (3) THE TREATMENT OF THE TRANSFER AS A FINANCING FOR TAX,
12 FINANCIAL REPORTING, OR OTHER PURPOSES.

13 7-540.

14 (A) THE INTEREST OF AN ASSIGNEE OR PLEDGEE IN RATE STABILIZATION
15 PROPERTY AND IN THE REVENUES AND COLLECTIONS ARISING FROM THAT
16 PROPERTY IS NOT SUBJECT TO SETOFF, COUNTERCLAIM, SURCHARGE, OR DEFENSE
17 BY THE ELECTRIC COMPANY OR ANY OTHER PERSON OR IN CONNECTION WITH THE
18 BANKRUPTCY OF THE ELECTRIC COMPANY OR ANY OTHER ENTITY.

19 (B) A QUALIFIED RATE ORDER REMAINS IN EFFECT AND UNABATED
20 NOTWITHSTANDING THE BANKRUPTCY OF THE ELECTRIC COMPANY, ITS
21 SUCCESSORS, OR ASSIGNEES.

22 7-541.

23 (A) (1) THE ELECTRIC BILL OF AN ELECTRIC COMPANY THAT HAS
24 OBTAINED A QUALIFIED RATE ORDER AND ISSUED RATE STABILIZATION BONDS
25 MUST:

26 (I) EXPLICITLY REFLECT THAT A PORTION OF THE CHARGES ON
27 THE BILL REPRESENTS QUALIFIED RATE STABILIZATION CHARGES APPROVED IN A
28 QUALIFIED RATE ORDER ISSUED TO THE ELECTRIC COMPANY; AND

29 (II) IF THE RATE STABILIZATION PROPERTY HAS BEEN
30 TRANSFERRED TO AN ASSIGNEE, INCLUDE A STATEMENT TO THE EFFECT THAT:

31 1. THE ASSIGNEE IS THE OWNER OF THE RIGHTS TO
32 QUALIFIED RATE STABILIZATION CHARGES; AND

33 2. THE ELECTRIC COMPANY OR ANY OTHER ENTITY, IF
34 APPLICABLE, IS ACTING AS A COLLECTION AGENT OR SERVICER FOR THE ASSIGNEE.

35 (2) THE TARIFF APPLICABLE TO CUSTOMERS MUST INDICATE THE
36 QUALIFIED RATE STABILIZATION CHARGE AND THE OWNERSHIP OF THAT CHARGE.

1 (B) THE FAILURE OF AN ELECTRIC COMPANY TO COMPLY WITH THIS SECTION
2 MAY NOT INVALIDATE, IMPAIR, OR AFFECT ANY QUALIFIED RATE ORDER, RATE
3 STABILIZATION PROPERTY, QUALIFIED RATE STABILIZATION CHARGE, OR RATE
4 STABILIZATION BONDS.

5 7-542.

6 (A) (1) RATE STABILIZATION PROPERTY DOES NOT CONSTITUTE AN
7 ACCOUNT OR GENERAL INTANGIBLE UNDER § 9-102 OF THE COMMERCIAL LAW
8 ARTICLE.

9 (2) THE CREATION, GRANTING, PERFECTION, AND ENFORCEMENT OF
10 LIENS AND SECURITY INTERESTS IN RATE STABILIZATION PROPERTY, INCLUDING
11 ALL PROCEEDS OF THAT PROPERTY, ARE GOVERNED BY THIS SECTION AND NOT BY
12 THE MARYLAND UNIFORM COMMERCIAL CODE.

13 (B) (1) A VALID AND ENFORCEABLE LIEN AND SECURITY INTEREST IN
14 INTANGIBLE RATE STABILIZATION PROPERTY, INCLUDING ALL PROCEEDS OF THAT
15 PROPERTY, MAY BE CREATED ONLY BY A QUALIFIED RATE ORDER AND THE
16 EXECUTION AND DELIVERY OF A SECURITY AGREEMENT WITH A FINANCING PARTY
17 IN CONNECTION WITH THE ISSUANCE OF RATE STABILIZATION BONDS.

18 (2) (I) THE LIEN AND SECURITY INTEREST SHALL ATTACH
19 AUTOMATICALLY FROM THE TIME THAT VALUE IS RECEIVED FOR THE BONDS.

20 (II) ON PERFECTION THROUGH THE FILING OF NOTICE WITH THE
21 STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IN ACCORDANCE WITH THE
22 PROCEDURES PRESCRIBED UNDER SUBSECTION (D) OF THIS SECTION:

23 1. THE LIEN AND SECURITY INTEREST SHALL BE A
24 CONTINUOUSLY PERFECTED LIEN AND SECURITY INTEREST IN THE RATE
25 STABILIZATION PROPERTY; AND

26 2. ALL PROCEEDS OF THE PROPERTY, WHETHER ACCRUED
27 OR NOT, SHALL HAVE PRIORITY IN THE ORDER OF FILING AND TAKE PRECEDENCE
28 OVER ANY SUBSEQUENT JUDICIAL OR OTHER LIEN CREDITOR.

29 (3) THE SECURITY INTEREST SHALL BE PERFECTED:

30 (I) RETROACTIVE TO THE DATE VALUE WAS RECEIVED IF NOTICE
31 IS FILED WITHIN 10 DAYS AFTER VALUE IS RECEIVED FOR THE RATE STABILIZATION
32 BONDS; OR

33 (II) AS OF THE DATE OF FILING, IF NOTICE IS NOT FILED WITHIN
34 THAT 10-DAY PERIOD.

35 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, TRANSFER OF AN
36 INTEREST IN RATE STABILIZATION PROPERTY TO AN ASSIGNEE SHALL BE
37 PERFECTED AGAINST ALL THIRD PARTIES, INCLUDING SUBSEQUENT JUDICIAL OR
38 OTHER LIEN CREDITORS, WHEN:

1 (I) THE QUALIFIED RATE ORDER BECOMES EFFECTIVE;
2 (II) TRANSFER DOCUMENTS HAVE BEEN DELIVERED TO THE
3 ASSIGNEE; AND

4 (III) A NOTICE OF THAT TRANSFER HAS BEEN FILED IN
5 ACCORDANCE WITH PROCEDURES ADOPTED UNDER SUBSECTION (D) OF THIS
6 SECTION.

7 (2) IF NOTICE OF THE TRANSFER HAS NOT BEEN FILED IN ACCORDANCE
8 WITH THIS SUBSECTION WITHIN 10 DAYS AFTER THE DELIVERY OF TRANSFER
9 DOCUMENTATION, THE TRANSFER OF THE INTEREST IS NOT PERFECTED AGAINST
10 THIRD PARTIES UNTIL THE NOTICE IS FILED.

11 (D) THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION SHALL
12 IMPLEMENT THIS SECTION BY ESTABLISHING AND MAINTAINING A SEPARATE
13 SYSTEM OF RECORDS FOR THE FILING OF NOTICES UNDER THIS SECTION AND
14 PRESCRIBING THE PROCEDURES FOR THOSE FILINGS BASED ON TITLE 9 OF THE
15 MARYLAND UNIFORM COMMERCIAL CODE, AS ADAPTED TO THIS SUBTITLE AND
16 USING THE TERMS DEFINED IN THIS SUBTITLE.

17 (E) (1) THE PRIORITY OF A LIEN AND SECURITY INTEREST PERFECTED
18 UNDER THIS SECTION IS NOT IMPAIRED BY:

19 (I) ANY LATER MODIFICATION OF THE QUALIFIED RATE ORDER
20 UNDER § 7-531, § 7-533, OR § 7-534 OF THIS SUBTITLE; OR

21 (II) THE COMMINGLING OF FUNDS ARISING FROM QUALIFIED RATE
22 STABILIZATION CHARGES WITH OTHER FUNDS.

23 (2) ANY OTHER SECURITY INTEREST THAT MAY APPLY TO THOSE FUNDS
24 SHALL BE TERMINATED WHEN THEY ARE TRANSFERRED TO A SEGREGATED
25 ACCOUNT FOR THE ASSIGNEE OR A FINANCING PARTY.

26 (3) IF RATE STABILIZATION PROPERTY HAS BEEN TRANSFERRED TO AN
27 ASSIGNEE, ANY PROCEEDS OF THAT PROPERTY SHALL BE HELD IN TRUST FOR THE
28 ASSIGNEE.

29 (F) IF A DEFAULT OR TERMINATION OCCURS UNDER THE RATE
30 STABILIZATION BONDS:

31 (1) THE FINANCING PARTIES OR THEIR REPRESENTATIVES MAY
32 FORECLOSE ON OR OTHERWISE ENFORCE THEIR LIEN AND SECURITY INTEREST IN
33 ANY INTANGIBLE RATE STABILIZATION PROPERTY AS IF THEY WERE SECURED
34 PARTIES UNDER TITLE 9 OF THE MARYLAND UNIFORM COMMERCIAL CODE;

35 (2) THE COMMISSION MAY ORDER THAT AMOUNTS ARISING FROM
36 QUALIFIED RATE STABILIZATION CHARGES BE TRANSFERRED TO A SEPARATE
37 ACCOUNT FOR THE FINANCING PARTIES' BENEFIT, TO WHICH THEIR LIEN AND
38 SECURITY INTEREST SHALL APPLY; AND

1 (3) ON APPLICATION BY OR ON BEHALF OF THE FINANCING PARTIES,
2 THE CIRCUIT COURT FOR BALTIMORE CITY, BUSINESS AND TECHNOLOGY CASE
3 MANAGEMENT PROGRAM, SHALL ORDER THE SEQUESTRATION AND PAYMENT TO
4 THE FINANCING PARTIES OF REVENUES ARISING FROM THE QUALIFIED RATE
5 STABILIZATION CHARGES.

6 (G) THE COURT ORDER UNDER SUBSECTION (F) OF THIS SECTION SHALL
7 REMAIN IN FULL FORCE AND EFFECT NOTWITHSTANDING ANY REORGANIZATION,
8 BANKRUPTCY, OR OTHER INSOLVENCY PROCEEDINGS WITH RESPECT TO THE
9 ELECTRIC COMPANY OR ITS SUCCESSORS OR ASSIGNEES.

10 (H) THIS SECTION DOES NOT LIMIT ANY OTHER REMEDIES AVAILABLE TO THE
11 APPLYING PARTY.

12 7-543.

13 (A) THIS SECTION APPLIES TO A PERSON THAT IS A SUCCESSOR TO AN
14 ELECTRIC COMPANY, WHETHER THROUGH:

15 (1) A REORGANIZATION, BANKRUPTCY, OR OTHER INSOLVENCY
16 PROCEEDING;

17 (2) A MERGER OR ACQUISITION, SALE, OR OTHER BUSINESS
18 COMBINATION; OR

19 (3) A TRANSFER BY OPERATION OF LAW.

20 (B) A SUCCESSOR TO AN ELECTRIC COMPANY SHALL PERFORM AND SATISFY
21 ALL OBLIGATIONS OF, AND HAVE THE SAME RIGHTS UNDER A QUALIFIED RATE
22 ORDER AS, THE ELECTRIC COMPANY UNDER THE QUALIFIED RATE ORDER IN THE
23 SAME MANNER AND TO THE SAME EXTENT AS THE ELECTRIC COMPANY, INCLUDING:

24 (1) COLLECTING THE REVENUES, COLLECTIONS, PAYMENTS, OR
25 PROCEEDS OF THE RATE STABILIZATION PROPERTY; AND

26 (2) PAYING THEM TO THE PERSON ENTITLED TO RECEIVE THEM.

27 7-544.

28 AN ASSIGNEE OR FINANCING PARTY MAY NOT BE CONSIDERED TO BE A PUBLIC
29 SERVICE COMPANY OR AN ELECTRICITY SUPPLIER SOLELY BY VIRTUE OF THE
30 TRANSACTIONS DESCRIBED IN THIS PART.

1 7-545. RESERVED.

2 7-546. RESERVED.

3

PART IV. RATE STABILIZATION - SPECIFIC PROVISIONS.

4 7-547.

5 THIS PART APPLIES TO AN INVESTOR-OWNED ELECTRIC COMPANY THAT HAS
6 AN OBLIGATION TO PROVIDE STANDARD OFFER SERVICE UNDER § 7-510(C) OF THIS
7 SUBTITLE TO RESIDENTIAL ELECTRIC CUSTOMERS FOR WHOM RATE CAP OR PRICE
8 FREEZE SERVICE ESTABLISHED UNDER A SETTLEMENT AGREEMENT APPROVED IN
9 ACCORDANCE WITH § 7-505(D) OF THIS SUBTITLE EXPIRES AT THE END OF JUNE 30,
10 2006.

11 7-548.

12 (A) (1) (I) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE,
13 BUT SUBJECT TO PARAGRAPHS (2) THROUGH (4) OF THIS SUBSECTION, AN ELECTRIC
14 COMPANY TO WHICH THIS PART APPLIES SHALL FILE TARIFFS WITH THE
15 COMMISSION THAT IMPLEMENT A RATE STABILIZATION PLAN CONSISTENT WITH
16 THIS PART.

17 (II) 1. THE COMMISSION SHALL REVIEW THE TARIFFS
18 REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

19 2. WITHIN 20 DAYS AFTER THE FILING OF THE TARIFFS
20 REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSION
21 SHALL ISSUE AN ORDER IMPLEMENTING THE RATE STABILIZATION PLAN IN
22 ACCORDANCE WITH THIS PART AND PART III OF THIS SUBTITLE.

23 3. THE ORDER ISSUED BY THE COMMISSION SHALL INCLUDE
24 A REQUIREMENT THAT THE ELECTRIC COMPANY ESTABLISH REGULATORY ASSETS
25 TO ACCOUNT FOR THE RATE STABILIZATION COSTS DEFERRED UNDER THE RATE
26 STABILIZATION PLAN.

27 (2) UNDER THE RATE STABILIZATION PLAN, THE RESIDENTIAL
28 STANDARD OFFER SERVICE RATE SHALL RECOVER THE COSTS TO THE ELECTRIC
29 COMPANY UNDER § 7-510(C)(3) OF THIS SUBTITLE DEFERRED DURING THE PERIOD
30 JULY 1, 2006 THROUGH MAY 31, 2007.

31 (3) ANY CREDIT OR CHARGES TO THE COST OF STANDARD OFFER
32 SERVICE FOR RESIDENTIAL ELECTRIC CUSTOMERS REQUIRED OR AUTHORIZED
33 UNDER THIS PART SHALL BE INCLUDED AS A NONBYPASSABLE CREDIT OR CHARGE
34 ON THE ELECTRIC DISTRIBUTION PORTION OF THE BILL OF EACH RESIDENTIAL
35 ELECTRIC CUSTOMER OF THE ELECTRIC COMPANY.

36 (4) AN ELECTRIC COMPANY MAY APPLY TO THE COMMISSION FOR A
37 QUALIFIED RATE ORDER UNDER PART III OF THIS SUBTITLE FOR THE FINANCING
38 AND RECOVERY OF ITS RATE STABILIZATION COSTS.

1 (B) (1) THE INCREASE IN THE TOTAL RATES CHARGED TO EACH
2 RESIDENTIAL ELECTRIC CUSTOMER ON STANDARD OFFER SERVICE, AS COMPARED
3 WITH THE TOTAL RATES FOR RESIDENTIAL ELECTRIC CUSTOMERS IN EFFECT ON
4 JUNE 30, 2006, SHALL BE:

5 (I) FROM JULY 1, 2006 THROUGH MAY 31, 2007, 15% OF THE TOTAL
6 RATE IN EFFECT ON JUNE 30, 2006; AND

7 (II) FROM JUNE 1, 2007 ~~IN AN AMOUNT DETERMINED BY THE~~
8 ~~COMMISSION UNDER § 7-510 OF THIS SUBTITLE, AT THE OPTION OF THE CUSTOMER,~~
9 TO:

10 1. THE FULL MARKET RATE; OR

11 2. AN INTERMEDIATE LEVEL UNDER AN OPT-IN
12 SHORT-TERM RATE STABILIZATION PLAN AS ALLOWED UNDER § 7-510(C) OF THIS
13 SUBTITLE WHICH WILL SMOOTH THE TRANSITION TO THE FULL MARKET RATE FOR
14 RESIDENTIAL CUSTOMERS WITHOUT ADVERSELY AFFECTING THE
15 CREDITWORTHINESS OF THE ELECTRIC COMPANY.

16 (2) STANDARD OFFER SERVICE FOR RESIDENTIAL ELECTRIC
17 CUSTOMERS SHALL BE AT FULL MARKET RATES UNDER THIS PART STARTING JUNE
18 JANUARY 1, 2008.

19 (3) A RATE STABILIZATION COST MAY NOT BE RECOVERED BEFORE
20 JANUARY 1, 2007.

21 (4) FOR PURPOSES OF CALCULATING THE RATES TO BE CHARGED
22 UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE RATE STABILIZATION CHARGE
23 MAY NOT BE CONSIDERED TO BE PART OF THE TOTAL RATES CHARGED TO
24 RESIDENTIAL ELECTRIC CUSTOMERS.

25 (5) THE COMMISSION NEED NOT CONDUCT EVIDENTIARY PROCEEDINGS
26 UNDER § 7-510(C)(7)(I) OF THIS SUBTITLE TO DETERMINE THE SECOND OR
27 SUBSEQUENT PHASE OF THE TRANSITION TO FULL MARKET RATES UNDER THIS
28 PART.

29 (C) (1) THE ELECTRIC COMPANY SHALL PROVIDE EACH RESIDENTIAL
30 ELECTRIC CUSTOMER A DEFERRAL CREDIT EQUAL TO THE DIFFERENCE BETWEEN
31 THE COST INCURRED BY THE ELECTRIC COMPANY UNDER § 7-510(C)(3) OF THIS
32 SUBTITLE AND THE RATES AUTHORIZED IN SUBSECTION (B)(1) OF THIS SECTION.

33 (2) (I) THE TOTAL AMOUNT OF COST RECOVERY DEFERRED THROUGH
34 DEFERRAL CREDITS PROVIDED TO RESIDENTIAL ELECTRIC CUSTOMERS SHALL BE A
35 RATE STABILIZATION COST TO BE RECOVERED AS A REGULATORY ASSET.

36 (II) THE TOTAL COST DEFERRED MAY BE SECURED UNDER PART III
37 OF THIS SUBTITLE.

1 (3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE
2 ELECTRIC COMPANY SHALL PERFORM A RECONCILIATION OF ANY OVERCOLLECTION
3 OR UNDERCOLLECTION OF THE DEFERRED COSTS AND EXPENSES RESULTING FROM
4 THIS RATE STABILIZATION PLAN:

5 1. EACH YEAR DURING THE RATE STABILIZATION PLAN; AND

6 2. WITHIN 90 DAYS AFTER THE END OF THE RATE
7 STABILIZATION PLAN.

8 (II) TO THE EXTENT THAT SECURITIZATION IS IMPLEMENTED
9 UNDER PART III OF THIS SUBTITLE, ANY RECONCILIATIONS MADE IN ACCORDANCE
10 WITH ~~PART III SUBPARAGRAPH (I) OF THIS SUBTITLE~~ PARAGRAPH SHALL BE IN
11 ADDITION TO ANY RECONCILIATIONS MADE UNDER SUBPARAGRAPH ~~(I)~~ PART III OF
12 ~~THIS PARAGRAPH~~ SUBTITLE.

13 (D) RATE STABILIZATION COSTS SHALL BE RECOVERED BY THE ELECTRIC
14 COMPANY FROM THE RESIDENTIAL ELECTRIC CUSTOMERS THROUGH A
15 USAGE-BASED RATE STABILIZATION CHARGE OVER A PERIOD NOT TO EXCEED 10
16 YEARS.

17 (E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, AS
18 APPROVED BY THE COMMISSION, AN ELECTRIC COMPANY MAY RECEIVE A
19 MODIFICATION IN DISTRIBUTION AND TRANSMISSION RATES WHILE THE RATE
20 STABILIZATION PLAN IS IN EFFECT. HOWEVER, THE MODIFICATION MAY NOT ALTER
21 THE RATE STABILIZATION CHARGES APPROVED IN ACCORDANCE WITH PART III OF
22 THIS SUBTITLE.

23 7-549.

24 (A) IN THIS SECTION, "ACTUAL COST" MEANS THE COSTS AND EXPENSES
25 DEFERRED AS REGULATORY ASSETS MULTIPLIED BY:

26 (1) THE ELECTRIC COMPANY'S COST OF DEBT; OR

27 (2) IF THE ELECTRIC COMPANY SECURES THE DEBT UNDER PART III OF
28 THIS SUBTITLE, THE COST OF THE SECURED DEBT.

29 (B) AN ELECTRIC COMPANY SHALL RECOVER, AS AN ADDITIONAL RATE
30 STABILIZATION COST, THE ACTUAL COST TO THE ELECTRIC COMPANY OF CARRYING
31 THE COSTS AND EXPENSES DEFERRED AS REGULATORY ASSETS UNDER THE RATE
32 STABILIZATION PLAN.

33 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
34 read as follows:

1 **Article - Tax - General**

2 [10-712.

3 (a) A public utility may claim a credit against the State income tax in an
4 amount equal to 60% of the total property taxes paid by the public utility on its
5 operating real property in the State, other than operating land, that is used to
6 generate electricity or steam for sale.

7 (b) (1) For any taxable year, the credit allowed under this section may not
8 exceed the State income tax for that taxable year, calculated before application of the
9 credits allowed under this section and §§ 10-701 and 10-701.1 of this subtitle but
10 after application of any other credits allowed under this subtitle.

11 (2) The unused amount of the credit for any taxable year may not be
12 carried over to any other taxable year.]

13 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
14 read as follows:

15 **Article - Public Utility Companies**

16 5-104.

17 (a) The Commission may authorize the acts described in §§ 5-202, 5-203, and
18 5-205 of this title and § 6-101(a) of this article if it finds that the authorization is
19 consistent with the public convenience and necessity.

20 (b) Authority that the Commission grants under §§ 5-202 and 5-203 of this
21 title does not:

- 22 (1) revive a lapsed franchise;
- 23 (2) validate an invalid franchise;
- 24 (3) enlarge or add to the powers and privileges of a franchise; or
- 25 (4) waive a forfeiture.

26 5-203.

27 (a) Subject to § 6-101 of this article, without prior authorization of the
28 Commission, a public service company may not purchase, acquire, take, or hold any
29 part of the capital stock of another public service company [incorporated] THAT
30 OPERATES in Maryland.

31 (b) (1) This subsection applies to corporations [incorporated] THAT
32 OPERATE in Maryland.

33 (2) Without prior authorization of the Commission, a public service
34 company may not:

1 (i) assume or guarantee an obligation or liability with respect to
2 stocks, bonds, securities, notes, or other evidence of indebtedness that is payable as a
3 whole or in part to any person more than 12 months after the date of issuance; or

4 (ii) issue stocks, bonds, securities, notes, or other evidence of
5 indebtedness payable as a whole or in part more than 12 months after the date of
6 issuance.

7 (3) Stocks, bonds, securities, notes, or other evidence of indebtedness
8 described under paragraph (2)(ii) of this subsection shall be issued in accordance with
9 §§ 6-102 and 6-103 of this article.

10 (4) THE COMMISSION SHALL TAKE ACTION ON AN APPLICATION FOR
11 AUTHORIZATION UNDER THIS SECTION WITHIN A REASONABLE TIME AFTER
12 RECEIPT.

13 6-101.

14 (a) (1) This subsection applies only to [Maryland] corporations THAT
15 OPERATE IN MARYLAND.

16 (2) A public service company shall obtain authorization from the
17 Commission before the public service company:

18 (i) assumes or guarantees an obligation or liability with respect to
19 stocks, bonds, securities, notes, or other evidence of indebtedness of any person that is
20 payable wholly or partly more than 12 months after the date of the assumption or
21 guarantee; [or]

22 (ii) issues stocks, bonds, securities, notes, or other evidence of
23 indebtedness that is payable wholly or partly more than 12 months after the date
24 issued; OR

25 (III) LENDS MONEY TO AN AFFILIATE, AS DEFINED IN § 7-501 OF
26 THIS ARTICLE, AT RATES OR ON TERMS THAT ARE SIGNIFICANTLY MORE FAVORABLE
27 TO THE AFFILIATE THAN THE RATES OR TERMS THAT ARE OTHERWISE
28 COMMERCIALY AVAILABLE TO THE AFFILIATE.

29 (3) An issuance under paragraph (2)(ii) of this subsection shall conform
30 to §§ 6-102 and 6-103 of this subtitle.

31 (b) (1) Subject to the requirements of subsection (c) of this section, the
32 Commission may authorize an act described under subsection (a)(2) of this section if
33 the Commission finds that the act is consistent with the public convenience and
34 necessity.

35 (2) Authorization under this subsection does not:

36 (i) revive a lapsed franchise, validate an invalid franchise, or add
37 to the powers and privileges in a franchise; or

1 (ii) waive a forfeiture.

2 (c) (1) This subsection does not apply to the formation of a holding company
3 by a public service company in a corporate reorganization that involves an exchange
4 of stock of the public service company for stock in the holding company.

5 (2) In this subsection, a company controlling a public service company is
6 deemed a public service company of the same class as the controlled public service
7 company.

8 (3) Without prior authorization of the Commission, a public service
9 company may not take, hold, or acquire any part of the capital stock of a public service
10 company that [is]:

11 (i) [incorporated] OPERATES in Maryland; and

12 (ii) IS of the same class as the acquiring company.

13 (4) (i) Except as provided in subparagraph (ii) of this paragraph, a
14 stock corporation may not take, hold, or acquire more than 10% of the total capital
15 stock of a public service company [incorporated] THAT OPERATES in Maryland
16 unless:

17 1. the stock is acquired as collateral security; and

18 2. the Commission approves the acquisition.

19 (ii) The Commission may authorize a public service company of the
20 same class to take, hold, or acquire more than 10% of the total capital stock of a public
21 service company [incorporated] THAT OPERATES in Maryland.

22 (5) A public service company may not be a party to a violation of this
23 subsection.

24 6-102.

25 (a) This section applies only to public service companies that [are] OPERATE
26 IN Maryland [corporations].

27 (b) The Commission shall authorize a public service company to issue stocks,
28 bonds, securities, notes, or other evidence of indebtedness, payable wholly or partly
29 more than 12 months after the date of issuance, if the Commission finds that the
30 issuance is reasonably required for the public service company to:

31 (1) acquire property;

32 (2) construct, complete, extend, or improve its facilities;

33 (3) discharge or lawfully refund its obligations;

34 (4) maintain or improve service; or

1 (5) reimburse money, not secured by or obtained from the issuance, that
2 is expended for a purpose described in item (1), (2), or (3) of this subsection within 5
3 years before the filing of an application with the Commission for the reimbursement.

4 (c) (1) The Commission may authorize a public service company to issue
5 stocks, bonds, securities, notes, or other evidence of indebtedness, payable wholly or
6 partly more than 12 months after the date of issuance, for the public service company
7 to:

8 (i) conform the aggregate capitalization of the public service
9 company to the value of its property; or

10 (ii) subject to paragraph (2) of this subsection, pay a dividend in
11 shares of the public service company's own stock.

12 (2) An order of the Commission authorizing an issuance under
13 paragraph (1)(ii) of this subsection shall state that:

14 (i) concurrently with the issuance, the public service company
15 shall transfer from surplus to capital an amount that the Commission determines
16 under paragraph (3) of this subsection; and

17 (ii) a sum equal to the amount to be transferred has been expended
18 from income or other money in the treasury of the public service company not secured
19 by, obtained from, or reimbursed by the issuance of stocks, bonds, notes, or other
20 evidence of indebtedness of the public service company for a purpose described in
21 subsection (b)(1), (2), or (3) of this section.

22 (3) The amount that the Commission determines under paragraph (2)(i)
23 of this subsection may not be less than:

24 (i) the aggregate par value of the stock whose issuance is to be
25 authorized; or

26 (ii) if the stock has no par value, the capital value of the stock.

27 (d) (1) An authorization by the Commission under subsection (b) or (c) of
28 this section shall be by order.

29 (2) The order shall specify:

30 (i) the amount of the issuance authorized; and

31 (ii) the purpose under subsection (b) or (c) of this section for which
32 the issuance is reasonably required.

33 (e) (1) Notwithstanding subsections (b), (c), (d), and (g) of this section, the
34 Commission may approve the issuance of stocks, bonds, securities, notes, or other
35 evidence of indebtedness in connection with the organization of a new public service

1 company by the purchaser of the franchise or property of a public service company
2 sold under judicial proceedings, mortgage, or deed of trust.

3 (2) An issuance that the Commission approves under this subsection
4 shall be in the amount that the Commission considers necessary fully to protect the
5 rights and equities of the holders of the securities of the predecessor company.

6 (f) A public service company's application for authorization under this section
7 of long-term debt in excess of \$1,000,000 shall include a copy of any restrictive
8 covenant attached to the debt.

9 (g) (1) Except as provided in paragraph (2) of this subsection, this section
10 does not prevent a public service company from issuing, without the prior consent of
11 the Commission, notes that are:

12 (i) for proper corporate purposes;

13 (ii) not otherwise in violation of the law; and

14 (iii) payable at periods totaling not more than 12 months after the
15 date of issuance.

16 (2) Except as authorized under subsection (b) or (c) of this section, notes
17 issued under paragraph (1) of this subsection may not be refunded directly or
18 indirectly, wholly or partly, by an evidence of indebtedness running for more than 12
19 months.

20 6-103.

21 (a) This section applies only to public service companies that [are] OPERATE
22 IN Maryland [corporations].

23 (b) (1) A public service company may not:

24 (i) capitalize or issue bonds against or as lien on a contract for
25 consolidation, merger, or lease; or

26 (ii) except as provided in paragraph (2) of this subsection, capitalize
27 a franchise or the right to own a franchise.

28 (2) A public service company may capitalize a franchise or right to own a
29 franchise in an amount not exceeding the amount, exclusive of any tax or annual
30 charge, actually paid to the State or a political subdivision as consideration for the
31 grant of the franchise or right.

32 (c) The stated capital, as determined under Title 2, Subtitle 3 of the
33 Corporations and Associations Article, of a public service company formed by a
34 merger or consolidation of corporations may not exceed, solely by virtue of the merger
35 or consolidation, the stated capital of the corporations merged or consolidated plus
36 any additional sum paid in cash.

1 (d) (1) This subsection does not apply to the capitalization of a franchise to
2 be a public service company.

3 (2) Notwithstanding any other provision of this article, the Commission
4 may approve the capitalization of tangible and intangible property of:

5 (i) a newly chartered public service company; or

6 (ii) a public service company organized or reorganized by the
7 purchaser of the franchise and property of its predecessor at a sale under judicial
8 proceedings, mortgage, or deed of trust.

9 (3) Capitalization under paragraph (2) of this subsection shall be in the
10 amount and form that the Commission considers reasonably necessary to enable the
11 public service company to obtain the capital necessary to establish itself as a going
12 concern.

13 6-105.

14 (A) IN THIS SECTION, "AFFILIATE" HAS THE MEANING STATED IN § 7-501 OF
15 THIS ARTICLE.

16 (B) (1) THE GENERAL ASSEMBLY FINDS THAT:

17 (I) EXISTING LEGISLATION REQUIRES THE APPROVAL BY THE
18 COMMISSION OF THE ACQUISITION BY ONE PUBLIC SERVICE COMPANY OF ANOTHER
19 PUBLIC SERVICE COMPANY'S STOCKS AND OBLIGATIONS, BUT DOES NOT REQUIRE
20 THE COMMISSION'S APPROVAL OF THESE ACQUISITIONS BY PERSONS NOT ENGAGED
21 IN THE PUBLIC UTILITY BUSINESS IN THE STATE; AND

22 (II) AN ATTEMPT BY A PERSON NOT ENGAGED IN THE PUBLIC
23 UTILITY BUSINESS IN THE STATE TO ACQUIRE THE POWER TO EXERCISE ANY
24 SUBSTANTIAL INFLUENCE OVER THE POLICIES AND ACTIONS OF A PUBLIC SERVICE
25 COMPANY THAT PROVIDES ELECTRICITY OR GAS IN THE STATE COULD RESULT IN
26 HARM TO THE CUSTOMERS OF THE PUBLIC SERVICE COMPANY, INCLUDING THE
27 DEGRADATION OF UTILITY SERVICES, HIGHER RATES, WEAKENED FINANCIAL
28 STRUCTURE, AND DIMINUTION OF UTILITY ASSETS.

29 (2) THE GENERAL ASSEMBLY DECLARES THAT IT IS THE POLICY OF THE
30 STATE TO REGULATE ACQUISITIONS BY PERSONS THAT ARE NOT ENGAGED IN THE
31 PUBLIC UTILITY BUSINESS IN THE STATE OF THE POWER TO EXERCISE ANY
32 SUBSTANTIAL INFLUENCE OVER THE POLICIES AND ACTIONS OF A PUBLIC SERVICE
33 COMPANY THAT PROVIDES ELECTRICITY OR GAS IN THE STATE IN ORDER TO
34 PREVENT UNNECESSARY AND UNWARRANTED HARM TO THE CUSTOMERS OF THE
35 PUBLIC SERVICE COMPANY.

36 (C) THIS SECTION APPLIES TO THE ACQUISITION OF AN ELECTRIC COMPANY
37 OR A GAS COMPANY THAT OPERATES IN MARYLAND.

1 (D) WITHOUT PRIOR AUTHORIZATION FROM THE COMMISSION, A PERSON
2 MAY NOT ACQUIRE, DIRECTLY OR INDIRECTLY, THE POWER TO EXERCISE ANY
3 SUBSTANTIAL INFLUENCE OVER THE POLICIES AND ACTIONS OF AN ELECTRIC
4 COMPANY OR GAS COMPANY, IF THE PERSON WOULD BECOME AN AFFILIATE OF THE
5 ELECTRIC COMPANY OR GAS COMPANY AS A RESULT OF THE ACQUISITION.

6 (E) AN APPLICATION FOR AUTHORIZATION UNDER SUBSECTION (D) OF THIS
7 SECTION MUST INCLUDE DETAILED INFORMATION REGARDING:

8 (1) THE APPLICANT'S IDENTITY AND FINANCIAL ABILITY;

9 (2) THE BACKGROUND OF THE KEY PERSONNEL ASSOCIATED WITH THE
10 APPLICANT;

11 (3) THE SOURCE AND AMOUNTS OF FUNDS OR OTHER CONSIDERATION
12 TO BE USED IN THE ACQUISITION;

13 (4) THE APPLICANT'S COMPLIANCE WITH FEDERAL LAW IN CARRYING
14 OUT THE ACQUISITION;

15 (5) WHETHER THE APPLICANT OR THE KEY PERSONNEL ASSOCIATED
16 WITH THE APPLICANT HAVE VIOLATED ANY STATE OR FEDERAL STATUTES
17 REGULATING THE ACTIVITIES OF PUBLIC SERVICE COMPANIES;

18 (6) ALL DOCUMENTS RELATING TO THE TRANSACTION GIVING RISE TO
19 THE APPLICATION;

20 (7) THE APPLICANT'S EXPERIENCE IN OPERATING PUBLIC SERVICE
21 COMPANIES PROVIDING ELECTRICITY;

22 (8) THE APPLICANT'S PLAN FOR OPERATING THE PUBLIC SERVICE
23 COMPANY;

24 (9) HOW THE ACQUISITION WILL SERVE THE CUSTOMERS OF THE
25 PUBLIC SERVICE COMPANY IN THE PUBLIC INTEREST, CONVENIENCE, AND
26 NECESSITY; AND

27 (10) ANY OTHER INFORMATION THAT THE COMMISSION MAY SPECIFY BY
28 REGULATION OR ORDER.

29 (F) (1) THE COMMISSION PROMPTLY SHALL:

30 (I) EXAMINE AND INVESTIGATE EACH APPLICATION RECEIVED
31 UNDER THIS SECTION; AND

32 (II) UNDERTAKE ANY PROCEEDINGS NECESSARY OR CONVENIENT
33 TO REVIEW THE APPLICATION IN ACCORDANCE WITH TITLE 3 OF THIS ARTICLE AND
34 ISSUE AN ORDER CONCERNING THE ACQUISITION.

35 (2) THE COMMISSION SHALL CONSIDER THE FOLLOWING FACTORS IN
36 CONSIDERING AN ACQUISITION UNDER THIS SECTION:

1 (I) THE POTENTIAL IMPACT OF THE ACQUISITION ON RATES AND
2 CHARGES PAID BY CUSTOMERS AND ON THE SERVICES AND CONDITIONS OF
3 OPERATION OF THE PUBLIC SERVICE COMPANY;

4 (II) THE POTENTIAL IMPACT OF THE ACQUISITION ON CONTINUING
5 INVESTMENT NEEDS FOR THE MAINTENANCE OF UTILITY SERVICES, PLANT, AND
6 RELATED INFRASTRUCTURE;

7 (III) THE PROPOSED CAPITAL STRUCTURE THAT WILL RESULT
8 FROM THE ACQUISITION, INCLUDING ALLOCATION OF EARNINGS FROM THE PUBLIC
9 SERVICE COMPANY;

10 (IV) THE POTENTIAL EFFECTS ON EMPLOYMENT BY THE PUBLIC
11 SERVICE COMPANY;

12 (V) THE PROJECTED ALLOCATION OF ANY SAVINGS THAT ARE
13 EXPECTED TO THE PUBLIC SERVICE COMPANY BETWEEN STOCKHOLDERS AND RATE
14 PAYERS;

15 (VI) ISSUES OF RELIABILITY, QUALITY OF SERVICE, AND QUALITY
16 OF CUSTOMER SERVICE;

17 (VII) THE POTENTIAL IMPACT OF THE ACQUISITION ON COMMUNITY
18 INVESTMENT;

19 (VIII) AFFILIATE AND CROSS-SUBSIDIZATION ISSUES;

20 (IX) THE USE OR PLEDGE OF UTILITY ASSETS FOR THE BENEFIT OF
21 AN AFFILIATE;

22 (X) JURISDICTIONAL AND CHOICE-OF-LAW ISSUES; AND

23 (XI) ANY OTHER ISSUES THE COMMISSION CONSIDERS RELEVANT
24 TO THE ASSESSMENT OF ACQUISITION IN RELATION TO THE PUBLIC INTEREST,
25 CONVENIENCE, AND NECESSITY.

26 (3) (I) IF THE COMMISSION FINDS THAT THE ACQUISITION IS
27 CONSISTENT WITH THE PUBLIC INTEREST, CONVENIENCE, AND NECESSITY, AND
28 ~~DOES NO HARM INCLUDING BENEFITS AND NO HARM~~ TO CONSUMERS, THE
29 COMMISSION SHALL ISSUE AN ORDER GRANTING THE APPLICATION.

30 (II) THE COMMISSION MAY CONDITION AN ORDER AUTHORIZING
31 THE ACQUISITION ON THE APPLICANT'S SATISFACTORY PERFORMANCE OR
32 ADHERENCE TO SPECIFIC REQUIREMENTS.

33 (4) IF THE COMMISSION DOES NOT FIND THAT THE ACQUISITION IS
34 CONSISTENT WITH THE PUBLIC INTEREST, CONVENIENCE, AND NECESSITY, ~~OR THAT~~
35 ~~THE ACQUISITION WOULD NOT HARM INCLUDING BENEFITS AND NO HARM~~ TO
36 CONSUMERS, THE COMMISSION SHALL ISSUE AN ORDER DENYING THE
37 APPLICATION.

1 (5) THE APPLICANT BEARS THE BURDEN OF SHOWING THAT GRANTING
2 THE ACQUISITION IS CONSISTENT WITH THE PUBLIC INTEREST, CONVENIENCE, AND
3 NECESSITY, ~~AND DOES NO HARM~~ INCLUDING BENEFITS AND NO HARM TO
4 CONSUMERS.

5 (G) NOTHING IN THIS SECTION PROHIBITS DISSEMINATION BY ANY PARTY OF
6 INFORMATION CONCERNING THE ACQUISITION IF THE DISSEMINATION DOES NOT
7 OTHERWISE CONFLICT WITH FEDERAL OR STATE LAW.

8 SECTION 4. AND BE IT FURTHER ENACTED, That any approval by the
9 Public Service Commission of a merger between FPL Group, Inc., and Constellation
10 Energy Group, Inc., pending as of the effective date of this Act must include the
11 following conditions:

12 (1) ~~the transaction may not allow~~ merger transaction does not provide
13 for the transfer of facilities between Florida Power & Light Company or Baltimore
14 Gas and Electric Company and an associate company;

15 (2) ~~the transaction may not allow~~ merger transaction does not provide
16 for the new issuances of securities by Florida Power & Light Company or Baltimore
17 Gas and Electric Company for the benefit of an associate company;

18 (3) ~~the transaction may not allow~~ merger transaction does not provide
19 for new pledges or encumbrances of assets of Florida Power & Light Company or
20 Baltimore Gas and Electric Company for the benefit of an associate company;

21 (4) ~~the transaction may not allow~~ merger transaction does not provide
22 for new affiliate contracts between nonutility associate companies and Florida Power
23 & Light Company or Baltimore Gas and Electric Company, other than for goods and
24 services subject to review under §§ 205 and 206 of the Federal Power Act; and

25 (5) any savings realized as a result of the merger must be applied in part
26 to the elimination of carrying charges and the delay of increases in residential electric
27 rates approved by the Public Service Commission in Case No. 9052 or successor
28 proceedings.

29 SECTION 5. AND BE IT FURTHER ENACTED, That:

30 (a) The Public Service Commission may not take final action to approve or
31 disapprove a merger between FPL Group, Inc., and Constellation Energy Group, Inc.,
32 pending as of the effective date of this Act until five members of the Commission have
33 been appointed and qualified in accordance with Section 12 or Section 22 of this Act.

34 (b) The Public Service Commission appointed in accordance with Section 12 or
35 Section 22 of this Act shall:

36 (1) conduct investigatory and evidentiary proceedings, including the use
37 of any necessary outside experts and consultants, to reevaluate the general
38 regulatory structure, agreements, orders, and other prior actions of the Public Service

1 Commission under the Electric Customer Choice and Competition Act of 1999,
2 including the determination of and allowances for stranded costs;

3 (2) on or before ~~December 31, 2006~~ June 30, 2007, report the results of
4 that reevaluation to the General Assembly in accordance with § 2-1246 of the State
5 Government Article;

6 (3) promptly and comprehensively review and take action on the
7 proposed merger between FPL Group, Inc., and Constellation Energy Group, Inc., in
8 accordance with the standards and procedures contained in § 6-105 of the Public
9 Utility Companies Article, as enacted by this Act;

10 (4) provide to residential customers of the Baltimore Gas and Electric
11 Company funds for mitigation of rate increases including:

12 (i) any adjustment, in favor of those customers, to allowances for
13 stranded costs for assets that were transferred from Baltimore Gas and Electric
14 Company to an affiliate; and

15 (ii) any funds identified by the Commission as properly allocated to
16 Baltimore Gas and Electric Company and its residential customers as conditions of
17 approval of the merger between FPL Group, Inc., and Constellation Energy Group,
18 Inc.; and

19 (5) require that any funds for mitigating rates for residential electric
20 customers under item (4) of this subsection must be in the form of a nonbypassable
21 credit on the customer's bill, and may not be recovered subsequently from those
22 customers in rates or otherwise.

23 SECTION 6. AND BE IT FURTHER ENACTED, That:

24 (a) Starting January 1, 2007, the investor-owned electric company
25 incorporated in Maryland whose parent is involved in a merger on the effective date
26 of this Act shall determine and apply residential electric credits totaling \$38,661,980
27 each year for a period of 10 years to the bills of all residential electric customers of the
28 electric company.

29 (b) The credits shall be in the form of a nonbypassable credit or suspension on
30 the customer's bill, derived as follows:

31 (1) for a period of 10 years, the electric company shall suspend the
32 collection of the residential return component of the administrative charge collected
33 by the electric company for providing standard offer service under § 7-510(c)(3) of the
34 Public Utility Companies Article, which shall be deemed a an annual value of \$20
35 million; and

36 (2) for a period of 10 years, a credit of the \$18,661,980 annual nuclear
37 decommissioning charge collected, without otherwise disturbing the agreement
38 approved by the Maryland Public Service Commission in Order No. 75757, to be

1 imputed as deposits in the Nuclear Decommissioning Trust Fund and to be credited
2 against residential electric customer bills.

3 (c) The nuclear decommissioning charge described in subsection (b)(2) of this
4 section may not be altered during the 10-year period of the credit.

5 (d) Residential electric customer credits may not be recovered through electric
6 rates.

7 SECTION 7. AND BE IT FURTHER ENACTED, That:

8 (a) The Public Service Commission appointed in accordance with Section 12 of
9 this Act shall initiate an evidentiary proceeding to study and evaluate the status of
10 electric restructuring in the State as it pertains to the availability of competitive
11 generation to residential and small commercial customers and the structure,
12 procurement, and terms and conditions of standard offer service for residential and
13 small commercial customers. In its evaluation, the Commission shall consider
14 changes that are necessary to provide residents the benefit of a reliable electric
15 system at the best possible price and options for reregulation, if advisable, and to
16 allow electric companies to develop a portfolio of electricity supply that provides
17 electricity at the lowest cost with the least volatility.

18 (b) Among other considerations, the Commission shall consider the
19 implications of the following:

20 (1) requiring or allowing investor-owned electric companies to purchase
21 electricity by competitive or negotiated contracts of various durations or through
22 other appropriate methods to minimize price volatility;

23 (2) requiring or allowing investor-owned electric companies to construct
24 ~~or, acquire, or lease~~ peak-load or other generating plants and associated transmission
25 lines;

26 (3) providing a process, at the time bids by investor-owned electric
27 companies for electricity supply are obtained for the standard offer service, to solicit
28 bids for the procurement of energy efficiency and conservation measures and services
29 if energy efficiency and conservation measures and services are less expensive than
30 electricity generation;

31 (4) providing a process to allow investor-owned electric companies to
32 obtain a portion of its electricity supply for standard offer service through the
33 negotiation of bilateral contracts with wholesale electricity suppliers, either in
34 conjunction with or outside of procurement through competitive wholesale auctions;
35 and

36 (5) allowing opt-out aggregation of residential electric customer demand
37 by local governments in the service territories of investor-owned electric companies.

1 (c) On or before December 31, 2006, the Commission shall report to the
2 Governor and, in accordance with § 2-1246 of the State Government Article, to the
3 General Assembly on its findings and recommendations.

4 (d) (1) The Commission may not implement any of the actions under
5 subsection (b)(1) through (4) of this section that are otherwise authorized by this Act
6 unless the Commission finds that the action is in the public interest.

7 (2) On or before December 31, 2006, and based on its consideration of
8 energy efficiency and conservation measures under subsection (b)(3) of this section,
9 the Commission shall establish, by regulation or order:

10 (i) the process for procurement of energy and conservation
11 measures and services; and

12 (ii) criteria to evaluate bids that are submitted for energy and
13 conservation measures and services.

14 (3) As a part of its review of electric restructuring in the State as it
15 pertains to the availability of competitive generation to residential and small
16 commercial customers and the structure, procurement, and terms and conditions of
17 standard offer service for residential and small commercial customers, the
18 Commission shall:

19 1. adopt a uniform definition of a "small commercial customer" for
20 purposes of standard offer service that applies in all service territories in the State;
21 and

22 2. consider whether it benefits small commercial customers for an
23 electric company not to be required to provide the standard offer service under §
24 7-510(c) for small commercial customers.

25 (e) The requirement to study opt-out local governmental aggregation under
26 subsection (b)(5) of this section may not be construed to interfere with any pilot
27 program to implement local aggregation in existence on the effective date of this Act.

28 SECTION 8. AND BE IT FURTHER ENACTED, That, notwithstanding the rate
29 cap imposed in accordance with § 7-505(d) of the Public Utility Companies Article and
30 implementing settlement agreements and orders, the Public Service Commission, on
31 its own initiative or on request of an electric company in the service territory of which
32 a rate cap or freeze expires after July 1, 2006, shall initiate a proceeding to
33 investigate options available to implement a rate mitigation plan or rate stabilization
34 plan, including renegotiation of a settlement agreement to allow a portion of the
35 residential electric supply in that service territory to be procured at market rates
36 earlier than otherwise provided in the settlement agreement so that the full
37 residential electricity rates in that service territory are not exposed to volatile market
38 conditions at one time, while ensuring that residential customers in that service
39 territory obtain the full value of the savings provided under the existing rate cap.

40 SECTION 9. AND BE IT FURTHER ENACTED, That:

1 (a) (1) The State Department of Assessments and Taxation shall study
2 whether the current valuation of power plants in the State for property tax purposes
3 and any proposed change to the current method of valuation provides an adequate
4 and equitable determination of the value of power plants in a restructured electric
5 industry.

6 (2) The study shall include the potential fiscal impact to the State,
7 counties, and electric companies and their affiliates of any proposed change to the
8 current method of valuation.

9 (b) In conducting the study under subsection (a) of this section, the
10 Department shall hire a consultant with expertise in plant valuation.

11 (c) The Department shall report to the Governor and, in accordance with §
12 2-1246 of the State Government Article, to the General Assembly on or before
13 December 31, 2006, on its findings and recommendations.

14 (d) The Department may not change the current method of valuation before
15 May 1, 2007.

16 SECTION 10. AND BE IT FURTHER ENACTED, That, notwithstanding any
17 other provision of law, for fiscal year 2007 only:

18 (a) After making the distribution required under § 2-613 of the Tax - General
19 Article, but before making the distributions required under §§ 2-614 and 2-615 of the
20 Tax - General Article, from the remaining income tax revenue from corporations, the
21 Comptroller shall distribute \$6,000,000 to the Electric Universal Service Fund
22 established under § 7-512.1 of the Public Utility Companies Article.

23 (b) The funds distributed to the Electric Universal Service Fund under this
24 section:

25 (1) shall be in addition to the funds collected for the electric universal
26 service program under § 7-512.1(e) of the Public Utility Companies Article;

27 (2) may not be returned to customers under § 7-512.1(b)(3) of the Public
28 Utility Companies Article; and

29 (3) shall be administered by the Department of Human Resources and
30 disbursed as bill assistance and arrearage retirement funds without regard to the
31 limitation on retirement of arrearages under § 7-512.1(a)(2)(iii) of the Public Utility
32 Companies Article.

33 SECTION 11. AND BE IT FURTHER ENACTED, That:

34 (a) The Public Service Commission shall study:

35 (1) the impact of the costs of rising fuel prices on residential consumers
36 by obtaining on a monthly basis, for electric customers and gas customers, for each
37 company and category of service:

- 1 (i) the number of residential utility turn-off notices issued in
2 Maryland;
- 3 (ii) the number of residential customer turn-offs in Maryland;
- 4 (iii) the number of residential re-connections established in
5 Maryland; and
- 6 (iv) the gross amount of residential customer arrearages for each
7 class of customers in Maryland; and
- 8 (2) potential programs to mitigate the impact of these costs on
9 low-income residential customers, including:
- 10 (i) percentage of income plans; and
- 11 (ii) tiered rate structure plans.

12 (b) On or before October 1 of 2006 through 2010, the Commission shall report
13 the information obtained under subsection (a)(1) of this section to the Senate Finance
14 Committee and the House Economic Matters Committee in accordance with § 2-1246
15 of the State Government Article and shall publish the report for the benefit of the
16 public.

17 (c) On or before December 31, 2006, the Public Service Commission shall
18 submit to the Senate Finance Committee and the House Economic Matters
19 Committee a report of its recommendations for the adoption and feasibility of any
20 appropriate mitigation programs studied under subsection (a)(2) of this section and
21 shall publish the report for the benefit of the public.

22 SECTION 12. AND BE IT FURTHER ENACTED, That, notwithstanding the
23 provisions of § 2-102 of the Public Utility Companies Article, as enacted by this Act,
24 except for subsection (d)(3), and notwithstanding the provision of § 2-103 of the
25 Public Utility Companies Article, as enacted by this Act, except for subsection (b)(2):

26 (1) the term of office of the chairman and each commissioner of the
27 Public Service Commission serving on the effective date of this Act shall terminate at
28 the end of June 30, 2006;

29 (2) on or before July 1, 2006, the President of the Senate of Maryland
30 and the Speaker of the House of Delegates shall present:

31 (i) a list, containing at least three names, from which the Governor
32 shall select a new Chairman of the Public Service Commission in accordance with this
33 Act;

34 (ii) a second list, containing at least ten names, from which the
35 Governor shall select four other new commissioners of the Public Service Commission
36 in accordance with this Act;

1 (3) if the Governor fails to appoint five members to the Public Service
2 Commission by July 15, 2006:

3 (i) the President and the Speaker promptly shall appoint the
4 members needed to complete the Commission's fully authorized membership and
5 designate the Chairman; and

6 (ii) the Executive Secretary of the Public Service Commission shall
7 be authorized to act on behalf of the Commission in carrying out ministerial functions
8 until the fully authorized membership has been appointed;

9 (4) the members of the Commission appointed under this section do not
10 require confirmation by the Senate;

11 (5) a name may appear on both lists under item (2) of this section; and

12 (6) the terms of office of the members of the Public Service Commission
13 appointed under this section shall expire as follows:

14 (i) one commissioner at the end of June 30, 2007;

15 (ii) one commissioner at the end of June 30, 2008;

16 (iii) the Chairman at the end of June 30, 2009;

17 (iv) one commissioner at the end of June 30, 2010; and

18 (v) one commissioner at the end of June 30, 2011.

19 SECTION 13. AND BE IT FURTHER ENACTED, That, notwithstanding the
20 provisions of § 2-202 of the Public Utility Companies Article, as enacted by this Act,
21 the People's Counsel serving as of June 30, 2006, shall continue in office to serve at
22 the pleasure of the Attorney General until a successor is appointed and qualifies in
23 accordance with § 2-202 of the Public Utility Companies Article, as enacted by this
24 Act.

25 SECTION 14. AND BE IT FURTHER ENACTED, That a member of the Public
26 Service Commission or a People's Counsel appointed under Section 12 or Section 13 of
27 this Act need not be required to recuse himself or herself from any matter before the
28 Commission under this Act on account of prior involvement in the matter in another
29 capacity.

30 SECTION 15. AND BE IT FURTHER ENACTED, That:

31 (a) In order to protect the interests of the State and the citizens of Maryland
32 and consistent with the intent of the General Assembly, in accordance with Article V,
33 Section 3 of the Maryland Constitution, the Attorney General is hereby directed to
34 intervene and participate in the Public Service Commission, Case No. 9054 and in
35 any other hearings or other proceedings before the Public Service Commission or any
36 other appropriate State or federal unit, or any case brought before any court of

1 competent jurisdiction in the State or any federal court, regarding the merger of FPL
2 Group, Inc., and Constellation Energy Group, Inc.

3 (b) The costs and expenses associated with the intervention and participation
4 by the Attorney General in hearings and other proceedings regarding the merger of
5 FPL Group, Inc., and Constellation Energy Group, Inc., not exceeding \$500,000, shall
6 be borne by the public service companies that are subject to the Public Service
7 Commission's jurisdiction in the same manner as the Commission's costs and
8 expenses are assessed, collected, and disbursed under §§ 2-110 and 2-110.1 of the
9 Public Utility Companies Article.

10 SECTION 16. AND BE IT FURTHER ENACTED, That except as expressly
11 provided to the contrary in this Act, any transaction affected by or flowing from any
12 statute here amended, and validly entered into before the effective date of this Act
13 and every right, duty, or interest flowing from it remains valid after the effective date
14 of this Act and may be terminated, completed, consummated, or enforced pursuant to
15 law.

16 SECTION 17. AND BE IT FURTHER ENACTED, That except as otherwise
17 provided in this Act, all permits and licenses, applications for permits and licenses,
18 tariffs, rules and regulations, proposed rules and regulations, standards and
19 guidelines, proposed standards and guidelines, orders and other directives, forms,
20 plans, memberships, special funds, appropriations, grants, applications for grants,
21 contracts, properties, investigations, administrative and judicial proceedings, rights
22 to sue and be sued, and all other duties and responsibilities of the Public Service
23 Commission and the Office of People's Counsel, respectively, shall continue in effect
24 under the Commission and the Office, respectively, or the appropriate unit within the
25 Commission or the Office, until completed, withdrawn, canceled, modified, or
26 otherwise changed pursuant to law.

27 SECTION 18. AND BE IT FURTHER ENACTED, That:

28 (a) Pursuant to Article III, § 52(14) of the Maryland Constitution, in addition
29 to the amounts provided under Chapter 216 of the Acts of 2006 (The Budget Bill), the
30 following appropriations shall be made for fiscal year 2007 to implement the
31 requirements of this Act:

32	(1)	Department of Assessments and Taxation	
33		E50C00.01 Executive Direction	\$250,000 General Funds
34	(2)	Public Service Commission	
35		C90G00.01 General Administration and Hearings	\$750,000 Special
36		Funds	
37	(3)	People's Counsel	
38		C91H00.01 General Administration.....	\$500,000 Special Funds

1 (4) Attorney General
 2 C81C00.01 Legal Counsel and Advice \$500,000 Special Funds
 3 (5) Department of Human Resources
 4 N00C01.12 Office of Home Energy Programs \$9,000,000 Special
 5 Funds

6 (b) Special funds appropriated in subsection (a)(2) through (4) of this section
 7 shall be recovered through the assessment on public utilities authorized under §
 8 2-110 of the Public Utility Companies Article.

9 (c) Special funds appropriated in subsection (a)(5) of this section shall be
 10 credited from funds assessed under § 7-512.1 of the Public Utility Companies Article,
 11 as enacted by this Act, and the repeal of the property income tax credit and
 12 designation of special funding under Sections 2 and 10 of this Act.

13 SECTION 19. AND BE IT FURTHER ENACTED, That, notwithstanding any
 14 other provision of law, if any action is brought for declaratory, injunctive, or other
 15 relief to challenge the constitutionality or legality of any provision of this Act or any
 16 amendment made by this Act, the following rules shall apply:

17 (1) The action shall be filed in the Circuit Court of Baltimore City.

18 (2) The Attorney General, on behalf of the State, has an unconditional
 19 right to intervene and participate as a party in all aspects, including but not limited
 20 to the presentation of evidence and legal argument.

21 (3) A final decision of the Circuit Court shall be reviewable by appeal
 22 directly to the Court of Appeals of Maryland. Any such appeal shall be taken by the
 23 filing of a notice of appeal within 10 days after the entry of the final decision.

24 (4) It shall be the duty of the Circuit Court and the Court of Appeals to
 25 advance on the docket and to expedite to the greatest possible extent the disposition
 26 of the action and the appeal.

27 (5) No State funds may be spent directly or indirectly by any officer or
 28 unit of State government to challenge any provision of this Act, or to pay private
 29 counsel to challenge any provision of this Act, in a State court or federal court.

30 SECTION 20. AND BE IT FURTHER ENACTED, That, notwithstanding §
 31 7-510(c)(3) of the Public Utility Companies Article, as enacted by this Act:

32 ~~(1)~~ (a) an electric company is allowed to recover the costs of electricity
 33 for which it has contracted before the effective date of this Act to provide standard
 34 offer service; ~~and~~

35 ~~(2) an electric company that is collecting an authorized reasonable~~
 36 ~~return for providing standard offer service under an extension of the obligation to~~

1 provide that service in a service territory in which a rate cap or freeze under §
2 7-505(d) of the Public Utility Companies Article is no longer in effect may continue to
3 collect the return until the termination of the extension.

4 (b) (1) This paragraph subsection applies to an investor-owned electric
5 company in a service territory in which a rate cap or freeze under § 7-505(d) of the
6 Public Utility Companies Article is no longer in effect and which has a rate mitigation
7 plan in effect on July 1, 2006 for residential customers, in accordance with an order by
8 Order No. 80747 of the Public Service Commission, to limit the increase in the total
9 electric rates to 15% on June 1, 2006, allow a 15.7% increase on March 1, 2007, allow
10 for residential customers to pay market rates at a later date, and begin paying for the
11 recovery of the deferred amount on June 1, 2007, with recovery of the deferred
12 amount over 18 months.

13 (2) The Public Service Commission shall require, through the
14 modification of the existing order, the electric company to provide after July 1, 2006,
15 an additional time period in which residential customers may opt in to the rate
16 mitigation plan.

17 (3) Subject to paragraphs (4), (5), and (6) of this subsection, the electric
18 company may continue to collect an authorized reasonable return for providing
19 standard offer service under an extension of the obligation to provide that service as
20 approved by the Public Service Commission.

21 (4) The electric company shall apply the authorized reasonable return
22 revenue to any actual carrying charges that the electric company may incur as a
23 result of the deferred amounts from customers who have opted in to the rate
24 mitigation plan.

25 (5) In accordance with paragraph (6) of this subsection, if the
26 participation rate of the number of customers who have opted in to the rate mitigation
27 plan is less than 25% of the total residential customers of the electric company, the
28 Public Service Commission shall require the electric company to apply a portion of the
29 authorized reasonable return revenue to reducing rates.

30 (6) The total amount of authorized reasonable return that the electric
31 company is required to apply to reduce rates is the amount by which the total dollar
32 amount of carrying charges that would have been paid if 25% of the customers had
33 participated in the plan during the deferral period exceeds the carrying charges
34 actually paid.

35 SECTION 21. AND BE IT FURTHER ENACTED, That the provisions of Section
36 3 of this Act relating to the holding of stock by a corporation operating in Maryland
37 shall be construed to apply only prospectively and may not be applied or interpreted
38 to have any effect on or application to any stock acquired before the effective date of
39 this Act.

40 SECTION 22. AND BE IT FURTHER ENACTED, That:

1 (a) If any provision of this Act or the application thereof to any person or
2 circumstance is held invalid for any reason in a court of competent jurisdiction, the
3 invalidity does not affect other provisions or any other application of this Act which
4 can be given effect without the invalid provision or application, and for this purpose
5 the provisions of this Act are declared severable.

6 (b) If § 12(1) of this Act is held invalid, then the term of the Chairman and
7 each member of the Public Service Commission is eliminated and these public officers
8 serve at the pleasure of the Attorney General, who is authorized to terminate their
9 service and appoint their successors.

10 (c) If § 12(2) and (3) of this Act are held invalid, then the Attorney General
11 shall appoint the Chairman and each member of the Public Service Commission in
12 accordance with the remaining provisions of § 12 of this Act.

13 SECTION 23. AND BE IT FURTHER ENACTED, That Section 2 of this Act
14 shall be applicable to all taxable years beginning after December 31, 2005.

15 SECTION 24. AND BE IT FURTHER ENACTED, That Section 3 of this Act
16 shall take effect January 1, 2007, except that §§ 5-203, 6-101, 6-102, and 6-103 of
17 the Public Utility Companies Article, as enacted by this Act, shall take effect July 1,
18 2007.

19 SECTION 25. AND BE IT FURTHER ENACTED, That this Act is an emergency
20 measure, is necessary for the immediate preservation of the public health or safety,
21 has been passed by a ye and nay vote supported by three-fifths of all the members
22 elected to each of the two Houses of the General Assembly, and shall, except as
23 provided in Section 24 of this Act, take effect from the date it is enacted. If this Act
24 does not secure sufficient votes to pass as an emergency measure, it shall take effect
25 July 1, 2006, pursuant to Article III, § 31 of the Maryland Constitution.