

SENATE BILL 783

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1998 Regular Session  
8r1170

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By: **The President (Department of Legislative Services - Code Revision)**

Introduced and read first time: March 9, 1998

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Public Utility Companies Article - Cross-References and Corrections**

3 FOR the purpose of correcting certain cross-references to the Public Utility  
4 Companies Article in the Annotated Code of Maryland; correcting certain errors  
5 and omissions in the Public Utility Companies Article; making stylistic changes;  
6 and generally relating to the Public Utility Companies Article.

7 BY repealing and reenacting, with amendments,  
8 Article 23 - Miscellaneous Companies  
9 Section 182  
10 Annotated Code of Maryland  
11 (1996 Replacement Volume and 1997 Supplement)

12 BY repealing and reenacting, with amendments,  
13 Article 41 - Governor - Executive and Administrative Departments  
14 Section 10-801(e) and 18-106(c)  
15 Annotated Code of Maryland  
16 (1997 Replacement Volume and 1997 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article 83B - Department of Housing and Community Development  
19 Section 6-404(a)(1)(vii) and (viii) and (e) and 6-406(d)(2)  
20 Annotated Code of Maryland  
21 (1995 Replacement Volume and 1997 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article - Business Occupations and Professions  
24 Section 11-502(a)  
25 Annotated Code of Maryland  
26 (1995 Replacement Volume and 1997 Supplement)

27 BY repealing and reenacting, with amendments,  
28 Article - Commercial Law

1 Section 13-301(15)  
2 Annotated Code of Maryland  
3 (1990 Replacement Volume and 1997 Supplement)

4 BY repealing and reenacting, with amendments,  
5 Article - Environment  
6 Section 2-405(a)(1), (b), (e)(1), and (f) and 5-502(e)  
7 Annotated Code of Maryland  
8 (1996 Replacement Volume and 1997 Supplement)

9 BY repealing and reenacting, with amendments,  
10 Article - Labor and Employment  
11 Section 8-206(e)(3)  
12 Annotated Code of Maryland  
13 (1991 Volume and 1997 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article - Natural Resources  
16 Section 3-128(b), 3-304(2), 3-305(a)(3), 3-307, 3-919(b), 5-409(c)(1),  
17 5-1602(b)(5), and 5-1603(f)  
18 Annotated Code of Maryland  
19 (1997 Replacement Volume and 1997 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article - Public Utility Companies  
22 Section 1-101(g), (j), (q), (aa), (cc), and (gg), 2-103(b)(3), 3-102(e)(2), 3-112(a),  
23 3-202(c), 4-102(b), 4-301(a) and (b)(1), 5-410(a), (b), and (d), 6-101(c)(2)  
24 and (3), 6-209(b)(1), 7-207(e)(3)(vi), and 8-103 through 8-106  
25 Annotated Code of Maryland  
26 (As enacted by Chapter \_\_\_\_ (S.B. 1) of the Acts of the General Assembly of 1998)

27 BY repealing and reenacting, without amendments,  
28 Article - Public Utility Companies  
29 Section 13-207  
30 Annotated Code of Maryland  
31 (As enacted by Chapter \_\_\_\_ (S.B. 1) of the Acts of the General Assembly of 1998)

32 BY repealing and reenacting, with amendments,  
33 Article - Real Property  
34 Section 11-131(b)(2)  
35 Annotated Code of Maryland  
36 (1996 Replacement Volume and 1997 Supplement)

37 BY repealing and reenacting, with amendments,

1 Article - State Government  
 2 Section 15-829(c)(3)(iv), 15-838(b)(2)(iv), and 15-848(b)(3)(iv)  
 3 Annotated Code of Maryland  
 4 (1995 Replacement Volume and 1997 Supplement)

5 BY repealing and reenacting, with amendments,  
 6 Article - Tax - General  
 7 Section 8-401(b)(2)(ii) and 8-407  
 8 Annotated Code of Maryland  
 9 (1997 Replacement Volume)

10 BY repealing and reenacting, with amendments,  
 11 Article - Transportation  
 12 Section 6-301(b)(3)  
 13 Annotated Code of Maryland  
 14 (1993 Replacement Volume and 1997 Supplement)

15 BY repealing and reenacting, with amendments,  
 16 Article - Transportation  
 17 Section 13-423(a) and 22-404.3(e)(1)  
 18 Annotated Code of Maryland  
 19 (1992 Replacement Volume and 1997 Supplement)

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

22 **Article 23 - Miscellaneous Companies**

23 182.

24 (A) [Any] SUBJECT TO SUBSECTION (B) OF THIS SECTION, A municipal  
 25 corporation of this State now owning or hereafter acquiring an electric plant [and/or]  
 26 OR gas plant, as defined in [Article 78, § 2] § 1-101 OF THE PUBLIC UTILITY  
 27 COMPANIES ARTICLE, [shall have power to] MAY sell, lease, exchange or otherwise  
 28 dispose of [such] THE electric plant [and/or] OR gas plant, or any part of or interest  
 29 in either [thereof], to any [electrical corporation and/or gas corporation] ELECTRIC  
 30 COMPANY OR GAS COMPANY, as defined [by said Article 78, § 2] IN § 1-101 OF THE  
 31 PUBLIC UTILITY COMPANIES ARTICLE, [upon such] ON terms and conditions [as  
 32 such] DETERMINED BY THE municipal corporation [shall determine, provided any  
 33 such].

34 (B) (1) THE sale, lease, exchange or other disposition shall be approved by  
 35 the Public Service Commission of Maryland[, and provided further that].

36 (2) AT LEAST TWICE WITHIN 15 DAYS AFTER THE DATE OF THE ORDER  
 37 OF APPROVAL BY THE PUBLIC SERVICE COMMISSION, THE MUNICIPAL

1 CORPORATION SHALL PUBLISH notice of [any such] THE sale, lease, exchange or  
 2 other disposition, and of the approval [thereof by said Public Service] OF THE  
 3 Commission[, shall be inserted by said municipal corporation in some] IN A  
 4 newspaper published in the:

5 (I) [the corporate limits thereof or published in the county in  
 6 which said municipal corporation is situate] MUNICIPAL CORPORATION; OR

7 (II) THE COUNTY IN WHICH THE MUNICIPAL CORPORATION IS  
 8 LOCATED if [there shall be] no newspaper IS published in [said corporate limits, at  
 9 least twice within fifteen days after the date of order of such approval by said Public  
 10 Service Commission] THE MUNICIPAL CORPORATION.

11 **Article 41 - Governor - Executive and Administrative Departments**

12 10-801.

13 (e) "Electric company" has the meaning [specified in Article 78, § 2 of the  
 14 Annotated Code of Maryland] STATED IN § 1-101 OF THE PUBLIC UTILITY  
 15 COMPANIES ARTICLE.

16 18-106.

17 (c) A cellular telephone company or personal communication company that  
 18 pays or collects 911 fees under § 18-105 of this subtitle shall have the same immunity  
 19 from liability for transmission failures as that approved by the Public Service  
 20 Commission for local exchange telephone companies that are subject to the regulation  
 21 of the Commission under [Article 78 of the Code] THE PUBLIC UTILITY COMPANIES  
 22 ARTICLE.

23 **Article 83B - Department of Housing and Community Development**

24 6-404.

25 (a) The Department shall:

26 (1) Establish and maintain a central automated data base that, at a  
 27 minimum, contains:

28 (vii) The Energy Code required under [Article 78, § 54J of the Code]  
 29 TITLE 7, SUBTITLE 4 OF THE PUBLIC UTILITY COMPANIES ARTICLE;

30 (viii) Local code provisions that are more restrictive than the Energy  
 31 Code required under [Article 78, § 54J of the Code] TITLE 7, SUBTITLE 4 OF THE  
 32 PUBLIC UTILITY COMPANIES ARTICLE; and

33 (e) A local jurisdiction shall furnish to the Department:

34 (1) On or before January 1, 1997, a copy of its duly adopted local code  
 35 provisions that are more restrictive than the Energy Code required under [Article 78,

1 § 54J of the Code] TITLE 7, SUBTITLE 4 OF THE PUBLIC UTILITY COMPANIES ARTICLE;  
2 and

3 (2) Within 15 days of its effective date, any additional amendment to  
4 local code provisions that is more restrictive than the Energy Code required under  
5 [Article 78, § 54J of the Code] TITLE 7, SUBTITLE 4 OF THE PUBLIC UTILITY  
6 COMPANIES ARTICLE.

7 6-406.

8 (d) This subtitle may not be construed to alter or abrogate the authority of:

9 (2) The Public Service Commission to enforce the Energy Code required  
10 under [Article 78, § 54J of the Code] TITLE 7, SUBTITLE 4 OF THE PUBLIC UTILITY  
11 COMPANIES ARTICLE.

12 **Article - Business Occupations and Professions**

13 11-502.

14 (a) The Public Service Commission shall establish pilotage fees in accordance  
15 with [Article 78, § 72B of the Code] § 4-303 OF THE PUBLIC UTILITY COMPANIES  
16 ARTICLE.

17 **Article - Commercial Law**

18 13-301.

19 Unfair or deceptive trade practices include any:

20 (15) Any act or omission that relates to a residential building and that is  
21 chargeable as a misdemeanor under or otherwise violates a provision of the Energy  
22 Conservation Building Standards Act, [Article 78, § 54-I of the Code] TITLE 7,  
23 SUBTITLE 4 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

24 **Article - Environment**

25 2-405.

26 (a) (1) Whenever the Public Service Commission notifies the Secretary of an  
27 application for a certificate of public convenience and necessity under [Article 78, §  
28 54A of the Code] § 7-207 OF THE PUBLIC UTILITY COMPANIES ARTICLE, the Secretary  
29 shall prepare a recommendation in connection with the permit or registration  
30 required by this subtitle. The recommendation shall be presented at the hearing  
31 required by [Article 78, § 54A of the Code] § 7-207 OF THE PUBLIC UTILITY  
32 COMPANIES ARTICLE.

33 (b) Subject to judicial review as provided under [Article 78, §§ 89 through 98  
34 of the Code] TITLE 3, SUBTITLE 2 OF THE PUBLIC UTILITY COMPANIES ARTICLE, the  
35 decision of the Public Service Commission in connection with a certificate of public

1 convenience and necessity or a filing under [Article 78, § 54L of the Code] § 7-206 OF  
2 THE PUBLIC UTILITY COMPANIES ARTICLE is binding on the Secretary.

3 (e) (1) Before issuing an operating permit which requires the installation of  
4 pollution control equipment or a change in the method of operation of the generating  
5 station or unit, the Secretary shall notify the applicant and the Public Service  
6 Commission and request that the Public Service Commission institute a hearing as  
7 required by [Article 78, § 54L of the Code] § 7-206 OF THE PUBLIC UTILITY  
8 COMPANIES ARTICLE.

9 (f) (1) The Commission shall conduct the hearing required by subsection (e)  
10 of this section in the manner set forth in [Article 78, §§ 54A and 54-I of the Code] §§  
11 7-205 AND 7-207 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

12 (2) The Department shall incorporate the Commission's order rendered  
13 in accordance with [Article 78, § 54L of the Code into the operating permit] § 7-206  
14 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

15 5-502.

16 (e) Notwithstanding any other provision of this subtitle, an application for a  
17 certificate of public convenience and necessity associated with power plant  
18 construction which involves use or diversion of waters of the State made to the Public  
19 Service Commission under [Article 78 of the Code] THE PUBLIC UTILITY COMPANIES  
20 ARTICLE constitutes an application for the permit required by this section, and the  
21 provisions of § 3-306 of the Natural Resources Article apply. If an application is made  
22 to the Public Service Commission, the hearing provided for by this subtitle is not  
23 required. All evidence relevant to the purposes of this subtitle shall be presented at  
24 the hearing held by the Public Service Commission, as required by [Article 78, § 54A  
25 of the Code] § 7-207 OF THE PUBLIC UTILITY COMPANIES ARTICLE. The permit  
26 required by this subtitle is included in the certificate of public convenience and  
27 necessity issued by the Public Service Commission.

28 **Article - Labor and Employment**

29 8-206.

30 (e) Work is not covered employment when performed by a taxicab driver who  
31 uses a taxicab or taxicab equipment of a taxicab business that is carried on by the  
32 holder of a taxicab permit if the Secretary is satisfied that:

33 (3) the driver has access to the taxicab or taxicab equipment at all hours  
34 and, subject to [Article 78 of the Code] THE PUBLIC UTILITY COMPANIES ARTICLE,  
35 may set personal work hours and places; and

1 **Article - Natural Resources**

2 3-128.

3 (b) The Service may not be deemed to be a public service company within the  
4 meaning of [Article 78 of the Code] THE PUBLIC UTILITY COMPANIES ARTICLE, and,  
5 except as provided in this section, the jurisdiction and powers of the Public Service  
6 Commission do not extend to the Service.

7 3-304.

8 In cooperation with the Public Service Commission, the Maryland Energy  
9 Administration, and the Secretary of the Environment, the Secretary shall implement  
10 a long-range environmental evaluation of power plant building sites projected for at  
11 least 10 years. To facilitate providing adequate electric power on reasonable schedules  
12 at reasonable costs with the least possible depreciation of the quality of Maryland's  
13 environment, the following responsibilities and procedures are set forth:

14 (2) Upon receipt of a ten-year plan from the Public Service Commission,  
15 the Secretary with the advice of the Secretary of the Environment and the Director of  
16 the Maryland Energy Administration and in accordance with paragraph (1) of this  
17 section and [Article 78, § 54B(b) of the Code] § 7-201 OF THE PUBLIC UTILITY  
18 COMPANIES ARTICLE, shall prepare and submit, within 180 days a preliminary  
19 environmental statement on each possible and proposed site, including associated  
20 transmission routes. The statement, on the basis of the environmental research  
21 program, shall include but not be limited to the following considerations:

- 22 (i) The environmental impact at the proposed site;
- 23 (ii) Any adverse environmental effects which cannot be avoided if  
24 the proposed site is accepted;
- 25 (iii) Possible alternatives to the proposed site;
- 26 (iv) Any irreversible and irretrievable commitments of resources  
27 which would be involved at the proposed site if it is approved;
- 28 (v) Where appropriate, a discussion of problems and objections  
29 raised by other State and federal agencies and local entities;
- 30 (vi) A plan for monitoring environmental effects of the proposed  
31 action and provision for remedial actions if the monitoring reveals unanticipated  
32 environmental effects of significant adverse consequences; and
- 33 (vii) The ability to adequately provide emergency response plans to  
34 residents if a nuclear power plant is considered for location at a site.

35 The Secretary shall state to the Public Service Commission which possible and  
36 proposed sites, based on preliminary environmental statement, justify an unsuitable  
37 classification. Unless the electric company whose proposed site is involved offers the

- 1 Secretary substantial evidence to the contrary, the site shall be deleted from the plan.
- 2 The site may be included in a subsequent ten-year plan.

3 3-305.

4 (a) The expertise of the electric utilities in the basic requirements, including  
5 environmental considerations, of a site for power generation and generator lead route  
6 is a needed element in site selection. Therefore, for the purposes of insuring adequate  
7 power on reasonable schedules while also protecting the quality of the State's  
8 environment, site acquisition and generator lead route designation may occur as  
9 follows:

10 (3) Notwithstanding any other provision of this subtitle, the Secretary  
11 may acquire a site for an electric company if the Public Service Commission requests  
12 the Secretary to purchase a site under [Article 78, § 54B(e) of the Code] § 7-202 OF  
13 THE PUBLIC UTILITY COMPANIES ARTICLE.

14 3-307.

15 Judicial review shall in all instances include the right to appeal to the circuit  
16 courts as set forth in [Article 78, §§ 89 through 98] TITLE 3, SUBTITLE 2 OF THE  
17 PUBLIC UTILITY COMPANIES ARTICLE.

18 3-919.

19 (b) The Authority shall not be deemed to be a public service company within  
20 the meaning of [Article 78 of this Code] THE PUBLIC UTILITY COMPANIES ARTICLE,  
21 and the jurisdiction and powers of the Public Service Commission shall not extend to  
22 the Authority.

23 5-409.

24 (c) Notwithstanding the provisions of this section, the following shall obtain  
25 the permission of an owner before engaging in any act specified in subsection (a) of  
26 this section, but are not required to obtain the permission in writing or to display the  
27 written permission as provided in subsection (b) of this section:

28 (1) A public service company, as defined in [Article 78, § 2(o) of the  
29 Code] § 1-101 OF THE PUBLIC UTILITY COMPANIES ARTICLE; and

30 5-1602.

31 (b) The provisions of this subtitle do not apply to:

32 (5) The cutting or clearing of public utility rights-of-way or land for  
33 electric generating stations licensed pursuant to [ §§ 54A and 54B or § 54-I of Article  
34 78 of the Code] § 7-204, § 7-205, § 7-207, OR § 7-208 OF THE PUBLIC UTILITY  
35 COMPANIES ARTICLE, provided that:

1 (i) Any required certificates of public convenience and necessity  
2 have been issued in accordance with § 5-1603(f) of this subtitle; and

3 (ii) The cutting or clearing of the forest is conducted so as to  
4 minimize the loss of forest;

5 5-1603.

6 (f) After December 31, 1992, the Public Service Commission shall give due  
7 consideration to the need to minimize the loss of forest and the provisions for  
8 afforestation and reforestation set forth in this subtitle together with all applicable  
9 electrical safety codes, when reviewing applications for a certificate of public  
10 convenience and necessity issued pursuant to [ §§ 54A and 54B or § 54-I of Article 78  
11 of the Code] § 7-204, § 7-205, § 7-207, OR § 7-208 OF THE PUBLIC UTILITY COMPANIES  
12 ARTICLE.

### 13 **Article - Public Utility Companies**

14 1-101.

15 (g) "Electric plant" means the material, equipment, and property owned by an  
16 electric company AND USED OR TO BE USED FOR OR IN CONNECTION WITH  
17 ELECTRICAL SERVICE.

18 (j) "Gas plant" means the material, equipment, and property owned by a gas  
19 company AND USED OR TO BE USED FOR OR IN CONNECTION WITH GAS SERVICE.

20 (q) (1) "Railroad" means a common carrier by rail powered in any manner.

21 (2) "Railroad" includes [branches, bridges, cars, extensions, ferries,  
22 plant, spurs, stations, subways, switches, terminal facilities, tracks, tunnels, and  
23 equipment] MATERIAL, EQUIPMENT, AND PROPERTY used on or in connection with a  
24 railroad.

25 (aa) "Telegraph lines" means the material, equipment, and property owned by a  
26 telegraph company AND USED OR TO BE USED FOR OR IN CONNECTION WITH  
27 TELEGRAPH SERVICE.

28 (cc) "Telephone lines" means the material, equipment, and property owned by a  
29 telephone company AND USED OR TO BE USED FOR OR IN CONNECTION WITH  
30 TELEPHONE SERVICE.

31 (gg) "Water plant" means the material, equipment, and property owned by a  
32 water company AND USED OR TO BE USED FOR OR IN CONNECTION WITH WATER  
33 SERVICE.

34 2-103.

35 (b) (3) A Chairman who is appointed after a term has begun serves [only]  
36 for the rest of the term and until a successor qualifies.

1 3-102.

2 (e) (2) The complaint filed under paragraph (1) of this subsection FOR THE  
3 FIRST TIME IN A PROCEEDING shall be served on the person that is the subject of the  
4 complaint before any hearing on the matter.

5 3-112.

6 (a) In a proceeding before the Commission where a person applies for the  
7 approval of the Commission under § 5-104, §§ 5-201 through 5-203, or §§ 6-101  
8 [and] THROUGH 6-103 of this article, the person shall show by clear and satisfactory  
9 evidence that granting the application complies with the requirements of this article  
10 and, as the case may be, is required by the public interest or is consistent with the  
11 public interest.

12 3-202.

13 (c) The Secretary of the Environment may seek judicial review of a final  
14 decision or order of the Commission made under [§ 7-205] §§ 7-205 AND 7-206 of this  
15 article.

16 4-102.

17 (b) The Commission [may] SHALL HAVE THE POWER TO set a just and  
18 reasonable rate of a public service company, as a maximum rate, minimum rate, or  
19 both.

20 4-301.

21 (a) Notwithstanding [§ 4-102] § 4-101 of this title or any other law TO THE  
22 CONTRARY, the Commission may regulate a telephone company through alternative  
23 forms of regulation.

24 (b) The Commission may adopt an alternative form of regulation under this  
25 section if the Commission finds, after notice and hearing, that the alternative form of  
26 regulation:

27 (1) protects consumers [by] BY, AT A MINIMUM:

28 (i) [at a minimum,] producing affordable and reasonably priced  
29 basic local exchange service, as defined by the Commission; and

30 (ii) ensuring the quality, availability, and reliability of  
31 telecommunications services throughout the State;

32 5-410.

33 (a) This section applies to:

34 (1) a telegraph company that has its principal office in the State;

1 (2) a telephone company that has its principal office in the State;

2 (3) AN ELECTRIC COMPANY FORMED AS A CLASS 13 CORPORATION  
3 UNDER ARTICLE 23, § 28 OF THE CODE OF 1904; and

4 [(3)] (4) a telephone company that owns lines and provides local  
5 exchange or interexchange service in the State with the approval of the Commission.

6 (b) A company described in subsection (a) of this section has the same power  
7 granted to telegraph AND TELEPHONE companies by §§ 8-103, 8-104, 8-105, and  
8 8-106(a) of this article and may:

9 (1) construct and lay lines underground or above ground on any route for  
10 which it is authorized to construct lines as a whole or in part; and

11 (2) except as provided in subsection (d) of this section, acquire by  
12 condemnation, in accordance with Title 12 of the Real Property Article, any property  
13 or right that the company considers necessary for its purposes.

14 (d) This section does not authorize a telephone company described in  
15 subsection [(a)(3)] (A)(4) of this section that, as of September 30, 1993, did not have  
16 the power of condemnation granted to a telegraph company under §§ 8-103, 8-104,  
17 8-105, and 8-106(a) of this article, to acquire property for communications towers or  
18 buildings.

19 6-101.

20 (c) (2) Without prior authorization of the Commission, a public service  
21 company may not [hold] TAKE, HOLD, or acquire any part of the capital stock of a  
22 public service company that is:

23 (i) incorporated in Maryland; and

24 (ii) of the same class as the acquiring company.

25 (3) (i) Except as provided in subparagraph (ii) of this paragraph, a  
26 stock corporation may not [hold] TAKE, HOLD, or acquire more than 10% of the total  
27 capital stock of a public service company incorporated in Maryland unless:

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

29 2. the Commission approves the acquisition.

30 (ii) The Commission may authorize a public service company of the  
31 same class to [hold] TAKE, HOLD, or acquire more than 10% of the total capital stock  
32 of a public service company incorporated in Maryland.

33 6-209.

34 (b) In its annual report, a public service company shall:

1 (1) list each contract, agreement, or other business arrangement  
2 exceeding an aggregate value of \$1,000,000 between the public service company and  
3 any business or financial organization, firm, or partnership [doing business with the  
4 public service company] LISTED UNDER SUBSECTION (A)(2)(III) AND (IV) OF THIS  
5 SECTION;

6 7-207.

7 (e) The Commission shall take final action on an application for a certificate  
8 of public convenience and necessity only after due consideration of:

9 (3) the effect of the generating station or overhead transmission line on:

10 (vi) WHEN APPLICABLE, air and water pollution; and

11 8-103.

12 (a) (1) A telegraph or telephone [company] COMPANY, OR, AS AUTHORIZED  
13 UNDER § 5-410 OF THIS ARTICLE, AN ELECTRIC COMPANY may construct [telegraph  
14 or telephone] lines:

15 (i) through the State;

16 (ii) from or to any point in the State;

17 (iii) on the boundaries of the State;

18 (iv) along and on a road, street, or highway; and

19 (v) across bridges and the waters in the State.

20 (2) [A telegraph or telephone] THE company may erect fixtures,  
21 including poles, piers, or abutments necessary to sustain the lines.

22 (3) This section does not authorize a [telegraph or telephone] company  
23 to construct a bridge across any of the navigable waters of the State.

24 (b) A [telegraph or telephone] line constructed under subsection (a) of this  
25 section is not a public nuisance and is not subject to abatement by a private party if  
26 the [telegraph or telephone] line does not interfere with or disturb:

27 (1) the public use of roads, highways, and bridges;

28 (2) the navigation of the waters of the State; or

29 (3) the convenience of a landowner more than is unavoidable.

30 8-104.

31 Notwithstanding the provisions of § 8-103(b) of this subtitle, a telegraph or  
32 telephone [company] COMPANY, OR, AS AUTHORIZED UNDER § 5-410 OF THIS

1 ARTICLE, AN ELECTRIC COMPANY is responsible for damage a person may sustain  
2 through the erection, continuance, or use of [telegraph or telephone] TELEGRAPH,  
3 TELEPHONE, OR ELECTRIC facilities.

4 8-105.

5 (a) If, within a reasonable time after due notice, a telegraph or telephone  
6 [company] COMPANY, OR, AS AUTHORIZED UNDER § 5-410 OF THIS ARTICLE, AN  
7 ELECTRIC COMPANY fails or refuses to remove [telegraph or telephone] TELEGRAPH,  
8 TELEPHONE, OR ELECTRIC facilities causing damage, the owner or possessor of land  
9 or a political subdivision may sue for damages.

10 (b) (1) If the person filing suit for damages under this section prevails, the  
11 [telegraph or telephone] company may elect to pay damages for allowing the  
12 [telegraph or telephone] company to maintain the [telegraph or telephone] facilities  
13 permanently.

14 (2) If the damages paid include damages for allowing the [telegraph or  
15 telephone] company to maintain the [telegraph or telephone] facilities permanently,  
16 the right of the [telegraph or telephone] company to maintain the [telegraph or  
17 telephone] facilities permanently shall be confirmed as if the right were granted by  
18 the parties to the suit.

19 8-106.

20 (a) To obtain an easement, the president and directors of a telegraph or  
21 telephone [company] COMPANY, OR, AS AUTHORIZED UNDER § 5-410 OF THIS  
22 ARTICLE, AN ELECTRIC COMPANY may apply to the circuit court of the county  
23 containing the land or bridge where the [telegraph or telephone] TELEGRAPH,  
24 TELEPHONE, OR ELECTRIC facilities will be placed to empanel a jury to appraise the  
25 loss or damage that will be sustained by the owner or possessor of the land or bridge.

26 (b) (1) (i) The jury shall make a return and inquisition in writing that is  
27 signed and sealed by each juror.

28 (ii) The return and inquisition shall state the amount of the loss or  
29 damage.

30 (2) (i) The county sheriff shall return the jury's inquisition to the clerk  
31 of the circuit court of the county.

32 (ii) The clerk shall file the inquisition with the court.

33 (3) Except as provided in paragraph (4) of this subsection, the court shall  
34 confirm the inquisition of the jury and the clerk shall record the inquisition at the  
35 expense of the [telegraph or telephone] company.

36 (4) For good cause, the court may set aside the inquisition and direct  
37 another inquisition to be taken as provided in this section.

1 (c) (1) When the value of the loss or damage is paid or tendered to the owner  
2 of the land or the legal representative of the owner of the land, the [telegraph or  
3 telephone] company is entitled to the easement as if the owner of the land conveyed  
4 the easement to the [telegraph or telephone] company.

5 (2) If the value is not received when tendered, it may be received at any  
6 time without costs by the owner of the land or the legal representative of the owner of  
7 the land.

8 13-207.

9 A contract, assignment, or transfer in violation of this article is void.

10 GENERAL REVISOR'S NOTE TO ARTICLE:

11 The Department of Legislative Services is charged with revising the law in a  
12 clear, concise, and organized manner, without changing the effect of the law. One  
13 precept of revision has been that, once something is said, it should be said in the same  
14 way every time. To that end, the Public Utility Companies Article conformed the  
15 language and organization of this article to that of previously enacted revised articles  
16 to the extent possible.

17 In this article, as in other revised articles, the word "regulation" is substituted  
18 for the former references to "rules and regulations" to distinguish, to the extent  
19 possible, between regulations of executive units and rules of judicial or legislative  
20 units and to establish consistency in the use of the words. This substitution conforms  
21 to the practice of the Division of State Documents.

22 Also throughout this article, the term "unit" is substituted for former references  
23 such as "agency", "department", "administration", "commission", and "office" except  
24 when a former reference indicated a specific entity, or was included as part of a  
25 defined term. The term "unit" is used as the general term for an organization in the  
26 State government because it is broad enough to include all such entities.

27 Also throughout this article, to be consistent and to avoid unnecessary  
28 confusion, the singular verb "adopt" is used in relation to rules or regulations, and  
29 verbs such as "prescribe" and "promulgate" are deleted. Regulations, in any event, are  
30 subject to Title 10, Subtitle 1 of the State Government Article.

31 In some instances, the staff of the Department of Legislative Services has  
32 created "Special Revisor's Notes" to reflect the substantive effect of legislation  
33 enacted during the 1998 Session on some provisions of this article.

34 Former Art. 23, §§ 168 through 178, which governed the construction and  
35 operation of railroads by mining companies, are apparently obsolete. However, to  
36 avoid any inadvertent substantive effect their repeal might have, they are transferred  
37 to the Session Laws.

38 Former Art. 23, §§ 328 through 330, which authorized the formation of  
39 corporations to make turnpikes, plank roads, and passenger railways, subject to

1 certain construction standards and oversight procedures by local governments, are  
2 deleted as obsolete.

3 Former Art. 78, § 23, which provided for the applicability of certain provisions to  
4 all public service companies, is deleted as surplusage in light of the organization of  
5 this article.

6 Former Art. 78, § 105, which provided for the severability of provisions of former  
7 Art. 78, is deleted as unnecessary in light of Art. 1, § 23 of the Code.

8 Former Art. 78, § 106, which provided that the terms of members of the  
9 Commission in office on June 1, 1955, and that the actions and rights in effect before  
10 that date were not invalidated by enactment of the former article, are deleted as  
11 obsolete. See, Ch. 441, Acts of 1955.

12 Former Art. 78, § 107, which provided a short title for the former article, is  
13 deleted as obsolete.

#### 14 **Article - Real Property**

15 11-131.

16 (b) In addition to the implied warranties set forth in § 10-203 of this article  
17 there shall be an implied warranty on an individual unit from a developer to a unit  
18 owner. The warranty on an individual unit commences with the transfer of title to  
19 that unit and extends for a period of 1 year. The warranty shall provide:

20 (2) That the heating and any air conditioning systems have been  
21 installed in accordance with acceptable industry standards and:

22 (i) That the heating system is warranted to maintain a 70|SN (F)  
23 temperature inside with the outdoor temperature and winds at the design conditions  
24 established by [Article 78, § 54J of the Code ("Energy Conservation Building  
25 Standards Act")] THE ENERGY CONSERVATION BUILDING STANDARDS ACT, TITLE 7,  
26 SUBTITLE 4 OF THE PUBLIC UTILITY COMPANIES ARTICLE, or those established by  
27 the political subdivision as provided in [Article 78, § 54J] TITLE 7, SUBTITLE 4 OF  
28 THE PUBLIC UTILITY COMPANIES ARTICLE; and

29 (ii) That the air conditioning system is warranted to maintain a 78|SN  
30 (F) temperature inside with the outdoor temperature at the design conditions  
31 established by [Article 78, § 54J of the Code ("Energy Conservation Building  
32 Standards Act")] TITLE 7, SUBTITLE 4 OF THE PUBLIC UTILITY COMPANIES ARTICLE,  
33 or those established by the political subdivision as provided in [Article 78, § 54J]  
34 TITLE 7, SUBTITLE 4 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

#### 35 **Article - State Government**

36 15-829.

37 (c) (3) "Applicant" does not include:

1 (iv) a public utility regulated by the Public Service Commission in  
2 any instance where the utility is engaged in or conducting regulated activities that  
3 have been approved by the Public Service Commission or are permitted under  
4 [Article 78 of the Code] THE PUBLIC UTILITY COMPANIES ARTICLE.

5 15-838.

6 (b) (2) "Applicant" does not include:

7 (iv) a public service company acting within the scope of [Article 78  
8 of the Code] THE PUBLIC UTILITY COMPANIES ARTICLE; or

9 15-848.

10 (b) (3) "Applicant" does not include:

11 (iv) a public service company acting within the scope of [Article 78  
12 of the Code] THE PUBLIC UTILITY COMPANIES ARTICLE; or

13 **Article - Tax - General**

14 8-401.

15 (b) (2) "Gross receipts" includes:

16 (ii) for a telephone company, the full amount of approved and  
17 applicable federal and State tariff charges for telephone lifeline service without the  
18 discount provided by [Article 78, § 26A(c) of the Code] § 8-201(C) OF THE PUBLIC  
19 UTILITY COMPANIES ARTICLE; and

20 8-407.

21 A telephone company may claim a credit against the public service company  
22 franchise tax equal to all approved and applicable federal and State tariff charges for  
23 telephone lifeline service not billed to eligible subscribers as provided in [Article 78,  
24 § 26A of the Code] § 8-201 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

25 **Article - Transportation**

26 6-301.

27 (b) (3) The Administration may not condemn any property that belongs to a  
28 public service company subject to [Article 78 of the Code, "Public Service Commission  
29 Law"] THE PUBLIC UTILITY COMPANIES ARTICLE, if the property is:

30 (i) Devoted to public use; or

31 (ii) Reasonably necessary for future public use by the public service  
32 company.

1 13-423.

2 (a) Each motor vehicle for which a permit is required from the Public Service  
3 Commission under [Article 78, § 32] § 9-201 OF THE PUBLIC UTILITY COMPANIES  
4 ARTICLE shall be registered under this title.

5 22-404.3.

6 (e) This section does not apply to:

7 (1) Vehicles owned or operated by a gas, electric, telegraph, telephone, or  
8 water company, as defined in [Article 78 of the Code] THE PUBLIC UTILITY  
9 COMPANIES ARTICLE;

10 SECTION 2. The General Revisor's Note to Article contained in this Act is not  
11 law and may not be considered to have been enacted as a part of this Act.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 1998.