
By: **Delegates Taylor, Guns, Hixson, Hurson, Howard, Menes, Montague,
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Introduced and read first time: February 12, 1999

Assigned to: Environmental Matters

A BILL ENTITLED

AN ACT concerning

Electric Utility Industry Restructuring

FOR the purpose of enabling the restructuring of the electric utility industry of the State in a certain manner, subject to oversight of the Public Service Commission; stating the findings and declaration of intent of the General Assembly; allowing the Commission to require certain consumer education programs, customer information, nondiscrimination policies, and operational requirements; requiring the Commission to order certain universal programs; providing for the implementation of standard offer service in a certain manner; prohibiting the Commission from requiring divestiture of certain assets; requiring the Commission to ensure the creation of certain competitive electricity services in a certain manner; allowing the Commission to adopt alternative forms of regulation for certain regulated services; requiring the Commission to limit certain rates for a certain period; requiring an electric company to provide certain services in certain territory; requiring certain persons to be licensed by the Commission before providing electricity supply services in the State, subject to certain requirements and enforcement mechanisms; allowing an electric company to transfer or sell certain generation facilities or assets in a certain manner, subject to certain review by the Commission for certain purposes; providing for the opportunity to recover certain costs by certain means and secured or obtained in certain manners; requiring the phased implementation of customer choice for electric customers in the State in a certain manner by certain dates, subject to Commission determination and certain contingencies; establishing the obligation of an electric company to serve customers after a certain date; requiring the implementation of competitive metering and billing on certain dates; providing for investigation of market power in certain manners, subject to certain remedial action by the Commission; providing for reciprocity of customer choice with respect to certain other jurisdictions; providing for certain long-range planning for certain regulated utility services only; requiring certain tariff and rate filings for certain regulated utility services only; eliminating a certain required plan on the State's generating needs; altering certain criteria for obtaining a certificate of public convenience and necessity for a generating station; requiring the Secretary of Natural Resources to use certain funds for

certain purposes; providing that certain provisions of the Uniform Commercial Code do not apply to certain property; providing for the adoption of certain regulations; defining certain terms; providing that provisions of this Act are severable; providing for the effective date of a portion of this Act; and generally relating to restructuring of the electric utility industry.

BY repealing and reenacting, with amendments,

Article - Public Utility Companies

Section 1-101, 2-118, 4-201, 4-202, 7-201, and 7-207

Annotated Code of Maryland

(1998 Volume)

BY adding to

Article - Public Utility Companies

Section 7-501 through 7-518, inclusive, to be under the new subtitle "Subtitle 5.

Electric Industry Restructuring"

Annotated Code of Maryland

(1998 Volume)

BY adding to

Article - Natural Resources

Section 3-308

Annotated Code of Maryland

(1997 Replacement Volume and 1998 Supplement)

BY repealing and reenacting, with amendments,

Article - Commercial Law

Section 9-104(m)

Annotated Code of Maryland

(1997 Replacement Volume and 1998 Supplement)

BY adding to

Article - Commercial Law

Section 9-104(n)

Annotated Code of Maryland

(1997 Replacement Volume and 1998 Supplement)

BY repealing

Article - Public Utility Companies

Section 4-403

Annotated Code of Maryland

(1998 Volume)

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

Article - Public Utility Companies

1-101.

(a) In this article the following words have the meanings indicated.

(B) (1) "AGGREGATOR" MEANS AN ENTITY OR INDIVIDUAL INCLUDING A COUNTY OR MUNICIPAL CORPORATION, OTHER THAN A MUNICIPAL UTILITY, THAT ACTS ON BEHALF OF A CUSTOMER TO PURCHASE ELECTRICITY.

(2) "AGGREGATOR" DOES NOT INCLUDE AN ENTITY OR INDIVIDUAL THAT PURCHASES ELECTRICITY FOR ITS OWN USE OR FOR THE USE OF ITS SUBSIDIARIES OR AFFILIATES.

(C) "BROKER" MEANS AN ENTITY OR INDIVIDUAL THAT ACTS AS AN AGENT OR INTERMEDIARY IN THE SALE AND PURCHASE OF ELECTRICITY BUT DOES NOT TAKE TITLE TO ELECTRICITY.

[(b)] (D) "Commission" means the Public Service Commission.

[(c)] (E) (1) "Common carrier" means a person, public authority, or federal, State, district, or municipal transportation unit that is engaged in the public transportation of persons for hire, by land, water, air, or any combination of them.

(2) "Common carrier" includes:

(i) an airline company;

(ii) a car company, motor vehicle company, automobile company, or motor bus company;

(iii) a power boat company, vessel-boat company, steamboat company, or ferry company;

(iv) a railroad company, street railroad company, or sleeping car company;

(v) a taxicab company;

(vi) a toll bridge company; and

(vii) a transit company.

(3) "Common carrier" does not include:

(i) a county revenue authority;

revenue authority; or

(ii) a toll bridge or other facility owned and operated by a county

(iii) a vanpool or launch service.

[(d)] (F) "Company", as a designation for a type of enterprise, includes a person that owns a company individually or as an agent, trustee, or receiver of a company.

[(e)] (G) "County" means a county of the State or Baltimore City.

[(f)] (H) (1) "Electric company" means a [public service company that:

(i) owns an electric plant and transmits, sells, or distributes electricity;

(ii) generates electricity for distribution or sale; or

(iii) is authorized to install or maintain facilities in, over, or under streets for furnishing or distributing electricity.

(2) "Electric company" includes a municipal corporation that is in the business of supplying electricity for other than municipal purposes] PERSON WHO PHYSICALLY TRANSMITS OR DISTRIBUTES ELECTRICITY IN THE STATE TO A RETAIL ELECTRIC CUSTOMER.

[(3)] (2) "Electric company" does not include [a company that generates or transmits electricity exclusively for its own use];

(I) THE FOLLOWING PERSONS WHO SUPPLY ELECTRICITY AND ELECTRICITY SUPPLY SERVICES SOLELY TO OCCUPANTS OF A BUILDING FOR USE BY THE OCCUPANTS:

1. AN OWNER/OPERATOR WHO HOLDS OWNERSHIP IN AND MANAGES THE INTERNAL DISTRIBUTION SYSTEM SERVING THE BUILDING; OR

2. A LESSEE/OPERATOR WHO HOLDS A LEASEHOLD INTEREST IN AND MANAGES THE INTERNAL DISTRIBUTION SYSTEM SERVING THE BUILDING;

(II) ANY PERSON WHO GENERATES ON-SITE GENERATED ELECTRICITY; OR

(III) A PERSON WHO TRANSMITS OR DISTRIBUTES ELECTRICITY WITHIN A SITE OWNED BY THE PERSON OR THE PERSON'S AFFILIATE THAT IS INCIDENTAL TO A PRIMARILY LANDLORD-TENANT RELATIONSHIP.

[(g)] (I) "Electric plant" means the material, equipment, and property owned by an electric company and used or to be used for or in connection with electric service.

(J) (1) "ELECTRICITY SUPPLIER" MEANS A PERSON WHO SELLS ELECTRICITY OR ELECTRICITY SUPPLY SERVICES OR WHO PURCHASES, BROKERS, ARRANGES, OR MARKETS ELECTRICITY OR ELECTRICITY SUPPLY SERVICES FOR SALE TO A RETAIL ELECTRIC CUSTOMER.

(2) "ELECTRICITY SUPPLIER" INCLUDES AN ELECTRIC COMPANY, AGGREGATOR, BROKER, AND MARKETER.

(3) "ELECTRICITY SUPPLIER" DOES NOT INCLUDE:

(I) THE FOLLOWING PERSONS WHO SUPPLY ELECTRICITY AND ELECTRICITY SUPPLY SERVICES SOLELY TO OCCUPANTS OF A BUILDING FOR USE BY THE OCCUPANTS:

1. AN OWNER/OPERATOR WHO HOLDS OWNERSHIP IN AND MANAGES THE INTERNAL DISTRIBUTION SYSTEM SERVING THE BUILDING; OR

2. A LESSEE/OPERATOR WHO HOLDS A LEASEHOLD INTEREST IN AND MANAGES THE INTERNAL DISTRIBUTION SYSTEM SERVING THE BUILDING; OR

(II) A PERSON WHO GENERATES ON-SITE GENERATED ELECTRICITY.

[(h)] (K) (1) "Gas company" means a public service company that:

(i) is authorized to install or maintain facilities in, over, or under streets for furnishing or distributing gas; or

(ii) owns a gas plant and:

1. transmits, sells, supplies, or distributes artificial or natural gas; or

2. manufactures gas for distribution or sale.

(2) "Gas company" includes a municipal corporation that is in the business of supplying gas for other than municipal purposes.

[(i)] (L) "Gas master meter operator" means a person that owns or operates a pipeline system, other than piping within a building:

(1) that distributes gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex;

(2) for which the person purchases metered, artificial, or natural gas from an outside source for resale through the pipeline system; and

(3) that supplies the ultimate consumer, who purchases the gas directly through a meter or by other means, such as by rent.

[(j)] (M) "Gas plant" means the material, equipment, and property owned by a gas company and used or to be used for or in connection with gas service.

[(k)] (N) "Launch service" means a power boat company that transports passengers or freight between the shore and vessels on a body of water in the State.

(O) "MARKETER" MEANS A PERSON WHO PURCHASES AND TAKES TITLE TO ELECTRICITY AS AN INTERMEDIARY FOR SALE TO A CUSTOMER.

(P) "ON-SITE GENERATED ELECTRICITY" MEANS ELECTRICITY THAT:

(1) IS NOT TRANSMITTED OR DISTRIBUTED OVER AN ELECTRIC COMPANY'S TRANSMISSION OR DISTRIBUTION SYSTEM; AND

(2) IS GENERATED AT A FACILITY OWNED OR OPERATED BY AN ELECTRIC CUSTOMER OR OPERATED BY A DESIGNEE OF THE OWNER WHO, WITH THE OTHER TENANTS OF THE FACILITY, CONSUMES AT LEAST 80% OF THE POWER GENERATED BY THE FACILITY EACH YEAR.

[(l)] (Q) "Own" includes own, operate, lease to or from, manage, or control.

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

[(n)] (S) "Plant" includes all material, equipment, and property owned by a public service company and used or to be used for or in connection with a public utility service.

[(o)] (T) "Proceeding" includes an action, complaint, hearing, investigation, trial, appeal, order, or similar matter pending before, made, or conducted by an official body.

[(p)] (U) "Public service company" means a common carrier company, electric company, gas company, sewage disposal company, steam heating company, telegraph company, telephone company, water company, or any combination of public service companies.

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

(2) "Railroad" includes material, equipment, and property used on or in connection with a railroad.

[(r)] (W) (1) "Rate" means a toll, fare, tariff, fee, price, or other charge, or a combination of these items, by a public service company for public utility service.

(2) "Rate" includes a schedule, regulation, classification, or practice of a public service company that affects:

(i) the amount of a charge; or

(ii) the nature and value of the service rendered for the charge.

[(s)] (X) (1) "Record" means the original or a copy of any documentary material.

(2) "Record" includes an account, book, chart, contract, document, file, map, paper, profile, report, or schedule.

(Y) "RENEWABLE ENERGY RESOURCE" MEANS ONE OR MORE OF THE FOLLOWING SOURCES OF ENERGY, ENERGY TECHNOLOGY, OR RELATED CREDIT:

- (1) SOLAR;
- (2) WIND;
- (3) TIDAL;
- (4) GEOTHERMAL;
- (5) BIOMASS, INCLUDING WASTE-TO-ENERGY AND LANDFILL GAS RECOVERY;
- (6) HYDROELECTRIC FACILITIES;
- (7) DIGESTER GAS; AND
- (8) A MANUFACTURING OR COMMERCIAL WASTE-TO-ENERGY SYSTEM OR FACILITY.

(Z) (1) "RETAIL ELECTRIC CUSTOMER" MEANS A PURCHASER OF ELECTRICITY FOR END USE IN THE STATE.

(2) "RETAIL ELECTRIC CUSTOMER" EXCLUDES:

(I) AN OCCUPANT OF A BUILDING IN WHICH THE OWNER/OPERATOR OR LESSEE/OPERATOR MANAGES THE INTERNAL DISTRIBUTION SYSTEM SERVING THE BUILDING AND SUPPLIES ELECTRICITY AND ELECTRICITY SUPPLY SERVICES SOLELY TO OCCUPANTS OF THE BUILDING FOR USE BY THE OCCUPANTS; AND

(II) A PERSON WHO GENERATES ON-SITE GENERATED ELECTRICITY, TO THE EXTENT THE ON-SITE GENERATED ELECTRICITY IS CONSUMED BY THAT PERSON OR ITS TENANTS.

[(t)] (AA) "Sewage disposal company" means a privately-owned public service company that owns or maintains facilities for the disposal of sewage.

[(u)] (BB) "Small rural electric cooperative" means an electric company that:

(1) serves only the consumers that exclusively own and control the company;

- (2) conducts its business on a not-for-profit basis; and
- (3) supplies electricity to less than 1,000 electric meters in the State.

[(v)] (CC) "State" means:

- (1) a state, possession, territory, or commonwealth of the United States;
- (2) the District of Columbia.

[(w)] (DD) "Steam heating company" means a public service company that manufactures, sells, or distributes steam for use, sale, or distribution.

[(x)] (EE) "Street railroad" means a railroad:

- (1) that is not part of a trunk line railway system; and
- (2) whose routes are mainly within Baltimore City or a municipal corporation with a population of at least 2,000.

[(y)] (FF) (1) "Taxicab" means a motor vehicle for hire that:

- (i) is designed to carry seven or fewer individuals, including the driver; and
- (ii) is used to accept or solicit passengers for transportation between points along public streets as the passengers request.

(2) "Taxicab" does not include a motor vehicle operated on a regular schedule and between fixed points with the approval of the Commission as defined in Title 11 of the Transportation Article.

[(z)] (GG) "Telegraph company" means a public service company that:

- (1) owns telegraph lines to receive, transmit, or communicate telegraphic communications; or
- (2) leases, licenses, or sells telegraphic communications.

[(aa)] (HH) "Telegraph lines" means the material, equipment, and property owned by a telegraph company and used or to be used for or in connection with telegraph service.

[(bb)] (II) (1) "Telephone company" means a public service company that:

- (i) owns telephone lines to receive, transmit, or communicate telephone or teletype communications; or
- (ii) leases, licenses, or sells telephone or teletype communications.

(2) "Telephone company" does not include a cellular telephone company.

[(cc)] (JJ) "Telephone lines" means the material, equipment, and property owned by a telephone company and used or to be used for or in connection with telephone service.

[(dd)] (KK) "Toll bridge" means a bridge operated by a person authorized by the Commission to charge and collect toll from traffic using the bridge.

[(ee)] (LL) (1) "Transportation of persons for hire" means the transportation of persons by:

- (i) regularly scheduled operations;
- (ii) charter or contract operations; or
- (iii) tour or sightseeing operations.

(2) "Transportation of persons for hire" includes the transportation of persons, whether on the cooperative plan, carried by a corporation, group, or association engaged in the transportation of its stockholders, shareholders, or members.

[(ff)] (MM) "Water company" means a public service company that owns a water plant and sells or distributes water for gain.

[(gg)] (NN) "Water plant" means the material, equipment, and property owned by a water company and used or to be used for or in connection with water service.

2-118.

(a) This section does not apply to taxicabs, power boat companies, toll bridges, or towing and lightering companies.

(b) The Commission shall require each public service company subject to its jurisdiction to formulate and, after approval by the Commission, to implement long-range plans to provide REGULATED service.

(c) The Commission shall require each electric company in the State to include in the long-range plan [adequate] COST-EFFECTIVE provisions to promote energy conservation to decrease or moderate electric and, as appropriate, natural gas demand FOR REGULATED SERVICE from customers.

(d) (1) The Commission shall review each plan for adequacy under the criteria of § 2-113 of this subtitle, giving attention to the interrelationship of services of other public service companies and to provisions for research and development to ensure adequate service.

(2) As part of the review, and subject to any applicable Freedom of Information Act, the Commission shall consult with other State units and provide an opportunity for public comment.

(3) The Commission shall require the revisions to a plan that the Commission considers appropriate unless the authority to review and approve a plan has been granted to another State unit by other law.

4-201.

In accordance with the provisions of this article, a public service company shall charge just and reasonable rates for the [utility] REGULATED services that it renders.

4-202.

(a) A public service company shall file with the Commission a tariff schedule of its rates and charges FOR ITS REGULATED SERVICES.

(b) As ordered by the Commission, a public service company shall:

(1) plainly print the tariff schedule of its rates and charges FOR ITS REGULATED SERVICES;

(2) make available the tariff schedules for public inspection; and

(3) post the tariff schedules to make the tariff schedules readily accessible to and convenient for inspection by the public.

7-201.

(a) [In cooperation with the Secretary of Natural Resources as provided under § 3-304 of the Natural Resources Article, the Commission shall assemble and evaluate annually the long-range plans of the State's electric companies regarding generating needs and the means to meet those needs.

(b)] (1) Annually, the chairman of the Commission shall forward to the Secretary of Natural Resources a 10-year plan listing possible and proposed sites, including the associated transmission routes, for the construction of electric plants within the State.

(2) (i) The chairman shall delete from the 10-year plan any site that the Secretary of Natural Resources identifies as unsuitable in accordance with the requirements of § 3-304 of the Natural Resources Article.

(ii) The chairman may include a site deleted from a 10-year plan under subparagraph (i) of this paragraph in a subsequent 10-year plan.

(3) The chairman shall include information in the annual 10-year plan on current and projected efforts by electric companies and the Commission to moderate overall electrical generation demand and peak demand through the electric companies' promotion of energy conservation by customers and through the electric companies' use of alternative energy sources, including cogeneration.

[(c)] (B) (1) The Commission shall evaluate the cost-effectiveness of the investments by electric companies in energy conservation to reduce electrical demand and in renewable energy sources to help meet electrical demand.

(2) The evaluation of investments shall include:

(i) the electric companies' promotion and conduct of a building audit and weatherization program, including low-interest or no-interest electric company financing for the installation of energy conservation materials and renewable energy devices;

(ii) utilization of renewable energy sources;

(iii) promotion and utilization of electricity from cogeneration and wastes; and

(iv) widespread public promotion of energy conservation programs.

7-207.

(a) (1) In this section and § 7-208 of this subtitle, "construction" means the clearing of land, excavation, or other action that affects the natural environment of a site or route of a bulk power supply facility.

(2) "Construction" does not include a change that is needed for the temporary use of a site or route for nonutility purposes or for use in securing geological data, including any boring that is necessary to ascertain foundation conditions.

(b) [An electric company may not begin construction in the State of a generating station or of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts, or exercise the right of condemnation in connection with the construction, unless] UNLESS a certificate of public convenience and necessity for the construction is first obtained from the Commission:

(1) A PERSON MAY NOT BEGIN CONSTRUCTION IN THE STATE OF A GENERATING STATION OR EXERCISE A RIGHT OF CONDEMNATION IN CONNECTION WITH THE CONSTRUCTION; AND

(2) AN ELECTRIC COMPANY MAY NOT BEGIN CONSTRUCTION OF AN OVERHEAD TRANSMISSION LINE THAT IS DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS OR EXERCISE A RIGHT OF CONDEMNATION IN CONNECTION WITH THE CONSTRUCTION.

(c) (1) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice to the Office of Planning and to all other interested persons.

(2) The Office of Planning shall forward the application to each appropriate State unit and unit of local government for review, evaluation, and

comment regarding the significance of the proposal to State, area-wide, and local plans or programs.

(d) (1) The Commission shall hold a public hearing on the application for a certificate of public convenience and necessity in each county and municipal corporation in which any portion of the construction of a generating station or of an overhead transmission line designed to carry a voltage in excess of 69,000 volts is proposed to be located.

(2) The Commission shall hold the public hearing jointly with the governing body of the county or municipal corporation in which any portion of the construction of the generating station or overhead transmission line is proposed to be located, unless the governing body declines to participate in the hearing.

(3) Once in each of the 2 successive weeks immediately before the hearing date, the Commission shall provide weekly notice of the public hearing by advertisement in a newspaper of general circulation in the county or municipal corporation affected by the application.

(4) (i) The Commission shall ensure presentation and recommendations from each interested State unit, and shall allow representatives of each State unit to sit during hearing of all parties.

(ii) The Commission shall allow each State unit 15 days after the conclusion of the hearing to modify the State unit's initial recommendations.

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

(1) the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station or overhead transmission line is proposed to be located; AND

(2) [the need to meet existing and future demand for electric service; and

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

(i) [the stability and reliability of the electric system;

(ii)] economics;

[(iii)] (II) esthetics;

[(iv)] (III) historic sites;

[(v)] (IV) aviation safety as determined by the Maryland Aviation Administration and the administrator of the Federal Aviation Administration;

[(vi)] (V) when applicable, air and water pollution; and

[(vii)] (VI) the availability of means for the required timely disposal of wastes produced by any generating station.

(f) FOR THE CONSTRUCTION OF AN OVERHEAD TRANSMISSION LINE, IN ADDITION TO THE CONSIDERATIONS LISTED IN SUBSECTION (E) OF THIS SECTION, THE COMMISSION SHALL TAKE FINAL ACTION ON AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY ONLY AFTER DUE CONSIDERATION OF THE FOLLOWING ADDITIONAL FACTORS:

(1) THE NEED TO MEET EXISTING AND FUTURE DEMAND FOR ELECTRIC SERVICE; AND

(2) THE EFFECT OF THE OVERHEAD TRANSMISSION LINE ON THE STABILITY AND RELIABILITY OF THE ELECTRIC SYSTEM.

(G) (1) The Commission may not authorize, and an electric company may not undertake, the construction of an overhead transmission line that is aligned with and within 1 mile of either end of a public airport runway, unless:

(i) the Federal Aviation Administration determines that the construction of an overhead transmission line will not constitute a hazard to air navigation; and

(ii) the Maryland Aviation Administration concurs in that determination.

(2) A privately owned airport runway shall qualify as a public airport runway under this subsection only if the runway has been on file with the Federal Aviation Administration for at least 2 years as being open to the public without restriction.

SUBTITLE 5. ELECTRIC INDUSTRY RESTRUCTURING.

PART I. GENERAL PROVISIONS.

7-501.

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

(B) "AFFILIATE" MEANS A PERSON THAT DIRECTLY OR INDIRECTLY, OR THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH, OR HAS, DIRECTLY OR INDIRECTLY, ANY ECONOMIC INTEREST IN ANOTHER PERSON.

(C) (1) "ASSIGNEE" MEANS A PERSON TO WHOM AN ELECTRIC COMPANY ASSIGNS OR TRANSFERS ALL OR A PORTION OF ITS INTEREST IN INTANGIBLE TRANSITION PROPERTY, OTHER THAN AS SECURITY.

(2) "ASSIGNEE" INCLUDES A PERSON TO WHOM ALL OR A PORTION OF THE INTEREST IS SUBSEQUENTLY ASSIGNED OR TRANSFERRED.

(D) "COMPETITIVE TRANSITION CHARGE" MEANS A RATE, CHARGE, CREDIT, OR OTHER APPROPRIATE MECHANISM AUTHORIZED TO BE IMPOSED FOR THE RECOVERY OF TRANSITION COSTS AS DETERMINED BY THE COMMISSION UNDER § 7-513 OF THIS SUBTITLE.

(E) "CONSUMER" AND "CUSTOMER" EACH MEANS A RETAIL ELECTRIC CUSTOMER.

(F) "CUSTOMER CHOICE" MEANS THE RIGHT OF ELECTRICITY SUPPLIERS AND CUSTOMERS TO UTILIZE AND INTERCONNECT WITH THE ELECTRIC DISTRIBUTION SYSTEM ON A NONDISCRIMINATORY BASIS AT RATES, TERMS, AND CONDITIONS OF SERVICE COMPARABLE TO THE ELECTRIC COMPANY'S OWN USE OF THE SYSTEM TO DISTRIBUTE ELECTRICITY FROM A ELECTRICITY SUPPLIER TO A CUSTOMER, UNDER WHICH A CUSTOMER HAS THE OPPORTUNITY TO PURCHASE ELECTRICITY FROM THE CUSTOMER'S CHOICE OF LICENSED ELECTRICITY SUPPLIERS.

(G) "DISTRIBUTION TERRITORY" MEANS THE GEOGRAPHIC AREA IN WHICH AN ELECTRIC COMPANY WAS PROVIDING ELECTRIC TRANSMISSION OR DISTRIBUTION SERVICES TO CUSTOMERS ON JULY 1, 1999.

(H) "INITIAL IMPLEMENTATION DATE" MEANS:

(1) JULY 1, 2000, FOR INVESTOR-OWNED ELECTRIC COMPANIES;

(2) THE DATE OR DATES DETERMINED BY THE COMMISSION FOR ELECTRIC COOPERATIVES AND MUNICIPAL UTILITIES; OR

(3) ANOTHER DATE OR DATES DETERMINED BY THE COMMISSION UNDER § 7-510(B) OF THIS SUBTITLE.

(I) "INTANGIBLE TRANSITION CHARGE" MEANS A NONBYPASSABLE RATE, CHARGE, OR SIMILAR APPROPRIATE MECHANISM FOR THE PROVISION, AVAILABILITY, OR TERMINATION OF ELECTRIC SERVICE, AUTHORIZED TO BE IMPOSED FOR THE RECOVERY OF QUALIFIED TRANSITION COSTS UNDER A QUALIFIED RATE ORDER OF THE COMMISSION.

(J) "INTANGIBLE TRANSITION PROPERTY" MEANS THE RIGHT, TITLE, AND INTEREST OF AN ELECTRIC COMPANY OR ASSIGNEE IN A QUALIFIED RATE ORDER, INCLUDING:

(1) ALL RIGHTS IN, TO, AND UNDER THE ORDER, INCLUDING RIGHTS TO REVENUES, COLLECTIONS, CLAIMS, PAYMENTS, MONEY, OR OTHER PROPERTY AND AMOUNTS ARISING FROM THE IMPOSITION OF INTANGIBLE TRANSITION CHARGES UNDER THE ORDER; AND

(2) IN THE HANDS OF AN ASSIGNEE:

(I) THE RIGHT TO REQUIRE THE ELECTRIC COMPANY TO PROVIDE ELECTRIC SERVICES, AND TO COLLECT AND REMIT THE INTANGIBLE TRANSITION CHARGES AUTHORIZED IN THE QUALIFIED RATE ORDER; BUT

(II) NOT THE RIGHT OR DUTY TO PROVIDE ELECTRIC SERVICES.

(K) "PUBLIC PURPOSE PROGRAM" MEANS:

- (1) A UNIVERSAL SERVICE PROGRAM;
- (2) A PROGRAM ENCOURAGING RENEWABLE ENERGY RESOURCES; OR
- (3) ANOTHER PROGRAM IMPLEMENTED WITH THE INTENTION OF FURTHERING A PUBLIC PURPOSE.

(L) "QUALIFIED RATE ORDER" MEANS AN ORDER OF THE COMMISSION APPROVING ONE OR MORE INTANGIBLE TRANSITION CHARGES.

(M) "STANDARD OFFER SERVICE" MEANS ELECTRIC SERVICE THAT AN ELECTRIC COMPANY MUST OFFER TO ITS CUSTOMERS UNDER § 7-510(C) OF THIS SUBTITLE.

(N) "TRANSITION BOND" MEANS A BOND, DEBENTURE, NOTE, CERTIFICATE OF PARTICIPATION OR BENEFICIAL INTEREST, OR OTHER EVIDENCE OF INDEBTEDNESS OR OWNERSHIP, APPROVED IN A QUALIFIED RATE ORDER AND ISSUED UNDER AN EXECUTED TRUST INDENTURE OR OTHER AGREEMENT OF AN ELECTRIC COMPANY OR ASSIGNEE, AND WHICH IS SECURED BY, EVIDENCES OWNERSHIP INTEREST IN, OR IS PAYABLE FROM INTANGIBLE TRANSITION PROPERTY.

(O) "TRANSITION COSTS" MEANS A COST, LIABILITY, OR INVESTMENT THAT:

(1) TRADITIONALLY WOULD HAVE BEEN OR WOULD BE RECOVERABLE UNDER RATE-OF-RETURN REGULATION, INCLUDING RETAIL RATES FOR THE PROVISION OF ELECTRIC SERVICE, BUT WHICH MAY NOT BE RECOVERABLE IN A RESTRUCTURED ELECTRICITY SUPPLY MARKET, OR WHICH ARISE AS A RESULT OF ELECTRIC INDUSTRY RESTRUCTURING; AND

(2) IS RELATED TO THE CREATION OF CUSTOMER CHOICE.

(P) (1) "UNIVERSAL SERVICE PROGRAM" MEANS A POLICY, PROTECTION, OR SERVICE THAT HELPS LOW-INCOME CUSTOMERS MAINTAIN ELECTRIC SERVICE.

(2) "UNIVERSAL SERVICE PROGRAM" INCLUDES CUSTOMER ASSISTANCE PROGRAMS, TERMINATION OF SERVICE PROTECTION, AND POLICIES AND SERVICES THAT HELP LOW-INCOME CUSTOMERS TO REDUCE OR MANAGE ENERGY CONSUMPTION IN A COST-EFFECTIVE MANNER.

7-502. RESERVED.

7-503. RESERVED.

PART II. ELECTRIC INDUSTRY RESTRUCTURING ENABLED.

7-504.

THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE PURPOSE OF THIS SUBTITLE IS TO:

(1) MODIFY AND CLARIFY EXISTING LAW TO ESTABLISH CUSTOMER CHOICE OF ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES;

(2) CREATE COMPETITIVE RETAIL ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES MARKETS; AND

(3) DEREGULATE THE GENERATION, SUPPLY, AND PRICING OF ELECTRICITY.

7-505.

(A) IN ASSESSING AND APPROVING EACH ELECTRIC COMPANY'S RESTRUCTURING PLAN, AND OVERSEEING THE TRANSITION PROCESS AND REGULATION OF THE RESTRUCTURED ELECTRIC INDUSTRY, THE COMMISSION SHALL PROVIDE THAT THE TRANSITION TO A COMPETITIVE ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES MARKET SHALL BE ORDERLY, MAINTAIN ELECTRIC SYSTEM RELIABILITY, AND BE FAIR TO CUSTOMERS, ELECTRIC COMPANY INVESTORS, ELECTRIC COMPANIES, AND ELECTRICITY SUPPLIERS.

(B) (1) THE COMMISSION MAY ORDER EACH ELECTRIC COMPANY, IN CONJUNCTION WITH THE COMMISSION, THE OFFICE OF PEOPLE'S COUNSEL, AND OTHER PARTIES, TO IMPLEMENT A CONSUMER EDUCATION PROGRAM INFORMING CUSTOMERS OF CHANGES IN THE ELECTRIC INDUSTRY.

(2) THE COMMISSION SHALL ORDER UNIVERSAL SERVICE PROGRAMS TO BE MADE AVAILABLE IN EACH ELECTRIC COMPANY'S DISTRIBUTION TERRITORY.

(3) THE COMMISSION MAY ORDER AN ELECTRIC COMPANY TO ADOPT POLICIES AND PRACTICES REASONABLY DESIGNED TO:

(I) PREVENT UNDUE DISCRIMINATION IN FAVOR OF THE ELECTRIC COMPANY'S OWN ELECTRICITY SUPPLY, OTHER SERVICES, DIVISIONS, OR AFFILIATES, IF ANY; AND

(II) PREVENT ANY OTHER FORMS OF SELF-DEALING OR PRACTICES THAT COULD RESULT IN NONCOMPETITIVE ELECTRICITY PRICES TO CUSTOMERS.

(4) THE COMMISSION MAY, BY REGULATION OR ORDER, REQUIRE EACH ELECTRIC COMPANY AND ELECTRICITY SUPPLIER TO PROVIDE ADEQUATE AND

ACCURATE CUSTOMER INFORMATION ON THE AVAILABLE ELECTRIC SERVICES OF THE ELECTRIC COMPANY OR ELECTRICITY SUPPLIER, INCLUDING DISCLOSURE ON A QUARTERLY BASIS OF A UNIFORM COMMON SET OF INFORMATION ABOUT THE FUEL MIX OF THE ELECTRICITY PURCHASED BY CUSTOMERS INCLUDING CATEGORIES OF ELECTRICITY FROM RENEWABLE ENERGY RESOURCES, COAL, NATURAL GAS, NUCLEAR, OIL, AND OTHER RESOURCES, OR DISCLOSURE OF A REGIONAL AVERAGE.

(5) THE COMMISSION SHALL, BY REGULATION OR ORDER, REQUIRE THE UNBUNDLING OF ELECTRIC COMPANY RATES, CHARGES, AND SERVICES INTO CATEGORIES THAT THE COMMISSION DETERMINES. THE COMMISSION MAY REBUNDLE RATES OR CHARGES FOR BILLING PURPOSES.

(6) THE COMMISSION SHALL DETERMINE THE TERMS, CONDITIONS, AND RATES OF STANDARD OFFER SERVICE UNDER TITLE 4 OF THIS ARTICLE.

(7) IN CONNECTION WITH § 7-513 OF THIS SUBTITLE, THE COMMISSION MAY NOT REQUIRE AN ELECTRIC COMPANY TO DIVEST ITSELF OF A GENERATION ASSET OR PROHIBIT AN ELECTRIC COMPANY FROM DIVESTING ITSELF VOLUNTARILY OF A GENERATION ASSET.

(8) ON OR BEFORE JULY 1, 2000, THE COMMISSION SHALL, BY REGULATION OR ORDER, ENSURE THE CREATION OF COMPETITIVE ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES MARKETS, WITH APPROPRIATE CUSTOMER SAFEGUARDS. IN DOING SO, THE COMMISSION SHALL CONSIDER, AMONG OTHER FACTORS, THE FOLLOWING SAFEGUARDS:

(I) AN APPROPRIATE CODE OF CONDUCT BETWEEN THE ELECTRIC COMPANY AND ANY AFFILIATE PROVIDING ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES IN THE STATE;

(II) ACCESS BY ELECTRICITY SUPPLIERS AND CUSTOMERS TO THE ELECTRIC COMPANY'S TRANSMISSION AND DISTRIBUTION SYSTEM ON A NONDISCRIMINATORY BASIS;

(III) FUNCTIONAL, OPERATIONAL, STRUCTURAL, OR LEGAL SEPARATION BETWEEN THE ELECTRIC COMPANY'S REGULATED BUSINESSES AND ITS NONREGULATED BUSINESSES OR NONREGULATED AFFILIATES; AND

(IV) APPROPRIATE COMPLAINT AND ENFORCEMENT PROCEDURES.

(9) AN ELECTRIC COMPANY SHALL COMPLY WITH ALL REQUIREMENTS OF THE COMMISSION IN CONDUCTING REGULATED OPERATIONS IN COMPLIANCE WITH THIS ARTICLE. IN ADDITION, THE COMMISSION SHALL REQUIRE EACH ELECTRIC COMPANY TO ADOPT A CODE OF CONDUCT TO PREVENT REGULATED SERVICE CUSTOMERS FROM SUBSIDIZING THE SERVICES OF UNREGULATED BUSINESSES OR AFFILIATES OF THE ELECTRIC COMPANY. HOWEVER, NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO GIVE THE COMMISSION THE AUTHORITY TO REGULATE AN AFFILIATE OF AN ELECTRIC COMPANY WITH RESPECT TO ANY NONREGULATED BUSINESS OR ACTIVITIES OF THE AFFILIATE.

(C) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, INCLUDING SUBSECTION (D) OF THIS SECTION, THE COMMISSION MAY REGULATE THE REGULATED SERVICES OF AN ELECTRIC COMPANY THROUGH ALTERNATIVE FORMS OF REGULATION.

(2) THE COMMISSION MAY ADOPT AN ALTERNATIVE FORM OF REGULATION UNDER THIS SECTION IF THE COMMISSION FINDS, AFTER NOTICE AND HEARING, THAT THE ALTERNATIVE FORM OF REGULATION:

(I) PROTECTS CONSUMERS;

(II) ENSURES THE QUALITY, AVAILABILITY, AND RELIABILITY OF REGULATED ELECTRIC SERVICES; AND

(III) IS IN THE INTEREST OF THE PUBLIC, INCLUDING SHAREHOLDERS OF THE ELECTRIC COMPANY.

(3) ALTERNATIVE FORMS OF REGULATION MAY INCLUDE:

(I) PRICE REGULATION, INCLUDING PRICE FREEZES OR CAPS;

(II) REVENUE REGULATION;

(III) RANGES OF AUTHORIZED RETURN;

(IV) RATE OF RETURN;

(V) CATEGORIES OF SERVICES; OR

(VI) PRICE-INDEXING.

(D) (1) THE COMMISSION SHALL FREEZE OR CAP, FOR 4 YEARS AFTER INITIAL IMPLEMENTATION OF CUSTOMER CHOICE IN THE ELECTRIC COMPANY'S DISTRIBUTION TERRITORY, THE TOTAL OF THE RATES OF AN ELECTRIC COMPANY CHARGED TO A RETAIL ELECTRIC CUSTOMER AT THE ACTUAL LEVEL OF THE RATES IN EFFECT OR AUTHORIZED BY THE COMMISSION ON THE DATE IMMEDIATELY PRECEDING THE INITIAL IMPLEMENTATION OF CUSTOMER CHOICE IN THE ELECTRIC COMPANY'S DISTRIBUTION TERRITORY.

(2) THE FREEZE OR CAP SHALL NOT APPLY TO THE RECOVERY OF COSTS UNDER § 7-512(A) THROUGH (C) OF THIS SUBTITLE. THE FREEZE OR CAP SHALL APPLY TO THE RECOVERY OF ANY TRANSITION COSTS UNDER § 7-513.

(3) AS PART OF A SETTLEMENT, THE COMMISSION MAY APPROVE A FREEZE OR CAP FOR A DIFFERENT TIME PERIOD OR AN ALTERNATIVE PRICE PROTECTION PLAN THAT IS EQUALLY PROTECTIVE OF RATE PAYERS.

7-506.

(A) THE ELECTRIC COMPANY IN A DISTRIBUTION TERRITORY SHALL PROVIDE AND BE RESPONSIBLE FOR DISTRIBUTION SERVICES IN THE TERRITORY.

(B) THE ELECTRIC COMPANY SHALL PROVIDE DISTRIBUTION SERVICES IN ITS DISTRIBUTION TERRITORY TO ALL CUSTOMERS AND ELECTRICITY SUPPLIERS ON RATES, TERMS OF ACCESS, AND CONDITIONS THAT ARE COMPARABLE TO THE ELECTRIC COMPANY'S OWN USE OF ITS DISTRIBUTION SYSTEM.

(C) EACH ELECTRIC COMPANY SHALL MAINTAIN THE RELIABILITY OF ITS DISTRIBUTION SYSTEM IN ACCORDANCE WITH APPLICABLE ORDERS, TARIFFS, AND REGULATIONS OF THE COMMISSION.

(D) THE ELECTRIC COMPANY MUST CONNECT CUSTOMERS AND DELIVER ELECTRICITY ON BEHALF OF ELECTRICITY SUPPLIERS CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE.

7-507.

(A) A PERSON, OTHER THAN AN ELECTRIC COMPANY PROVIDING STANDARD OFFER SERVICE UNDER § 7-510(C) OF THIS SUBTITLE, MAY NOT ENGAGE IN THE BUSINESS OF AN ELECTRICITY SUPPLIER IN THE STATE UNLESS THE PERSON HOLDS A LICENSE ISSUED BY THE COMMISSION.

(B) AN APPLICATION FOR AN ELECTRICITY SUPPLIER LICENSE SHALL:

(1) BE MADE TO THE COMMISSION IN WRITING ON A FORM ADOPTED BY THE COMMISSION;

(2) BE VERIFIED BY OATH OR AFFIRMATION; AND

(3) CONTAIN INFORMATION THAT THE COMMISSION REQUIRES.

(C) THE COMMISSION MAY, BY REGULATION OR ORDER:

(1) REQUIRE PROOF OF FINANCIAL INTEGRITY;

(2) REQUIRE A LICENSEE TO POST A BOND OR OTHER SIMILAR INSTRUMENT, IF, IN THE COMMISSION'S JUDGMENT, THE BOND OR SIMILAR INSTRUMENT IS NECESSARY TO INSURE AN ELECTRICITY SUPPLIER'S FINANCIAL INTEGRITY;

(3) REQUIRE A LICENSEE TO:

(I) PROVIDE PROOF THAT IT HAS REGISTERED TO DO BUSINESS IN THE STATE WITH THE DEPARTMENT OF ASSESSMENTS AND TAXATION; AND

(II) AGREE TO BE SUBJECT TO ALL APPLICABLE TAXES; AND

(4) ADOPT ANY OTHER REQUIREMENTS IT FINDS TO BE IN THE PUBLIC INTEREST, WHICH MAY INCLUDE DIFFERENT REQUIREMENTS FOR ELECTRICITY SUPPLIERS THAT SERVE ONLY LARGE CUSTOMERS.

(D) A LICENSE ISSUED UNDER THIS SECTION MAY NOT BE TRANSFERRED WITHOUT PRIOR COMMISSION APPROVAL.

(E) THE COMMISSION MAY ADOPT REGULATIONS OR ISSUE ORDERS TO:

(1) PROTECT CONSUMERS, ELECTRIC COMPANIES, AND ELECTRICITY SUPPLIERS FROM ANTICOMPETITIVE AND ABUSIVE PRACTICES; AND

(2) REQUIRE EACH ELECTRICITY SUPPLIER TO PROVIDE ADEQUATE AND ACCURATE CUSTOMER INFORMATION TO ENABLE CUSTOMERS TO MAKE INFORMED CHOICES REGARDING THE PURCHASE OF ANY ELECTRICITY SERVICES OFFERED BY THE ELECTRICITY SUPPLIER.

(F) ELECTRICITY BILLS PROVIDED TO CONSUMERS MUST BE PREPARED AND ISSUED IN ACCORDANCE WITH REGULATIONS OR ORDERS OF THE COMMISSION.

(G) (1) AN ELECTRICITY SUPPLIER OR ANY PERSON OR GOVERNMENTAL UNIT MAY NOT MAKE ANY CHANGE IN THE ELECTRICITY SUPPLIER FOR A CUSTOMER WITHOUT FIRST OBTAINING THE CUSTOMER'S PERMISSION.

(2) THE COMMISSION SHALL ADOPT REGULATIONS OR ISSUE ORDERS ESTABLISHING PROCEDURES TO PREVENT UNAUTHORIZED SWITCHING.

(H) (1) THE COMMISSION MAY REVOKE OR SUSPEND THE LICENSE OF AN ELECTRICITY SUPPLIER, IMPOSE A CIVIL PENALTY, OR IMPOSE A MORATORIUM ON ADDING OR SOLICITING ADDITIONAL CUSTOMERS BY THE ELECTRICITY SUPPLIER, FOR JUST CAUSE ON THE COMMISSION'S OWN INVESTIGATION OR ON COMPLAINT OF THE OFFICE OF PEOPLE'S COUNSEL, THE ATTORNEY GENERAL, OR AN AFFECTED PARTY.

(2) A CIVIL PENALTY MAY BE IMPOSED IN ADDITION TO THE COMMISSION'S DECISION TO REVOKE, SUSPEND, OR IMPOSE A MORATORIUM.

(3) JUST CAUSE INCLUDES:

(I) INTENTIONALLY PROVIDING FALSE INFORMATION TO THE COMMISSION;

(II) SWITCHING, OR CAUSING TO BE SWITCHED, THE ELECTRICITY SUPPLY FOR A CUSTOMER WITHOUT FIRST OBTAINING THE CUSTOMER'S PERMISSION;

(III) FAILING TO PROVIDE ELECTRICITY FOR ITS CUSTOMERS;

(IV) COMMITTING FRAUD OR ENGAGING IN DECEPTIVE PRACTICES;

(V) FAILING TO MAINTAIN FINANCIAL INTEGRITY;

(VI) VIOLATING A COMMISSION REGULATION OR ORDER; AND

(VII) FAILING TO PAY APPLICABLE STATE OR LOCAL TAXES.

(I) (1) AN ELECTRICITY SUPPLIER OR PERSON SELLING OR OFFERING TO SELL ELECTRICITY IN THE STATE IN VIOLATION OF THIS SECTION IS SUBJECT TO:

- VIOLATION; OR
- (I) A CIVIL PENALTY OF NOT MORE THAN \$2,500 FOR THE
 - (II) LICENSE REVOCATION OR SUSPENSION.
- (2) EACH DAY A VIOLATION CONTINUES IS A SEPARATE VIOLATION.
- (3) THE COMMISSION SHALL DETERMINE THE AMOUNT OF ANY CIVIL PENALTY. IN MAKING THIS DETERMINATION, THE COMMISSION SHALL CONSIDER:
- (I) THE NUMBER OF PREVIOUS VIOLATIONS OF ANY PROVISION OF THIS ARTICLE;
 - (II) THE GRAVITY OF THE CURRENT VIOLATION; AND
 - (III) THE GOOD FAITH OF THE ELECTRICITY SUPPLIER OR PERSON CHARGED IN ATTEMPTING TO ACHIEVE COMPLIANCE AFTER NOTIFICATION OF THE VIOLATION.
- (J) IN CONNECTION WITH A CONSUMER COMPLAINT OR COMMISSION INVESTIGATION UNDER THIS SECTION, AN ELECTRICITY SUPPLIER SHALL PROVIDE TO THE COMMISSION ACCESS TO ANY ACCOUNTS, BOOKS, PAPERS, AND DOCUMENTS WHICH THE COMMISSION CONSIDERS NECESSARY TO RESOLVE THE MATTER AT ISSUE.
- (K) THE COMMISSION MAY ORDER THE ELECTRICITY SUPPLIER TO CEASE ADDING OR SOLICITING ADDITIONAL CUSTOMERS OR TO CEASE SERVING CUSTOMERS IN THE STATE.

7-508.

- (A) AN ELECTRIC COMPANY MAY TRANSFER ANY OF ITS GENERATION FACILITIES OR GENERATION ASSETS TO AN AFFILIATE.
- (B) THE TRANSFER OF A GENERATION FACILITY OR GENERATION ASSET MAY NOT AFFECT OR RESTRICT THE COMMISSION'S DETERMINATION OF THE VALUE OF A GENERATION ASSET FOR PURPOSES OF TRANSITION COSTS UNDER § 7-513(B) OF THIS SUBTITLE.
- (C) (1) THIS SUBSECTION IS IN EFFECT UNTIL THE LATER OF THE DATE WHEN:
- (I) ALL CUSTOMERS OF THE ELECTRIC COMPANY ARE ELIGIBLE FOR CUSTOMER CHOICE UNDER § 7-510 OF THIS SUBTITLE; AND
 - (II) THE AMOUNT OF TRANSITION COSTS ARISING FROM THE GENERATION TO BE TRANSFERRED HAS BEEN FINALLY DETERMINED BY THE COMMISSION UNDER § 7-513(A) THROUGH (C) OF THIS SUBTITLE.
- (2) THE COMMISSION MAY REVIEW AND APPROVE THE TRANSFER FOR THE SOLE PURPOSE OF DETERMINING THAT:

(I) THE APPROPRIATE ACCOUNTING HAS BEEN FOLLOWED;

(II) THE TRANSFER DOES NOT OR WOULD NOT RESULT IN AN UNDUE ADVERSE EFFECT ON THE PROPER FUNCTIONING OF A COMPETITIVE ELECTRICITY SUPPLY MARKET; AND

(III) THE APPROPRIATE TRANSFER PRICE AND RATE MAKING TREATMENT.

(3) THE COMMISSION SHALL ACT ON THE TRANSFER OF A GENERATION FACILITY OR GENERATION ASSET UNDER THIS SUBSECTION WITHIN 180 DAYS AFTER THE ELECTRIC COMPANY FILES ITS PROPOSED TRANSFER APPLICATION AND ANY REQUIRED SUPPORTING INFORMATION.

7-509.

(A) (1) ON AND AFTER THE INITIAL IMPLEMENTATION DATE, THE GENERATION, SUPPLY, AND SALE OF ELECTRICITY, INCLUDING ALL RELATED FACILITIES AND ASSETS, MAY NOT BE REGULATED AS AN ELECTRIC COMPANY SERVICE OR FUNCTION EXCEPT TO:

(I) ESTABLISH THE PRICE FOR STANDARD OFFER SERVICE UNDER § 7-510(C) OF THIS SUBTITLE; AND

(II) REVIEW AND APPROVE TRANSFERS OF GENERATION ASSETS UNDER § 7-508 OF THIS SUBTITLE.

(2) THIS SUBSECTION DOES NOT APPLY TO:

(I) REGULATION OF AN ELECTRICITY SUPPLIER UNDER § 7-507 OF THIS SUBTITLE; OR

(II) THE COSTS OF NUCLEAR GENERATION FACILITIES OR PURCHASED POWER CONTRACTS WHICH REMAIN REGULATED OR ARE RECOVERED THROUGH THE DISTRIBUTION FUNCTION.

(B) EXCEPT FOR AN ELECTRIC COMPANY WHOSE RETAIL PEAK LOAD IN THE STATE ON JANUARY 1, 1999, WAS LESS THAN 1,000 MEGAWATTS, THIS SECTION DOES NOT APPLY TO AN ELECTRIC COMPANY UNTIL THE ELECTRIC COMPANY:

(1) TRANSFERS GENERATION FACILITIES AND GENERATION ASSETS TO AN AFFILIATE OF THE ELECTRIC COMPANY, AND THE AFFILIATE OPERATES THE FACILITIES AND ASSETS; OR

(2) SELLS THE GENERATION FACILITIES AND GENERATION ASSETS TO A NONAFFILIATE.

(C) THE EXCEPTIONS IN SUBSECTION (A)(1) OF THIS SECTION AS TO ANY ELECTRIC COMPANY SHALL REMAIN IN EFFECT UNTIL THE LATER OF THE DATE WHEN:

(1) ALL CUSTOMERS OF THAT ELECTRIC COMPANY ARE ELIGIBLE FOR CUSTOMER CHOICE UNDER § 7-510 OF THIS SUBTITLE; AND

(2) THE AMOUNT OF TRANSITION COSTS ARISING FROM THE GENERATION THAT IS DEREGULATED HAS BEEN FINALLY DETERMINED BY THE COMMISSION UNDER § 7-513(A) THROUGH (C) OF THIS SUBTITLE.

7-510.

(A) (1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE PHASED IMPLEMENTATION OF CUSTOMER CHOICE SHALL BE IMPLEMENTED AS FOLLOWS:

(I) ON JULY 1, 2000, ONE-THIRD OF THE RETAIL PEAK LOAD OF EACH CUSTOMER CLASS IN THE STATE OF EACH ELECTRIC COMPANY SHALL HAVE THE OPPORTUNITY FOR CUSTOMER CHOICE;

(II) ON JULY 1, 2001, TWO-THIRDS OF THE RETAIL PEAK LOAD OF EACH CUSTOMER CLASS IN THE STATE OF EACH ELECTRIC COMPANY SHALL HAVE THE OPPORTUNITY FOR CUSTOMER CHOICE;

(III) ON JULY 1, 2002, ALL CUSTOMERS OF EACH ELECTRIC COMPANY SHALL HAVE THE OPPORTUNITY FOR CUSTOMER CHOICE; AND

(IV) BY JULY 1, 2003, UNDER A SEPARATE SCHEDULE ADOPTED BY THE COMMISSION, ALL CUSTOMERS OF EACH ELECTRIC COOPERATIVE SHALL HAVE THE OPPORTUNITY FOR CUSTOMER CHOICE.

(2) THE COMMISSION MAY DEVELOP A SEPARATE SCHEDULE FOR MUNICIPAL UTILITIES.

(B) FOR GOOD CAUSE SHOWN AND IF THE COMMISSION FINDS THE ACTION TO BE IN THE PUBLIC INTEREST, THE COMMISSION MAY:

(1) ACCELERATE OR DELAY THE INITIAL IMPLEMENTATION DATE OF JULY 1, 2000 BY UP TO 3 MONTHS; OR

(2) ACCELERATE ANY OF THE OTHER IMPLEMENTATION DATES AND PHASE-IN PERCENTAGES IN SUBSECTION (A) OF THIS SECTION.

(C) (1) BEGINNING ON THE INITIAL IMPLEMENTATION DATE, AN ELECTRIC COMPANY'S OBLIGATION TO PROVIDE ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICE IS STATED BY THIS SUBSECTION.

(2) ELECTRIC SUPPLY PURCHASED FROM A CUSTOMER'S ELECTRIC COMPANY IS KNOWN AS STANDARD OFFER SERVICE. A CUSTOMER IS CONSIDERED TO HAVE CHOSEN THE STANDARD OFFER SERVICE IF THE CUSTOMER:

(I) IS NOT ALLOWED TO CHOOSE AN ELECTRICITY SUPPLIER UNDER THE PHASE IN OF CUSTOMER CHOICE IN § 7-510(A) OF THIS SUBTITLE;

(II) CONTRACTS FOR ELECTRICITY WITH AN ELECTRICITY SUPPLIER AND IT IS NOT DELIVERED;

(III) CANNOT ARRANGE FOR ELECTRICITY FROM AN ELECTRICITY SUPPLIER; OR

(IV) DOES NOT CHOOSE AN ELECTRICITY SUPPLIER.

(3) ANY OBLIGATION OF AN ELECTRIC COMPANY TO PROVIDE STANDARD OFFER SERVICE SHALL CEASE ON JULY 1, 2003, EXCEPT THAT:

(I) ELECTRIC COOPERATIVES AND MUNICIPAL UTILITIES MAY CHOOSE TO CONTINUE PROVIDING STANDARD OFFER SERVICE IN THEIR RESPECTIVE DISTRIBUTION TERRITORIES, AND MAY CEASE OFFERING THAT SERVICE AFTER NOTIFYING THE COMMISSION AT LEAST 12 MONTHS IN ADVANCE; AND

(II) IF THE COMMISSION FINDS THAT THE ELECTRICITY SUPPLY MARKET IS NOT COMPETITIVE, THE COMMISSION MAY EXTEND THE OBLIGATION TO PROVIDE STANDARD OFFER SERVICE TO RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS UNTIL JULY 1, 2004, AT THE LATEST, AT A RATE DETERMINED UNDER § 7-505(C) OF THIS SUBTITLE.

(4) ON OR BEFORE JULY 1, 2001, THE COMMISSION SHALL ADOPT REGULATIONS OR ISSUE ORDERS TO ESTABLISH PROCEDURES FOR THE COMPETITIVE SELECTION OF ELECTRICITY SUPPLIERS, INCLUDING AN AFFILIATE OF AN ELECTRIC COMPANY, TO PROVIDE STANDARD OFFER SERVICE TO CUSTOMERS OF ELECTRIC COMPANIES, EXCEPT FOR CUSTOMERS OF ELECTRIC COOPERATIVES AND MUNICIPAL UTILITIES. UNLESS DELAYED BY THE COMMISSION, THE COMPETITIVE SELECTION SHALL TAKE EFFECT NO LATER THAN JULY 1, 2003.

(5) AN ELECTRIC COMPANY MAY PROCURE THE ELECTRICITY NEEDED TO MEET ITS STANDARD OFFER SERVICE ELECTRICITY SUPPLY OBLIGATION FROM ANY ELECTRICITY SUPPLIER, INCLUDING AN AFFILIATE OF THE ELECTRIC COMPANY.

(D) NOTWITHSTANDING THE DATES SET FORTH IN THIS SECTION OR ANY OTHER LAW, CUSTOMER CHOICE MAY NOT COMMENCE UNTIL LEGISLATION IS ENACTED TO RESTRUCTURE MARYLAND TAXES TO ADDRESS THE STATE AND LOCAL TAX IMPLICATIONS OF RESTRUCTURING THE ELECTRIC UTILITY INDUSTRY.

(E) THE COMMISSION SHALL, BY REGULATION OR ORDER, ADOPT PROCEDURES TO IMPLEMENT THIS SECTION, INCLUDING THE ALLOCATION OF ANY UNUSED OPPORTUNITY FOR CUSTOMER CHOICE AMONG CUSTOMER CLASSES.

7-511.

(A) EXCEPT FOR ELECTRIC COOPERATIVES AND MUNICIPAL UTILITIES:

(1) COMPETITIVE BILLING SHALL BEGIN ON JULY 1, 2000;

(2) COMPETITIVE METERING FOR LARGE CUSTOMERS SHALL BEGIN ON JANUARY 1, 2002; AND

(3) COMPETITIVE METERING FOR ALL OTHER CUSTOMERS SHALL BEGIN ON APRIL 1, 2002, OR EARLIER IF REQUESTED BY THE ELECTRIC COMPANY.

(B) THE COMMISSION SHALL ADOPT REGULATIONS OR ISSUE ORDERS TO IMPLEMENT THIS SECTION.

7-512.

(A) THIS SECTION AND § 7-513 OF THIS SUBTITLE APPLY TO AN ENTITY THAT WAS REGULATED AS AN ELECTRIC COMPANY ON JUNE 30, 1999, WHETHER OR NOT THE ENTITY OR ANY OF ITS BUSINESSES, SERVICES, OR ASSETS CONTINUES TO BE REGULATED UNDER THIS ARTICLE AFTER THAT DATE.

(B) AN ELECTRIC COMPANY MAY RECOVER COSTS UNDER THIS SECTION TO THE EXTENT THAT THE COMMISSION FINDS COSTS TO BE JUST AND REASONABLE.

(C) (1) AN ELECTRIC COMPANY SHALL BE PROVIDED A FAIR OPPORTUNITY TO RECOVER FULLY ALL COSTS OF THE FOLLOWING THAT HAVE BEEN OR WILL BE INCURRED UNDER PROGRAMS OR OTHER PLANS ESTABLISHED BY LAW OR ORDERED BY THE COMMISSION:

(I) DEMAND SIDE MANAGEMENT AND OTHER ENERGY CONSERVATION PROGRAMS AND PLANS;

(II) UNIVERSAL SERVICE PROGRAMS AND OTHER PUBLIC PURPOSE PROGRAMS; AND

(III) CONSUMER EDUCATION PROGRAMS UNDER § 7-505(B)(1) OF THIS SUBTITLE.

(2) THE COSTS SUBJECT TO THIS SUBSECTION SHALL BE FUNDED IN THE ELECTRIC COMPANY'S DISTRIBUTION TERRITORY BY A SURCHARGE OR OTHER COST RECOVERY MECHANISM THAT:

(I) FULLY RECOVERS FROM CUSTOMERS IN THE TERRITORY THE COSTS OF THE PLANS AND PROGRAMS IN THE TERRITORY; AND

(II) WITH RESPECT TO ANY OF THESE COSTS NOT INCLUDED IN RATES ON JANUARY 1, 2000, IS NOT SUBJECT TO ANY OTHERWISE APPLICABLE RATE FREEZE OR CAP.

7-513.

(A) (1) IN ACCORDANCE WITH THIS SUBSECTION, AN ELECTRIC COMPANY SHALL BE PROVIDED A FAIR OPPORTUNITY TO RECOVER ALL OF ITS PRUDENTLY INCURRED AND VERIFIABLE NET TRANSITION COSTS, SUBJECT TO FULL

MITIGATION, FOLLOWING THE COMMISSION'S DETERMINATION UNDER SUBSECTION (B) OF THIS SECTION.

(2) A COMPETITIVE TRANSITION CHARGE, OR OTHER APPROPRIATE MECHANISM THAT THE COMMISSION DETERMINES, MAY BE INCLUDED AS PART OF THE CHARGE PAID BY EACH CUSTOMER WHO ACCESSES THE TRANSMISSION OR DISTRIBUTION SYSTEM OF THE ELECTRIC COMPANY IN WHOSE DISTRIBUTION TERRITORY THE CUSTOMER IS LOCATED. THE COSTS AUTHORIZED BY THE COMMISSION TO BE RECOVERED SHALL BE ALLOCATED TO CUSTOMER CLASSES IN A MANNER THAT, AS NEARLY AS REASONABLY POSSIBLE, DOES NOT EXCEED THE COST OF PROVIDING THE SERVICE TO THOSE CLASSES OF CUSTOMERS, AVOIDING WHERE REASONABLY POSSIBLE ANY INTERCLASS OR INTRACLASS CROSS SUBSIDY.

(3) THE COMPETITIVE TRANSITION CHARGE MAY BE INCLUDED ON BILLS TO CUSTOMERS FOR A PERIOD DETERMINED BY THE COMMISSION. THE COMMISSION MAY ESTABLISH RECOVERY PERIODS OF DIFFERENT LENGTHS FOR EACH ELECTRIC COMPANY AND FOR DIFFERENT CATEGORIES OF TRANSITION COSTS.

(4) (I) A COMPETITIVE TRANSITION CHARGE, OR OTHER APPROPRIATE MECHANISM DETERMINED BY THE COMMISSION, MAY NOT BE PAID FOR ANY ON-SITE GENERATED ELECTRICITY TO THE EXTENT OF:

1. THE EXISTING FACILITIES' INSTALLED GENERATING CAPACITY AS OF JANUARY 1, 1999; OR

2. THE GENERATING CAPACITY OF AN EXISTING FACILITY TO BE INSTALLED UNDER A LEGALLY BINDING CONTRACT:

A. EXECUTED ON OR BEFORE JANUARY 1, 1999; OR

B. EXECUTED ON OR BEFORE SEPTEMBER 29, 1999, IF THE COMMISSION, ON A CASE BY CASE REVIEW OF THE EVIDENCE, DETERMINES THAT NEGOTIATIONS IN GOOD FAITH CONCERNING THE CONTRACT WERE ONGOING AS OF JANUARY 1, 1999.

(II) ONLY THE FIRST 40 MEGAWATTS, ON A STATEWIDE BASIS, OF THE AGGREGATE GENERATING CAPACITY OF ON-SITE GENERATING FACILITIES MAY QUALIFY UNDER SUBPARAGRAPH (I)2 B OF THIS PARAGRAPH.

(B) THE COMMISSION SHALL DETERMINE THE TRANSITION COSTS AND THE AMOUNTS OF THE TRANSITION COSTS THAT AN ELECTRIC COMPANY SHALL BE PROVIDED AN OPPORTUNITY TO RECOVER UNDER ITS RESTRUCTURING PLAN THROUGH THE COMPETITIVE TRANSITION CHARGE OR OTHER APPROPRIATE MECHANISM.

(C) (1) AFTER JULY 1, 1999, AN ELECTRIC COMPANY MAY APPLY TO THE COMMISSION FOR A QUALIFIED RATE ORDER FOR SOME OR ALL OF ITS TRANSITION COSTS.

(2) IF THE COMMISSION ISSUES A QUALIFIED RATE ORDER AND THE TRANSITION BONDS APPROVED BY THAT ORDER ARE SUCCESSFULLY ISSUED:

(I) THE ELECTRIC COMPANY SHALL IMPOSE AND COLLECT, THROUGH ITS CUSTOMER BILLS, THE INTANGIBLE TRANSITION CHARGES APPROVED BY THE QUALIFIED RATE ORDER; AND

(II) AT THE SAME TIME, THE ELECTRIC COMPANY'S COMPETITIVE TRANSITION CHARGE SHALL BE REDUCED BY AN AMOUNT EQUAL TO THAT PORTION OF THE COMPETITIVE TRANSITION CHARGE RELATED TO THE TRANSITION COSTS FOR WHICH TRANSITION BONDS HAVE BEEN SUCCESSFULLY ISSUED, TOGETHER WITH ANY COSTS OF CAPITAL RELATED TO THE TRANSITION COSTS FOR WHICH RECOVERY WAS PROVIDED IN THE COMPETITIVE TRANSITION CHARGE, AS PROVIDED IN THE QUALIFIED RATE ORDER.

(D) (1) THE COMMISSION SHALL ESTABLISH PROCEDURES FOR THE ANNUAL REVIEW OF THE COMPETITIVE TRANSITION CHARGE FOR EACH ELECTRIC COMPANY TO RECONCILE THE ANNUAL REVENUES RECEIVED FROM THE CHARGE WITH THE ANNUAL AMORTIZATION OF TRANSITION COSTS APPROVED BY THE COMMISSION UNDER THIS SECTION TO TAKE ACCOUNT OF ACTUAL KILOWATT-HOUR SALES IN THE PRIOR YEAR COMPARED WITH PREVIOUSLY ESTIMATED KILOWATT-HOUR SALES. THE COMMISSION SHALL ADJUST THE COMPETITIVE TRANSITION CHARGE BASED ON ANY UNDER RECOVERY OR OVER RECOVERY WITH RESPECT TO THE AUTHORIZED AMORTIZATION AMOUNT.

(2) NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED AS PREVENTING THE COMMISSION FROM APPROVING FOR AN INVESTOR OWNED ELECTRIC COMPANY:

(I) AN ADJUSTMENT MECHANISM PROPOSED BY SUCH INVESTOR OWNED ELECTRIC COMPANY IN ITS INITIAL RESTRUCTURING PROPOSAL FILED PRIOR TO JANUARY 1, 1999 THAT TAKES INTO ACCOUNT DIFFERENCES OTHER THAN DIFFERENCES IN KILOWATT-HOUR SALES, TAKING INTO CONSIDERATION ANY REQUIREMENTS RELATED TO ANY TRANSITION BONDS;

(II) AN ADJUSTMENT THAT TAKES INTO ACCOUNT GENERATION ASSET SALES BY AN ELECTRIC COMPANY TO A NONAFFILIATE THAT ARE CONSUMMATED ON OR BEFORE JUNE 30, 2005; OR

(III) ANY OTHER MECHANISM AS PART OF A SETTLEMENT.

7-514.

(A) ON COMPLAINT OR ON ITS OWN MOTION, FOR GOOD CAUSE SHOWN, THE COMMISSION MAY CONDUCT AN INVESTIGATION OF THE RETAIL ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES MARKETS AND DETERMINE WHETHER THE FUNCTION OF ONE OF THESE MARKETS IS BEING ADVERSELY AFFECTED BY MARKET POWER. THE COMMISSION SHALL MONITOR THE RETAIL ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES MARKETS TO ENSURE THAT THE MARKETS ARE NOT BEING ADVERSELY AFFECTED BY MARKET POWER.

(B) IF, AS A RESULT OF AN INVESTIGATION CONDUCTED UNDER THIS SECTION, THE COMMISSION DETERMINES THAT MARKET POWER IN THE RELEVANT MARKET UNDER THE COMMISSION'S JURISDICTION IS PREVENTING THE ELECTRIC CUSTOMERS IN THE STATE FROM OBTAINING THE BENEFITS OF PROPERLY FUNCTIONING RETAIL ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES MARKETS, THE COMMISSION MAY TAKE REMEDIAL ACTIONS WITHIN ITS AUTHORITY TO ADDRESS THE IMPACT OF THE MARKET POWER ACTIVITIES.

7-515.

AN ELECTRICITY SUPPLIER THAT ALSO PROVIDES DISTRIBUTION SERVICE, OR THAT HAS AN AFFILIATE THAT PROVIDES DISTRIBUTION SERVICE, IN PENNSYLVANIA, DELAWARE, WEST VIRGINIA, AND VIRGINIA OR IN THE DISTRICT OF COLUMBIA MAY NOT PROVIDE RETAIL ELECTRICITY SUPPLY SERVICE, DIRECTLY, INDIRECTLY, OR THROUGH AN AGGREGATOR, MARKETER, OR BROKER, IN THE DISTRIBUTION TERRITORY OF AN UNAFFILIATED ELECTRIC COMPANY UNLESS THERE IS ELECTRICITY SUPPLY COMPETITION IN AT LEAST A PORTION OF THE DISTRIBUTION SERVICE AREA OF THE ELECTRICITY SUPPLIER OR AFFILIATE.

7-516.

THIS SUBTITLE MAY BE REFERRED TO AS "THE ELECTRIC CUSTOMER CHOICE AND COMPETITION ACT OF 1999".

7-517. RESERVED.

7-518. RESERVED.

Article - Natural Resources

3-308.

THE SECRETARY SHALL USE THE ENVIRONMENTAL TRUST FUND, INCLUDING ANY ADDITIONAL AMOUNTS APPROPRIATED BY THE GENERAL ASSEMBLY, TO THE MAXIMUM EXTENT POSSIBLE TO FUND COST-EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION ACTIVITIES AND THE IN-STATE OPERATION AND DEVELOPMENT OF RENEWABLE ENERGY RESOURCES, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

Article - Commercial Law

9-104.

This title does not apply

(m) To a transfer of an interest in a letter of credit other than the rights to proceeds of a written letter of credit; OR

(N) TO INTANGIBLE TRANSITION PROPERTY AS DEFINED IN § 7-501 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 4-403 of the Public Utility Companies Article of the Annotated Code of Maryland be repealed. Any net accumulated over recovery or under recovery of actual fuel costs by each electric company as of the initial implementation date under Title 7, Subtitle 5 of the Public Utility Companies Article, as enacted by this Act, shall be credited or debited, as appropriate, to the electric company's rates and shall be refunded or collected, as appropriate, over a period not to exceed 12 months.

SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the later of July 1, 2000, and the initial implementation date that the Public Service Commission determines for investor-owned utilities under § 7-510(b)(1) of the Public Utility Companies Article, as enacted by this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That Sections 1, 3, and 4 of this Act shall take effect July 1, 1999.