

**Department of Legislative Services**  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**

House Bill 1110  
Economic Matters

(Delegate Frick, *et al.*)

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**Electric Company Franchise - Abandonment and Transfer**

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This bill requires the Public Service Commission (PSC), by September 1, 2011, to initiate a proceeding to determine whether Potomac Electric Power Company (Pepco) has abandoned or constructively abandoned its franchise as an electric company in the State. In making the determination, PSC must consider if Pepco has met the standards of service required under State law; has failed to provide a service PSC requires an electric company to provide as a franchisee; and is presently operating or may operate in the future in a manner not consistent with the public convenience and necessity. Pepco is deemed to have abandoned its franchise as an electric company if PSC finds the electric company has demonstrated any of the specified conditions. By December 1, 2011, PSC must make a conclusive finding and, if PSC finds that Pepco has abandoned its franchise, PSC must immediately initiate a proceeding to transfer the franchise to another public service company. By December 15, 2011, PSC must report to the General Assembly on its conclusive finding and the status of future proceedings with regard to the abandonment of the franchise.

The bill takes effect July 1, 2011.

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**Fiscal Summary**

**State Effect:** None. PSC can implement the bill with existing budgeted resources.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

**Current Law:** A public service company must furnish equipment, service, and facilities that are safe, adequate, just, reasonable, economical, and efficient, considering the conservation of natural resources and the quality of the environment.

The prior authorization of PSC is required for any public service company to (1) assign, lease, or transfer a franchise or a right under a franchise; (2) enter into any agreement or contract that materially affects a franchise or a right under a franchise; or (3) abandon or discontinue the exercise of a franchise or a right as a whole or in part.

**Background:** In January 2011, PSC initiated an administrative docket (RM 43) to consider revisions to regulations governing the service supplied by electric companies. The proposed regulations modify electric company service and reliability standards for service interruption, downed wire repair, service quality, vegetation management, annual reliability reporting, and the availability of penalties for failure to meet the standards. PSC will conduct a rulemaking session to consider whether to publish the proposed revisions to COMAR in March 2011.

Several violent thunderstorms hit the Pepco service territory on July 25, August 5, and August 12, 2010, causing power outages to 297,000, 75,000, and 98,000 customers, respectively. PSC received many complaints about the outages, including the failure of Pepco's automated communication system during the outages. Due to the frequency, number, and duration of the power outages and the apparent breakdown of adequate communication by Pepco to its customers during the outages, PSC initiated an investigation (Case No. 9240) into the reliability of Pepco's substations and infrastructure in extreme weather situations, the quality of distribution service Pepco provides its customers, and Pepco's storm preparedness efforts.

In response to PSC, Pepco filed a major storm report; emergency response, reliability enhancement, and storm restoration plans; an internal residential customer satisfaction survey relating to electric system reliability; a report indicating costs for reliability distribution system activities; a report relating to the effectiveness of tree wire in preventing or mitigating outages; a report indicating procedures for determining and disseminating estimated times of restoration to customers and communicating with customers during outage situations; a report indicating measures taken to remediate and prevent the reliability, restoration, and communication problems that occurred; and a report indicating standards used in providing customer service and assuring reliability in connection with restoration and communication during outage events.

A report by the independent consultant selected to review reliability of Pepco's electric distribution system, including a survey of best practices from electric companies in other

states and a compilation of standards used by other utility commissions to measure distribution system reliability, was filed with PSC on March 2, 2011. The consultant's report identifies the root causes of Pepco's reliability problems and critiques the most recent set of initiatives it has suggested to address them. The report found that Pepco's system infrastructure was generally well designed, although the sub-transmission and distribution systems are particularly vulnerable to tree damage, in part due to the fact they are primarily placed along public streets. This vulnerability was magnified by Pepco's failure to meet its annual tree trimming goals. The report stated that Pepco's physical restoration efforts in the storms of 2010 were reasonably good, with the exception of Pepco's damage assessments, and problems with communication both within the company and externally. Generally, the findings from this investigation state that Pepco needs to be more proactive, rather than reactive, in dealing with problems. As an evidentiary proceeding, PSC set a procedural schedule that requires the filing of testimony in May 2011 and hearings in June 2011.

On January 26, 2011, a winter storm resulted in a significant interruption of service to a sufficient number of customers in the BGE and Pepco service territories thus classifying the event as a "major storm." Pursuant to COMAR, each utility is required to file a written report to PSC within three weeks of the end of the storm. PSC initiated Case Number 9256 in response to the service interruption and on Thursday, March 3, 2011, PSC conducted a legislative-style hearing to review the reports and better understand the utilities' performance and a repeat of Pepco's communication system failure and to understand why large numbers of customers were out of service for a significant period of time, far exceeding 24 hours. The report submitted by Pepco to PSC showed Pepco's storm response for major storms in 2010 and 2011; storm preparedness and mobilization; system damage and restoration; improvements to-date; reliability enhancement plan progress; and focus going forward.

**Exhibit 1** provides System Average Interruption Frequency Index (SAIFI) and System Average Interruption Duration Index (SAIDI) results from each major electric utility in the State. These indices are commonly used as a reliability indicator by electric companies. SAIFI is the average number of interruptions that a customer experiences in a year, while SAIDI is the average outage duration for each customer served (in hours).

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**Exhibit 1**  
**Average Reliability Results**  
**2005-2009 Average**

<u>Distribution Territory</u>	<u>SAIFI</u>	<u>SAIDI</u>
Allegheny	1.09	3.28
BGE	1.49	4.09
Choptank	2.16	3.94
Delmarva	2.23	5.73
Pepco	2.14	5.70
SMECO	1.15	2.57

Source: Public Service Commission

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**State Fiscal Effect:** As advised by PSC, the independent consultant's report submitted March 2, 2011 covers the same subject areas addressed in the bill. As a result, PSC can implement the bill with existing budgeted resources.

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**Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of People's Counsel, Public Service Commission, Department of Legislative Services

**Fiscal Note History:** First Reader - March 7, 2011  
mlm/lgc

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