Article - Public Utilities

§1–101.

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

(b) (1) "Aggregator" means an entity or an individual that acts on behalf of a customer to purchase electricity or gas.

(2) "Aggregator" does not include:

(i) an entity or individual that purchases electricity or gas for its own use or for the use of its subsidiaries or affiliates;

(ii) a municipal electric utility or a municipal gas utility serving only in its distribution territory; or

(iii) a combination of governmental units that purchases electricity or gas for use by the governmental units.

(c) "Broker" means an entity or individual that acts as an agent or intermediary in the sale and purchase of electricity or gas but does not take title to electricity or gas.

(d) "Commission" means the Public Service Commission.

(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;

(vii) a transit company; and

(viii) a transportation network company.

(3) "Common carrier" does not include:

(i) a county revenue authority;

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

(iii) a vanpool or launch service; or

(iv) a for–hire water carrier, as defined in § 8–744 of the Natural Resources Article.

(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.

(g) "County" means a county of the State or Baltimore City.

(h) (1) "Electric company" means a person who physically transmits or distributes electricity in the State to a retail electric customer.

(2) "Electric company" 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;

(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.

(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:

(i) who sells:

1. electricity;

2. electricity supply services;

3. competitive billing services; or

4. competitive metering services; or

(ii) 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, an aggregator, a broker, and a marketer of electricity.

(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;

(ii) a person who generates on–site generated electricity; or

(iii) a person that owns or operates equipment used for charging electric vehicles, including a person that owns or operates:

1. an electric vehicle charging station;

2. electric vehicle supply equipment; or

3. an electric vehicle charging station service company or provider.

(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.

(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.

(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.

(n) (1) "Gas supplier" means a person who:

(i) sells:

1. gas;

2. gas supply services; or

3. competitive billing services for gas supply services; or

(ii) purchases, brokers, arranges, or markets gas or gas supply services for sale to a retail gas customer.

(2) "Gas supplier" includes an aggregator, a broker, and a marketer of gas.

(3) "Gas supplier" does not include:

(i) a gas company to the extent that the gas company provides gas sales or delivery service at rates regulated by the Commission;

(ii) the following persons who supply gas 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; and

2. a lessee/operator who holds a leasehold interest in and manages the internal distribution system serving the building; or

(iii) a person who transmits or distributes gas within a site owned by the person or the person's affiliate that is incidental to a primarily landlord–tenant relationship.

(o) "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.

(p) "Liquid–immersed distribution transformer" means a transformer that:

(1) has an input voltage of 34,500 volts or less;

(2) has an output voltage of 600 volts or less;

(3) uses oil or other liquid as a coolant; and

(4) is rated for operation at a frequency of 60 hertz.

(q) "Marketer" means a person who purchases and takes title to electricity or gas as an intermediary for sale to a customer.

(r) "Municipal electric utility" means a municipal corporation, or a division of a municipal corporation, that is in the business of transmitting or distributing electricity for purposes other than end use by the municipal corporation.

(s) "On–site generated electricity" means electricity that:

(1) is not transmitted or distributed over an electric company's transmission or distribution system; or

(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.

(t) "Own" includes own, operate, lease to or from, manage, or control.

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

(v) "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.

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

(x) (1) "Public service company" means a common carrier company, electric company, gas company, sewage disposal company, telegraph company, telephone company, water company, or any combination of public service companies.

(2) "Public service company" does not include:

(i) a campground that provides water, electric, gas, sewage, or telephone service to campers incident to the campground's primary business of operating and maintaining the campground; or

(ii) a person that owns or operates equipment used for charging electric vehicles, including a person that owns or operates:

1. an electric vehicle charging station;

2. electric vehicle supply equipment; or

3. an electric vehicle charging station service company or provider.

(y) (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.

(z) (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.

(aa) (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.

(bb) "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.

(cc) (1) "Retail electric customer" means a purchaser of electricity for end use in the State.

(2) "Retail electric customer" includes:

(i) a person that owns or operates equipment used for charging electric vehicles, including:

1. an electric vehicle charging station;

2. electric vehicle supply equipment; or

3. an electric vehicle charging station service company or provider; and

(ii) a person that charges an electric vehicle at an electric vehicle charging station that the person owns or operates.

(3) "Retail electric customer" does not include:

(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;

(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; or

(iii) except as provided in paragraph (2)(ii) of this subsection, a person that charges an electric vehicle at an electric vehicle charging station.

(dd) (1) "Retail gas customer" means a purchaser of gas for end use in the State.

(2) "Retail gas customer" excludes an occupant of a building in which the owner/operator or lessee/operator manages the internal distribution system serving the building and supplies gas and gas supply services solely to occupants of the building for use by the occupants.

(ee) "Sewage disposal company" means a privately owned public service company that owns or maintains facilities for the disposal of sewage.

(ff) "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.

(gg) "State" means:

(1) a state, possession, territory, or commonwealth of the United States; or

(2) the District of Columbia.

(hh) "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.

(ii) (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.

(jj) "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.

(kk) "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.

(ll) (1) "Telephone company" means a public service company that:

(i) owns telephone lines to receive, transmit, or communicate local exchange telephone services, exchange access telephone services, or teletype communications;

(ii) leases, licenses, or sells local exchange telephone services, exchange access telephone services, or teletype communications; or

(iii) owns telephone lines to receive, transmit, or communicate telephone services to inmate facilities.

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

(mm) "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.

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

(oo) "Transformer" means a device consisting of two or more coils of insulated wire that is designed to transfer alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.

(pp) "Transportation network company" has the meaning stated in § 10–101 of this article.

(qq) "Transportation network services" has the meaning stated in § 10–101 of this article.

(rr) (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.

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

(tt) "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.

§2–101.

(a) There is a Public Service Commission.

(b) The Commission is an independent unit in the Executive Branch of State government.

(c) The Commission shall carry out the functions assigned to it by law.

§2–102.

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

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

(2) The Commission shall be:

(i) broadly representative of the geographic and demographic diversity of the State and of the public; and

(ii) composed of individuals with diverse training and experience.

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

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

(2) The terms of commissioners are staggered as required by the terms in effect for commissioners on July 1, 2006.

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

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

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

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

§2–103.

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

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

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

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

§2–104.

(a) The Commission shall appoint an Executive Secretary.

(b) The Executive Secretary serves at the pleasure of the Commission.

(c) The Executive Secretary shall:

(1) keep the records of the Commission, including a record of proceedings, all documents required to be filed with the Commission, all orders, regulations, and decisions of the Commission, and all dockets and files;

(2) certify true copies of those materials;

(3) designate an employee of the Commission to perform the duties of Executive Secretary when the Executive Secretary is absent; and

(4) perform the other duties that the Commission prescribes.

(d) With the approval of the Commission and in conformity with Title 10, Subtitle 6, Part III of the State Government Article, the Executive Secretary may destroy any record or document that the Commission possesses, including a record or document required by law to be filed with the Commission, if:

(1) the record or document has been on file for at least 3 years; and

(2) the Executive Secretary considers the document to be obsolete.

§2–105.

(a) The Commission shall appoint an Executive Director.

(b) The Executive Director serves at the pleasure of the Commission.

(c) The Executive Director shall:

(1) direct and coordinate the technical staff, except public utility law judges, of the Commission; and

(2) perform the other duties that the Commission prescribes.

§2–106.

(a) The Commission shall appoint a General Counsel.

(b) The General Counsel shall have been admitted to practice law in the State.

(c) The General Counsel serves at the pleasure of the Commission.

(d) As the Commission directs, the General Counsel shall:

(1) represent the Commission in a proceeding if the Commission is a party to or desires to intervene in the proceeding, if the proceeding involves a question under this division, or if the proceeding involves an act or order of the Commission;

(2) advise the Commission, on request, on any legal question that requires interpretation of a provision of law about the jurisdiction, rights, duties, or powers of

the Commission; and

(3) act as attorney to the Commission as the Commission reasonably requires.

(e) The Commission may substitute any other agent for the General Counsel.

§2–107.

(a) Each commissioner, the Chairman of the Commission, the General Counsel, the Executive Secretary, and the Executive Director are entitled to compensation as provided in the State budget.

(b) (1) The salary of the Chairman of the Commission shall be at least $40,000 a year.

(2) The salary of each commissioner shall be at least $35,000 a year.

(c) A commissioner and other Commission personnel are entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§2–108.

(a) (1) The principal office of the Commission shall be in Baltimore City at the place that the Commission selects.

(2) Except for legal holidays, the offices of the Commission shall be open for business during regular business hours from Monday through Friday and at other times as the Commission considers necessary.

(b) The Commission shall meet at the times and places in the State as the Commission considers necessary.

(c) The Commission shall have a seal.

(d) (1) The State budget shall provide sufficient money for the Commission to hire, develop, and organize a staff to perform the functions of the Commission, including analyzing data submitted to the Commission and participating in proceedings as provided in § 3–104 of this article.

(2) (i) As the Commission considers necessary, the Commission shall hire experts including economists, cost of capital experts, rate design experts, accountants, engineers, transportation specialists, and lawyers.

(ii) To assist in the regulation of intrastate hazardous liquid pipelines under Title 11, Subtitle 2 of this article, the Commission shall include on its staff at least one engineer who specializes in the storage of and the transportation of

hazardous liquid materials by pipeline.

(3) The Commission may retain on a case by case basis additional experts as required for a particular matter.

(4) The lawyers who represent the Commission staff in proceedings before the Commission shall be appointed by the Commission and shall be organized and operate independently of the office of General Counsel.

(5) (i) As required, the Commission shall hire public utility law judges.

(ii) Public utility law judges are a separate organizational unit and shall report directly to the Commission.

(6) The Commission shall hire personal staff members for each commissioner as required to provide advice, draft proposed orders and rulings, and perform other personal staff functions.

(7) Subject to § 3–104 of this article, the Commission may delegate to a commissioner or personnel the authority to perform an administrative function necessary to carry out a duty of the Commission.

(8) (i) Except as provided in subparagraph (ii) of this paragraph or otherwise by law, all personnel of the Commission are subject to the provisions of the State Personnel and Pensions Article.

(ii) The following are in the executive service, management service, or are special appointments in the State Personnel Management System:

1. each commissioner of the Commission;

2. the Executive Director;

3. the General Counsel and each assistant general counsel;

4. the Executive Secretary;

5. the commissioners' personal staff members;

6. the chief public utility law judge; and

7. each license hearing officer.

(e) The compensation of the following personnel shall be determined by the Commission and, if possible, in accordance with the State pay plan:

(1) the Executive Director;

(2) the General Counsel;

(3) the special appointment attorneys in the office of General Counsel;

(4) the Executive Secretary;

(5) the chief public utility law judge;

(6) each license hearing officer; and

(7) all Commission personnel in positions in:

(i) the management service; and

(ii) professional and technical classifications unique to the Commission.

(f) (1) At least 45 days before the effective date of the change, the Commission shall submit to the Secretary of Budget and Management each change to salary plans that involves increases or decreases in salary ranges other than those associated with routine reclassifications and promotions or general salary increases approved by the General Assembly.

(2) Reportable changes include creation or abolition of classes, regrading the classes from one established range to another, changes in salary guidelines to administer the pay schedules, or creation of new pay schedules or ranges.

(3) The Secretary of Budget and Management shall:

(i) review the proposed changes; and

(ii) at least 15 days before the effective date of the proposed changes, advise the Commission whether the changes would have an adverse effect on comparable State jobs.

(4) Failure of the Secretary to respond in a timely manner is not considered a statement of adverse effect.

(g) On or before January 31 of each year, the Commission shall report to the Secretary of Budget and Management and, subject to § 2-1246 of the State Government Article, to the General Assembly setting forth all personnel positions, classifications, and salaries in the Commission as of the end of the preceding calendar year.

§2–109.

(a) (1) On request of the Commission, a public officer shall give to the Commission, without charge, a certified copy of a document or part of a document on file with the officer.

(2) Without charge, a public officer shall accept from the Commission any document authorized or required to be filed with the officer and shall enter, file, docket,

or record the document.

(b) Each record of the Commission is a public record and shall be made available to the public at reasonable times.

§2–110.

(a) In this section, "public service company" includes an electricity supplier and a gas supplier as those terms are defined in § 1-101 of this article.

(b) (1) The costs and expenses of the Commission and the Office of People's Counsel shall be borne by the public service companies that are subject to the Commission's jurisdiction.

(2) The costs and expenses shall be assessed as provided in this section.

(3) The Commission shall pay the money that it collects for the assessment under this section into the Public Utility Regulation Fund in the State Treasury established under § 2-110.1 of this subtitle to reimburse the State for the expenses of the Commission and the Office of People's Counsel.

(c) (1) (i) Before each State fiscal year, the Chairman of the Commission shall estimate the Commission's total costs and expenses, including:

1. the compensation and expenses of the Commission, its officers, agents, and personnel;

2. the cost of retirement contributions, Social Security, health insurance, and other benefits required to be paid by the State for the personnel of the Commission;

3. all other maintenance and operation expenses of the Commission; and

4. all other direct and indirect costs of the Commission.

(ii) The estimate shall exclude the expenses associated with services performed by the Commission for which the Commission is reimbursed under this division.

(iii) The estimate shall include, as provided by the Office of People's Counsel:

1. the compensation and expenses of the Office of People's Counsel, its officers, agents, and personnel;

2. the cost of retirement contributions, Social Security, health insurance, and other benefits required to be paid by the State for the personnel of the

Office of People's Counsel;

3. all other maintenance and operation expenses of the Office of People's Counsel; and

4. all other direct and indirect costs of the Office of People's Counsel.

(2) Based on the estimate, the Chairman shall determine the amount to be paid by each public service company.

(3) The Commission shall send a bill to each public service company on or before May 1 of each year.

(4) (i) The bill shall equal the product of:

1. the estimated total costs and expenses of the Commission and the Office of People's Counsel during the next fiscal year; multiplied by

2. the ratio of the gross operating revenues for the public service company derived from intrastate utility and electricity supplier operations in the preceding calendar year, or other 12–month period as the Chairman determines, to the total of the gross operating revenues derived from intrastate utility and electricity supplier operations for all public service companies that are billed under this section over that period.

(ii) To the extent that the Commission requires an electric company to report the gross operating revenue derived from intrastate utility and electricity supplier operation in order to calculate the bill under subparagraph (i) of this paragraph, a small rural electric cooperative described in § 7–502(a) of this article may satisfy the requirement by submitting to the Commission an estimate made in accordance with a formula approved by the Commission from information that the small rural electric cooperative submits to the rural utilities service.

(5) The minimum bill for a public service company shall be $10.

(6) The public service company:

(i) shall pay the bill on or before the next July 15; or

(ii) may elect to make partial payments on the 15th days of July, October, January, and April.

(7) A partial payment shall equal 25% of the bill and may not be less than $10.

(8) During any State fiscal year, the Chairman may change the estimate of costs and expenses of the Commission and the estimate of costs and expenses of the

Office of People's Counsel, as changed by the People's Counsel.

(9) (i) If the estimate is changed, the Commission shall send a revised bill to each public service company that has elected to make partial payments.

(ii) The change shall be apportioned equally against the remaining payments for the fiscal year.

(10) (i) On or before September 15 of each year, the Chairman shall compute the actual costs and expenses of the Commission, and the actual costs and expenses of the Office of People's Counsel, as provided by the People's Counsel for the preceding fiscal year.

(ii) If the amounts collected are less than the actual costs and expenses of the Commission and the Office of the People's Counsel, after deducting the amounts recovered under §§ 2–111(a) and 2–123 of this subtitle, on or before October 15, the Chairman shall send to any public service company that is affected a statement that shows the amount due.

(iii) If the amounts collected exceed the actual costs and expenses of the Commission and the Office of the People's Counsel for the preceding fiscal year, the Commission shall deduct any excess retained funds from the appropriation for the next fiscal year before the Commission determines the amount to be paid by each public service company for the next fiscal year under paragraph (2) of this subsection.

(11) A public service company shall pay an amount due within 30 days after the statement is received.

(12) The total amount that may be charged to a public service company under this section for a State fiscal year may not exceed:

(i) 0.17% of the public service company's gross operating revenues derived from intrastate utility and electricity supplier operations in the preceding calendar year, or other 12–month period that the Chairman determines, for the costs and expenses of the Commission other than that of the Office of People's Counsel; plus

(ii) 0.05% of those revenues for the costs and expenses of the Office of People's Counsel.

(d) (1) Within 30 days after the Commission issues a bill under subsection (c) of this section, the party billed may request a hearing as to the amount of the bill.

(2) Any amount of a bill that is not paid within 30 days after the date of determination on a hearing or, if a hearing is not requested, on the date when payment is due, shall bear annual interest at a rate, not less than 6%, that the Commission sets by regulation.

§2–110.1.

(a) There is a Public Utility Regulation Fund.

(b) The Fund consists of:

(1) all revenue received through the imposition and collection of assessments under § 2–110 of this subtitle;

(2) fees received by the Commission under § 2–123 of this subtitle for filings and for other services rendered by the Commission;

(3) income from investments that the State Treasurer makes for the Fund; and

(4) any other fee, examination assessment, or revenue received by the Commission under this division.

(c) Notwithstanding subsection (b) of this section, the Commission shall pay all fines and penalties collected by the Commission under this article into the General Fund of the State.

(d) The purpose of the Fund is to pay all the costs and expenses incurred by the Commission and the Office of People's Counsel that are related to the operation of the Commission and the Office of People's Counsel, including:

(1) expenditures authorized under this division; and

(2) any other expense authorized in the State budget.

(e) (1) All the costs and expenses of the Commission and the Office of People's Counsel shall be included in the State budget.

(2) Expenditures from the Fund to cover costs and expenses of the Commission and Office of People's Counsel may only be made:

(i) with an appropriation from the Fund approved by the General Assembly in the State budget; or

(ii) by budget amendment in accordance with § 7-209 of the State Finance and Procurement Article.

(f) (1) The State Treasurer is the custodian of the Fund.

(2) The State Treasurer shall deposit payments received from the Commission into the Fund.

(g) (1) The Fund is a continuing, special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article, and may not be considered a

part of the General Fund of the State.

(2) Unless otherwise provided by law, no part of the Fund may revert or be credited to:

(i) the General Fund of the State; or

(ii) any other special fund of the State.

§2–111.

(a) The Commission may charge reasonable fees for copies of Commission documents.

(b) The Commission may charge $1 to issue or renew a taxicab driver license and $2 to issue a duplicate taxicab driver license.

§2–112.

(a) To the full extent that the Constitution and laws of the United States allow, the Commission has jurisdiction over each public service company that engages in or operates a utility business in the State and over motor carrier companies as provided in Title 9 of this article.

(b) (1) The Commission has the powers specifically conferred by law.

(2) The Commission has the implied and incidental powers needed or proper to carry out its functions under this division.

(c) The powers of the Commission shall be construed liberally.

§2–113.

(a) (1) The Commission shall:

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

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

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

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

(2) In supervising and regulating public service companies, the Commission shall consider the public safety, the economy of the State, the conservation

of natural resources, and the preservation of environmental quality.

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

§2–114.

To inspect a plant of a public service company, the Commission may:

(1) have access to the plant;

(2) set up and use equipment in the plant as needed; and

(3) occupy space in the plant as the Commission considers reasonably necessary to inspect or test.

§2–115.

(a) The Commission shall initiate and conduct any investigation necessary to execute its powers or perform its duties under this division.

(b) The Commission may:

(1) examine the records of a public service company;

(2) compel production of the records by subpoena; and

(3) require verified copies of the records to be filed with the Commission.

§2–116.

(a) (1) As it considers desirable, the Commission may conduct proceedings on proposed amendments to any law that, in the judgment of the Commission, would affect the public interest in any aspect of the business of a public service company.

(2) On request of the Governor, the General Assembly, or either house of the General Assembly, the Commission shall conduct proceedings on proposed amendments to any law that, in the judgment of the Commission, would affect the public interest in any aspect of the business of a public service company.

(b) (1) The Commission may recommend or prepare legislation on any matter within or related to the jurisdiction of the Commission.

(2) If a proceeding under this section was held on request, subject to § 2-1246 of the State Government Article, the Commission shall report its conclusions to the person or body who requested the proceeding.

§2–117.

(a) (1) If the Commission believes that a public service company or gas master meter operator that is subject to the Commission's jurisdiction is violating or will violate this division, the Commission shall bring an action in the Commission's name for injunction or other appropriate action in the circuit court of a county where the public service company or gas master meter operator does business or has its principal place of business.

(2) The court:

(i) shall allow a period not exceeding 20 days for the defendant to show cause why the relief sought should not be granted;

(ii) after the period, shall inquire immediately into the merits of the case, without other or formal pleadings and without respect to any technical requirement;

(iii) may join as parties any persons as is necessary or proper to make a judgment or process effective; and

(iv) shall issue a final order that grants appropriate relief.

(b) (1) The Commission shall notify an offender to appear and answer charges on complaint filed by a carrier or on discovery of a violation or infringement by the Commission's own investigation that:

(i) the offender is or has been infringing on or violating a permit granted to the carrier by the Commission;

(ii) the offender, without a permit, is exercising or using a right granted in a permit;

(iii) a right granted in a permit is being subjected to unrestricted or unregulated competition; or

(iv) the offender, without a permit, is serving, wholly or partly, directly or indirectly, a route set forth in a granted permit.

(2) The notice shall be sent to or served on the offender as provided by § 3-103 of this article.

(3) If the Commission finds that the offender is violating or infringing, or has violated or infringed on the rights of a carrier, the Commission shall order the offender to stop the operations that led to the violation or infringement.

(4) If the offender does not obey the order of the Commission, the Commission shall notify the offender to show cause within 10 days after the notice

is mailed or served why the registration certificate for each vehicle involved in the operations should not be suspended or revoked.

(5) If cause is not shown or if, after hearing, the Commission finds that cause is not shown, the Commission shall certify to the Motor Vehicle Administration:

(i) that the registration certificate of each vehicle involved in the operations shall be suspended or revoked;

(ii) the condition of the suspension or revocation; and

(iii) if possible, the license number of each vehicle for which the certificate of registration is to be suspended or revoked.

(6) On receipt of the certification, the Motor Vehicle Administration automatically shall suspend or revoke each certificate of registration in accordance with the conditions contained in the certification.

(7) The action of the Motor Vehicle Administration may not be appealed but judicial review of an order or certification of the Commission may be sought as provided in Title 3, Subtitle 2 of this article.

§2–118.

(a) This section does not apply to:

(1) taxicabs;

(2) powerboat companies;

(3) toll bridges;

(4) towing and lightering companies; or

(5) small rural electric cooperatives described in § 7-502(a) of this article.

(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.

§2–119.

As the interests of the people of this State are affected, the Commission:

(1) shall study the rates and service of public service companies in interstate commerce beyond the jurisdiction of the Commission; and

(2) may apply to and appear before appropriate federal units to protect those interests.

§2–120.

Under interstate compacts or agreements or under the concurrent power of states to regulate interstate commerce, or as an agency of the federal government, or otherwise, the Commission may act jointly or concurrently with an official board or commission of the United States or a state in a proceeding relating to the regulation of a public service company.

§2–121.

The Commission may adopt reasonable regulations as necessary to carry out any law that relates to the Commission.

§2–122.

(a) (1) On or before the third Wednesday of March of each year, the Commission shall publish an annual report that summarizes the activities of the Commission that includes:

(i) a summary of each regulation, opinion, or order that the Commission adopted, entered, or passed during the year; and

(ii) any other information that the Commission considers of value.

(2) The Commission shall send a copy of the report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly.

(b) Each year, the Commission shall publish a report that includes:

(1) the progress of the residential conservation service plan;

(2) Commission activities to moderate peak electric demand; and

(3) energy conservation measures taken by gas companies and electric companies in the State to reduce electrical and natural gas demand.

§2–123.

(a) In accordance with this section, the Commission may charge reasonable and nondiscriminatory fees for the filing of documents with the Commission and for other services performed by the Commission.

(b) Actions for which the Commission may charge a fee include:

(1) an initial tariff or tariff change;

(2) a certificate of public convenience and necessity;

(3) an application to provide or abandon service;

(4) a preparation of any record in appeal;

(5) a certification of any document;

(6) an application or petition to increase or decrease rates;

(7) an annual report;

(8) a copy of papers, testimony, microfiche, records, and computer printouts; and

(9) any other filing or service for which the Commission reasonably determines that a fee is required.

(c) (1) In determining the amount of a fee to be charged for a filing or other service performed by the Commission, the Commission shall consider the estimated expense associated with the filing or other service.

(2) (i) The Commission shall waive a fee charged under this section for a filing by a unit of State government or for a service performed by the Commission for a unit of State government.

(ii) The Commission may waive a fee charged under this section if the Commission determines that the waiver is in the public interest.

(d) A document for which a filing fee is required may be received by the Commission at any time, but may not be considered filed until the filing fee has been paid.

(e) The Commission shall deposit all fees collected under this section in the

Public Utility Regulation Fund.

(f) The Commission shall adopt regulations to set reasonable and nondiscriminatory fees for filing and other services performed by the Commission.

§2–201.

In this subtitle, "residential and noncommercial users" means:

(1) residential users of gas, electricity, telephones, or water and sewerage; and

(2) noncommercial users of other services regulated by the Commission.

§2–202.

(a) With the advice and consent of the Senate, the Attorney General shall appoint the People's Counsel.

(b) (1) The term of the People's Counsel is 5 years and begins on July 1.

(2) At the end of a term, the People's Counsel continues to serve until a successor is appointed and qualifies.

(3) A People's Counsel who is appointed after a term has begun serves for the rest of the term and until a successor is appointed and qualifies.

(c) The People's Counsel shall have been admitted to practice law in the State.

(d) Before taking office, the People's Counsel shall take the oath required by Article I, § 9 of the Maryland Constitution.

(e) The People's Counsel shall devote full time to the duties of office.

(f) The People's Counsel is entitled to a salary of at least $35,000 a year as provided in the State budget.

(g) The Attorney General may remove the People's Counsel for good cause shown after notice and an opportunity to be heard.

§2–203.

(a) The State budget shall provide sufficient money for the Office of People's Counsel to hire necessary staff in addition to the staff assistance that is provided under § 2-205(c)(2) of this subtitle.

(b) (1) Except as provided in paragraph (2) of this subsection or otherwise by law, all personnel of the Office of People's Counsel are subject to the provisions of the State Personnel and Pensions Article.

(2) The following are in the executive service, management service, or are special appointments in the State Personnel Management System:

(i) the People's Counsel;

(ii) the deputy People's Counsel; and

(iii) attorneys that are in the management service or are special appointments.

(c) The compensation of the following personnel shall be determined by the People's Counsel and, if possible, in accordance with the State pay plan:

(1) the deputy People's Counsel;

(2) attorneys that are:

(i) in the management service; or

(ii) special appointments; and

(3) all positions in management, professional and technical classifications unique to the Office of People's Counsel.

(d) (1) At least 45 days before the effective date of the change, the People's Counsel shall submit to the Secretary of Budget and Management each change to salary plans that involves increases or decreases in salary ranges other than those associated with routine reclassifications and promotions or general salary increases approved by the General Assembly.

(2) Reportable changes include creation or abolition of classes, regrading the classes from one established range to another, changes in salary guidelines to administer the pay schedules, or creation of new pay schedules or ranges.

(3) The Secretary of Budget and Management shall:

(i) review the proposed changes; and

(ii) at least 15 days before the effective date of the proposed changes, advise the People's Counsel whether the changes would have an adverse effect on comparable State jobs.

(4) Failure of the Secretary to respond in a timely manner is not considered a statement of adverse effect.

(e) On or before January 31 of each year, the People's Counsel shall report to the Secretary of Budget and Management and, subject to § 2-1246 of the State Government Article, to the General Assembly setting forth all personnel positions, classifications, and salaries in the Office of People's Counsel as of the end of the preceding calendar

year.

(f) The Office of People's Counsel may retain as necessary for a particular matter or hire experts in the field of utility regulation, including cost of capital experts, rate design experts, accountants, economists, engineers, transportation specialists, and lawyers.

§2–204.

(a) (1) The Office of People's Counsel shall evaluate each matter pending before the Commission to determine if the interests of residential and noncommercial users are affected.

(2) If the Office of People's Counsel considers the interest of residential and noncommercial users to be affected, the Office of People's Counsel shall appear before the Commission and courts on behalf of residential and noncommercial users in each matter or proceeding over which the Commission has original jurisdiction, including a proceeding on the rates, service, or practices of a public service company or on a violation of this division.

(3) As the Office of People's Counsel considers necessary, the Office of People's Counsel shall conduct investigations and request the Commission to initiate proceedings to protect the interests of residential and noncommercial users.

(b) The People's Counsel shall administer and operate the Office of People's Counsel.

§2–205.

(a) In appearances before the Commission and courts on behalf of residential and noncommercial users, the Office of People's Counsel has the rights of counsel for a party to the proceeding, including those rights specified in § 3-107 of this article.

(b) The Office of People's Counsel may appear before any federal or State unit to protect the interests of residential and noncommercial users.

(c) (1) Except as otherwise provided in this article and consistent with any applicable Freedom of Information Act, the Office of People's Counsel shall have full access to the Commission's records and shall have the benefit of all other facilities or information of the Commission.

(2) The Office of People's Counsel is entitled to the assistance of the Commission's staff, if the staff determines that the assistance is consistent with the staff's responsibilities and if the staff and the Office of People's Counsel agree that the assistance, in a particular matter, is consistent with their respective interests.

(d) If the Office of People's Counsel considers that the legislation would affect the interests of residential and noncommercial users, the Office of People's Counsel

may recommend to the General Assembly legislation on any matter related to the Commission's jurisdiction.

§2–206.

If the budget for the Office of People's Counsel is insufficient to allow it to perform its duties, the Office of People's Counsel may apply to the Board of Public Works for additional money from the General Emergency Fund.

§2–301.

In this subtitle, "relative" means an individual related by blood or marriage.

§2–302.

This subtitle applies to commissioners, the General Counsel, the People's Counsel, officers and employees of the Office of People's Counsel, and the officers and employees of the Commission.

§2–303.

(a) This section applies to each individual subject to § 2–302 of this subtitle and to:

(1) each spouse, dependent child, parent, brother, or sister of each commissioner, the People's Counsel, the General Counsel, and each public utility law judge; and

(2) each spouse or dependent child of each other officer or employee of the Commission or Office of People's Counsel.

(b) An individual subject to this section may not:

(1) hold an official relation to or connection with a public service company; or

(2) have a pecuniary interest in a public service company as the holder of stock or other securities or otherwise.

§2–304.

An individual subject to § 2-302 of this subtitle may not hold an office or position or engage in a business or avocation that is incompatible with the duties of office or service with the Commission or Office of People's Counsel.

§2–305.

An individual subject to § 2-302 of this subtitle may not solicit, suggest, request, or recommend directly or indirectly to a public service company that a person be appointed

to an office or place of employment.

§2–306.

(a) Until at least 2 years have passed after leaving service as a commissioner or the People's Counsel, an individual may not:

(1) represent a public service company before the Commission;

(2) appear before the Commission on behalf of a party to a Commission proceeding; or

(3) appear before the Commission on a matter within the jurisdiction of the Commission.

(b) Until at least 1 year has passed after leaving service with the Commission as the General Counsel or a public utility law judge, an individual may not:

(1) represent a public service company before the Commission;

(2) appear before the Commission on behalf of a party to a Commission proceeding; or

(3) appear before the Commission on a matter within the jurisdiction of the Commission.

(c) Until at least 1 year has passed after leaving service with the Commission as a commissioner, an individual may not receive financial benefit that is not otherwise generally available to the public as a customer of a public service company from:

(1) a public service company that is subject to the jurisdiction of the Commission; or

(2) a person that directly or indirectly, or through one or more intermediaries, controls, is controlled by, or is under common control with a public service company that is subject to the jurisdiction of the Commission.

§2–307.

(a) This section applies to each individual subject to § 2–302 of this subtitle and to:

(1) each spouse, dependent child, parent, brother, or sister of each commissioner, the People's Counsel, the General Counsel, and each public utility law judge; and

(2) each spouse or dependent child of each other officer or employee of the Commission or Office of People's Counsel.

(b) (1) An individual subject to this section may not accept from a public service company or its officers, agents, or employees, a gift, gratuity, or special consideration.

(2) This subsection does not preclude an individual from accepting a gift from a relative.

§2–308.

(a) This section applies to each individual subject to § 2–302 of this subtitle and to:

(1) each spouse, dependent child, parent, brother, or sister of each commissioner, the People's Counsel, the General Counsel, and each public utility law judge; and

(2) each spouse or dependent child of each other officer or employee of the Commission or Office of People's Counsel.

(b) (1) A public service company or its officer, agent, or employee may not offer a gift, gratuity, or special consideration to an individual subject to this section.

(2) This section does not preclude an individual from offering a gift to a relative.

§2–309.

Except as directed by the Commission or a court or as authorized by law, an individual subject to § 2-302 of this subtitle may not divulge information learned while inspecting the plant or examining the records of a public service company.

§2–310.

An individual subject to § 2–302 of this subtitle may not violate this division.

§3–101.

(a) A proceeding before the Commission shall be governed by the regulations and practices of the Commission in conformity with this title.

(b) The Commission is not bound by the rules of evidence or procedure of any court.

(c) An official act of the Commission:

(1) is valid if it substantially complies with the requirements of this division; and

(2) may not be vitiated by any technical deficiency.

§3–102.

(a) (1) Any person may file a complaint with the Commission.

(2) The complaint shall be in writing and set forth circumstances that allege a violation of this division by a public service company.

(b) If a complaint filed under subsection (a) of this section states on its face a violation of this article or if the Commission determines that the complaint deserves an explanation, the Commission shall:

(1) serve a copy of the complaint on the public service company; and

(2) issue an order that requires the public service company to satisfy or answer the complaint in writing within a specified time.

(c) A person that is the subject of a complaint filed by any person or the Commission is entitled to a hearing in a contested case that results from the complaint.

(d) (1) Subject to paragraph (2) of this subsection, the Commission must conduct an investigation of the matters in a complaint filed under this section if the complaint concerns the following:

(i) the quality or reliability of gas supply or electric power supply; or

(ii) the price of gas or electricity.

(2) In order to be entitled to an investigation under paragraph (1) of this subsection, the complaint shall be signed by:

(i) the People's Counsel;

(ii) the chief executive or local legislative body of a municipal corporation or county in which a gas or electric company is authorized to operate; or

(iii) not less than 100 customers of the gas company or electric company, with the names and addresses of the customers set out in the complaint.

(e) (1) The Commission shall begin proceedings on its own motion against a person by filing a complaint.

(2) The complaint filed under paragraph (1) of this subsection for the first time in a proceeding shall be served on the person that is the subject of the complaint before any hearing on the matter.

(f) Unless a complaint is voluntarily satisfied, the Commission shall take final action on each complaint by issuing an order that:

(1) dismisses the complaint;

(2) directs full or partial satisfaction of the complaint; or

(3) directs any action that the Commission considers to be warranted.

§3–103.

(a) The service of a document or notice relating to a proceeding before the Commission under this division shall be sufficient:

(1) if made personally through the sheriff's office in the county in which service may be made or by an adult; or

(2) except as provided in subsections (b) and (c) of this section, if mailed by first–class mail, postage prepaid, to the last known address of the person to be served.

(b) Service of complaints and accompanying documents shall be sufficient if they are mailed by registered first–class mail, postage prepaid, to the last known address of the person to be served.

(c) Service of subpoenas shall be sufficient only if made personally through the sheriff's office in the county in which service may be made or by an adult.

§3–104.

(a) (1) The Commission shall institute and conduct proceedings reasonably necessary and proper to the exercise of its powers or the performance of its duties.

(2) The Commission shall conduct its proceedings en banc or in panels of:

(i) at least three commissioners; or

(ii) one public utility law judge and at least two commissioners.

(3) A quorum consists of a majority of the Commission or a majority of a panel.

(b) (1) The Commission, a commissioner, or a public utility law judge may conduct hearings, examine witnesses, administer oaths, and perform any other acts necessary to the conduct of proceedings.

(2) The Executive Secretary of the Commission may administer oaths.

(3) Each record of a proceeding of the Commission is a public record.

(c) To the extent necessary to receive public comment for each application for a rate increase, the Commission shall hold a hearing at a convenient location and time during evening hours in the service area affected.

(d) (1) The Commission may delegate to a commissioner or to a public utility law judge the authority to conduct a proceeding that is within the Commission's jurisdiction.

(2) In a delegated proceeding, the commissioner or public utility law judge shall:

(i) conduct the hearing and any other proceeding that the commissioner or public utility law judge considers necessary; and

(ii) file with the Commission, and simultaneously serve on all parties, a proposed order and findings of fact.

(3) The proposed order shall become final unless appealed as provided in § 3–113(d) of this subtitle.

(e) (1) This subsection applies unless, after considering any staff recommendation as to the extent of staff participation, the Commission determines that the public interest would not be served by staff participation.

(2) In each matter before the Commission, the staff of the Commission shall:

(i) analyze the data submitted to the Commission;

(ii) prepare a staff position based on that analysis; and

(iii) make an evidentiary presentation setting forth the staff's analysis of the issues and its recommendations.

(3) In making analyses and recommendations, the staff is:

(i) governed by the criteria in § 2-113 of this article; and

(ii) a party and has the rights of a party to the proceeding, including the rights specified in § 3-107 of this subtitle.

(4) The staff shall present direct and redirect cases of its own, cross-examine, submit briefs, and engage in oral argument as the staff considers necessary to ensure that the Commission has a complete record on all relevant issues in a particular case.

§3–105.

The Commission shall give preferential consideration to the following in descending order:

(1) the hearing and decision of questions involving the rates of a public service company;

(2) requests by a public service company to discontinue or abandon service under any franchise, right, or permit after its expiration date; and

(3) any other questions pending before the Commission.

§3–106.

(a) If a person timely files, the person may apply to intervene in a proceeding before the Commission.

(b) The Commission shall grant leave to intervene unless the Commission concludes that:

(1) the parties to the proceeding adequately represent the interest of the person seeking to intervene; or

(2) the issues that the person seeks to raise are irrelevant or immaterial.

(c) (1) An intervenor has all the rights of a party to a proceeding.

(2) In a proceeding before the Commission, an individual who is an intervenor may represent himself or herself.

§3–107.

In addition to any other right a party in a proceeding before the Commission may be entitled to, the party may:

(1) summon witnesses, present evidence, and present argument;

(2) conduct cross-examination and submit rebuttal evidence; and

(3) take depositions in or outside of the State, subject to regulation by the Commission to prevent undue delay, and in accordance with the procedure provided by law or rule of court with respect to civil actions.

§3–108.

Unless notice is provided to each other party in a case before the Commission, a party or person acting on behalf of a party may not contact ex parte a commissioner or a public utility law judge regarding the merits of the case.

§3–109.

(a) On the request of a party to a proceeding in which a hearing is required or held, the Commission shall issue subpoenas to compel the attendance and testimony of witnesses and the production of documents at a hearing or deposition to be taken by the party.

(b) On its own motion, the Commission may issue a subpoena to compel the attendance and testimony of witnesses and the production of documents at a hearing or deposition to be taken by the Commission.

(c) A subpoena shall be signed and issued by a commissioner or the Executive Secretary of the Commission.

(d) (1) The Commission may exercise the full authority set forth in 42 U.S.C. § 16453(a) through (c) as if set forth in this article.

(2) Nothing in the grant of authority set forth in paragraph (1) of this subsection may be construed to preempt or limit any other authority of the Commission under this article.

(3) In addition to the authority granted to the Commission under federal law to enforce the provisions of 42 U.S.C. § 16453, the circuit courts of the State have jurisdiction to enforce compliance with this subsection.

§3–110.

(a) A person shall:

(1) attend a proceeding before the Commission, if ordered by the Commission, a commissioner, or the Executive Secretary of the Commission; and

(2) give any relevant testimony or produce any relevant evidence, if ordered by the Commission, a commissioner, or an authorized hearing examiner.

(b) (1) If a person refuses without valid cause to comply with an order issued under subsection (a) of this section, on affidavit that sets forth the violation to a court of general jurisdiction, the Commission or a commissioner may apply for an order to show cause why the person should not be held in contempt.

(2) An order issued under paragraph (1) of this subsection shall be returned to the court that issued the order, not less than 2 days and not more than 5 days after the date of issue.

(3) On the return of an order issued under this subsection, if the court determines that the person has violated subsection (a) of this section and persists in the violation, the court may hold the person in contempt.

(c) (1) A person may not refuse to comply with subsection (a)(2) of this section on the ground that giving testimony or producing evidence may tend to incriminate or subject the person to penalty or forfeiture.

(2) Except for perjury committed by an individual giving evidence before the Commission, an individual may not be prosecuted, punished, or subjected to penalty or forfeiture for producing any evidence required under subsection (a) of this section.

§3–111.

(a) In each hearing, the Commission shall prepare an official record that includes testimony and exhibits.

(b) (1) Any evidence, including records possessed by the Commission, that the Commission or a party in a proceeding before the Commission desires to use, shall be offered and made part of the record.

(2) Factual information or evidence not made part of the record may not be considered in the determination of a case.

(c) A copy of a record filed with or by the Commission that is certified by the Commission under its official seal as a true copy of the original, is evidence to the same extent as the original.

(d) (1) The Commission may take notice of judicially cognizable facts and also of general, technical, or scientific facts within its specialized knowledge.

(2) The Commission shall notify each party in an appropriate manner of the material noticed under paragraph (1) of this subsection, and shall provide each party an opportunity to contest the notice by the Commission.

§3–112.

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

(b) In a proceeding involving a temporary or permanent new rate, or a temporary or permanent change in rate, the burden of proof is on the proponent of the new rate or change in rate.

§3–113.

(a) A decision and order of the Commission in a contested proceeding shall:

(1) be based on consideration of the record;

(2) be in writing;

(3) state the grounds for the conclusions of the Commission; and

(4) in the case of a complaint proceeding between two public service companies, be issued within 180 days after the close of the record.

(b) An order of the Commission shall take effect within a reasonable time that the Commission prescribes, and shall continue in force according to the terms of the order unless vacated, suspended, modified, or superseded by further order of the Commission or by a court of competent jurisdiction.

(c) (1) A person served with an order of the Commission shall promptly notify the Commission in writing of receipt of service.

(2) For notification by a corporation under paragraph (1) of this subsection, a person authorized to accept service for the corporation shall sign the notice.

(3) The Commission may require in an order that notice be provided to the Commission:

(i) within the time specified in the order;

(ii) in the same manner as notice provided in paragraph (1) of this subsection; and

(iii) describing if, and to what extent, the order is accepted and will be obeyed.

(d) (1) An order of a panel constituted under § 3–104(a) of this subtitle is final.

(2) (i) A proposed order of a commissioner or public utility law judge under § 3–104(d) of this subtitle becomes final unless a party to the proceeding notes an appeal with the Commission within the time period for appeal designated in the proposed order.

(ii) The time period for appeal designated in the proposed order is 30 days unless the order specifies a shorter period of at least 7 days.

(3) On appeal, the Commission promptly shall:

(i) consider the matter on the record before the commissioner or public utility law judge;

(ii) conduct any further proceedings that it considers necessary including requiring the filing of briefs and the holding of oral argument; and

(iii) issue a final order.

(e) Notwithstanding the Administrative Procedure Act, unless a provision of this article specifically requires the Commission to act through regulation, the Commission may implement any provision of this article by either order or regulation as the Commission deems necessary and proper.

§3–114.

(a) On rehearing, the Commission may:

(1) consider facts not presented in the original hearing, including facts arising after the date of the original hearing; and

(2) abrogate, change, or modify the original order by new order.

(b) Except as otherwise ordered by the Commission, the rehearing or application for the rehearing does not:

(1) stay the enforcement of an order of the Commission; or

(2) excuse a person affected by the order from complying with the terms of the order.

(c) (1) A party in interest may apply to the Commission for rehearing within 30 days after service of a final order on the party.

(2) The Commission may:

(i) act on the application; and

(ii) rehear a final order or conduct further proceedings on its own motion after the filing of a proposed order, as the Commission considers necessary.

(3) If a rehearing is granted on an application under this subsection, the Commission shall decide the case within 30 days after the case is finally submitted on rehearing.

§3–201.

(a) Notwithstanding § 10-120 of the State Government Article, the validity of a regulation of the Commission shall be challenged in accordance with § 10-125 of the State Government Article.

(b) A party to a Commission proceeding, a person that has been granted intervention in a Commission proceeding, or a person that has been ordered to participate in a Commission proceeding that seeks to challenge a decision by the Commission to act by order rather than regulation shall seek judicial review of the Commission's decision within 30 days after the Commission issues a final order in that proceeding.

(c) Notwithstanding any provision of the Administrative Procedure Act, an order of the Commission issued on or before June 30, 2000 in a generic or quasi-legislative proceeding, that is not the subject of a judicial proceeding pending as of June 1, 2004, is not invalid or unenforceable as a result of the order meeting the

definition of a regulation under § 10-101 of the State Government Article.

§3–202.

(a) Except for the staff of the Commission, a party or person in interest, including the People's Counsel, that is dissatisfied by a final decision or order of the Commission may seek judicial review of the decision or order as provided in this subtitle.

(b) The Secretary of Natural Resources may seek judicial review under this subtitle of a final decision or order of the Commission made under §§ 7-201 through 7-204, § 7-207, or § 7-208 of this article that relates to the environmental aspects of power plant siting.

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

(d) If the Motor Vehicle Administration suspends or revokes the registration of a motor vehicle carrier in accordance with an order of the Commission, only the order of the Commission is subject to review under this section.

§3–203.

Every final decision, order, or regulation of the Commission is prima facie correct and shall be affirmed unless clearly shown to be:

(1) unconstitutional;

(2) outside the statutory authority or jurisdiction of the Commission;

(3) made on unlawful procedure;

(4) arbitrary or capricious;

(5) affected by other error of law; or

(6) if the subject of review is an order entered in a contested proceeding after a hearing, unsupported by substantial evidence on the record considered as a whole.

§3–204.

(a) A proceeding for review under § 3-202 of this subtitle shall be instituted in:

(1) the circuit court in equity for any county in which the public service company involved in the proceeding operates; or

(2) the Circuit Court in equity for Baltimore City.

(b) If more than one proceeding to review an order or final decision of the Commission is instituted, on motion of any party, the court may transfer the proceeding to another court that has jurisdiction.

(c) If a rehearing by the Commission is applied for, a proceeding for judicial review may be filed after service of the decision of the Commission that denies the rehearing.

(d) The Commission may be a party to an appeal made under this section.

§3–205.

The Commission may, on terms it considers appropriate, stay the enforcement of a regulation or order that is the subject of a proceeding for review under this subtitle.

§3–206.

(a) After an answer has been filed in a proceeding for review under § 3-202 of this subtitle, the matter shall stand ready for trial on 15 days' notice by any party.

(b) (1) This subsection does not apply to proceedings before the Court of Special Appeals or the Court of Appeals.

(2) A court shall give preference to a proceeding under this subtitle over all other civil actions except actions concerning elections, regardless of the position of the other actions on the docket.

(3) A court shall always be open for the trial of a proceeding under this subtitle.

§3–207.

(a) (1) (i) By stipulation of all parties to a proceeding for review under § 3-202 of this subtitle, the court may shorten the record to be transmitted to the court.

(ii) If the court determines that a party's refusal to stipulate to limit the record is unreasonable, the court may assess the additional costs against the refusing party.

(2) The court may require or allow corrections of the record before the Commission or the certification of additional parts of the record as the court considers appropriate.

(b) Notwithstanding any other provision of law or rule of court to the contrary, a transcript need not be filed until after the expiration of the period of time for the filing of an answer.

§3–208.

(a) (1) Any party may introduce new evidence on judicial review.

(2) If the evidence presented on judicial review is materially different from the evidence presented at the hearing before the Commission, the court shall:

(i) unless all parties stipulate in writing to the contrary, refer a transcript of the new evidence to the Commission; and

(ii) stay the proceedings for a period of time that the court considers appropriate.

(b) (1) On receipt of a transcript in accordance with subsection (a)(2)(i) of this section, the Commission may modify its findings based on the new evidence.

(2) Within a period of time that the court specifies, the Commission shall file with the court a report of any action taken based on the new evidence.

(c) (1) If, on referral, the Commission rescinds the action on which the appeal was taken, the court shall dismiss the appeal and any modification made by the Commission shall stand in place of the original action.

(2) If, on referral, the Commission does not rescind or modify the original action, the court shall render judgment on the original order.

(d) Further evidence may not be introduced in the reviewing court after referral to the Commission under this section unless the court finds that serious injustice would otherwise result from the failure to allow the introduction of the new evidence.

(e) The provisions of § 3-110(c) of this title relating to incriminating testimony apply to proceedings for judicial review under this subtitle.

§3–209.

A party aggrieved by a final judgment in any proceeding under this subtitle may appeal the judgment to the Court of Special Appeals in the manner provided by law for appeals in other civil cases.

§4–101.

In this title, "just and reasonable rate" means a rate that:

(1) does not violate any provision of this article;

(2) fully considers and is consistent with the public good; and

(3) except for rates of a common carrier, will result in an operating income to the public service company that yields, after reasonable deduction for depreciation

and other necessary and proper expenses and reserves, a reasonable return on the fair value of the public service company's property used and useful in providing service to the public.

§4–102.

(a) This section does not apply to small rural electric cooperatives.

(b) The Commission shall have the power to set a just and reasonable rate of a public service company, as a maximum rate, minimum rate, or both.

(c) (1) The Commission shall issue an order, including the rate set under subsection (b) of this section.

(2) The Commission shall serve the order on each affected public service company.

§4–103.

(a) In setting just and reasonable rates under this title, the Commission may not discourage the use of employee stock ownership plans by public service companies by denying to the public service companies the full benefits of investment tax credits provided in connection with these plans by the Internal Revenue Code.

(b) A public service company may not charge off lobbying expenses against its ratepayers.

§4–201.

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

§4–202.

(a) Except as provided in subsection (c)(1) of this section and subject to subsection (c)(2) of this section, a public service company shall file with the Commission a tariff schedule of its rates and charges for its regulated services and for standard offer service as provided in § 7–505(b)(8) of this article.

(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.

(c) (1) (i) A telephone company that is regulated using an alternative form of regulation under § 4–301 of this title for baskets of services is not required to file with the Commission a tariff schedule of its rates and charges for its regulated retail services that are included in Basket 4 "Discretionary Services" and Basket 5 "Competitive Services".

(ii) A telephone company that is not regulated using an alternative form of regulation under § 4–301 of this title for baskets of services is not required to file with the Commission a tariff schedule of its rates and charges for its regulated retail services that, as determined by the Commission, are similar to the services included in Basket 4 "Discretionary Services" and Basket 5 "Competitive Services".

(2) Notwithstanding any other law, except as provided in paragraph (1) of this subsection, if the Commission finds after notice and hearing that it is in the public interest, the Commission may allow a telephone company that has 20,000 or fewer subscribers to provide a regulated service without requiring the telephone company to file a tariff schedule of its rates and charges for the regulated service.

(3) The Commission may issue orders or adopt regulations that the Commission determines necessary to regulate a service in which a telephone company is not required to file a tariff schedule of its rates and charges under this subsection.

§4–203.

(a) Unless otherwise ordered by the Commission, a public service company may not establish a new rate or change in rate unless the public service company:

(1) provides to the Commission notice of the new rate or change in rate at least 30 days before the new rate is established or current rate is changed; and

(2) publishes the new rate or change in rate in accordance with § 4-202 of this subtitle during the entire 30 day notice period in new schedules or plainly indicated amendments to existing schedules.

(b) The public service company shall plainly set forth in the notice and publication:

(1) the changes that it proposes to the rate schedules currently in force; and

(2) the effective date of the changes.

§4–204.

(a) (1) The Commission may suspend, effective immediately and without formal proceedings, any new rate or change in rate proposed by a public service company.

(2) Unless suspended by the Commission, and subject to § 4-203 of this subtitle, a new rate or change in rate proposed by a public service company takes effect on the date specified in the rate application.

(3) The Commission shall furnish to the public service company proposing a rate a written statement of the reasons for the suspension.

(b) (1) The Commission promptly shall institute proceedings to consider whether the suspended rate is a just and reasonable rate.

(2) The Commission may:

(i) suspend the rate initially for not more than 150 days after the proposed effective date; and

(ii) extend the suspension for an additional 30 days if the Commission finds that the proceedings cannot be completed within the initial suspension period.

(3) Subject to subsection (c) of this section, after the suspension or extension under paragraph (2) of this subsection expires, if the Commission has not entered a final order, the new rate or change in rate proposed by the public service company takes effect.

(c) (1) If a proposed new rate or rate increase takes effect before the Commission enters a final order in the proceedings, if practicable, the Commission may order the public service company that proposes the rate to keep a detailed and accurate account of:

(i) all amounts received under the new rate or rate increase; and

(ii) the persons on whose behalf the amounts are paid.

(2) After the proceedings conclude, the Commission may require the public service company to refund with interest, to each person listed under paragraph (1)(ii) of this subsection, the part of the new rate or rate increase that the Commission finds unjustified.

(3) If a refund is not practicable, the public service company shall charge off and amortize the difference between the operating revenues under the rate charged and the operating revenues that would have been obtained from the same volume of business from the final set rate, through a temporary rate decrease for the period that the Commission sets.

§4–205.

(a) The Commission may set a temporary rate for any public service company that is higher or lower than the rate previously in effect.

(b) The Commission may set a temporary rate after hearing only if the Commission finds that:

(1) pending a final rate proceeding, the rate in force is not a just and reasonable rate; and

(2) the temporary rate is necessary in the interest of justice in view of the length of time that must elapse before a final order may be entered.

(c) If the order involves a temporary rate increase, and refund to the consumer is practicable, the public service company shall post a bond, with security and in an amount that the Commission approves, payable to the State and conditioned to ensure prompt refund with interest to each consumer of each amount received by the public service company from the consumer above the final rates that the Commission sets.

(d) Any temporary change in rate shall equal the amount found by the Commission to be higher or lower than a just and reasonable rate.

(e) (1) The temporary change in rate under subsection (d) of this section shall remain in effect for an initial period of not more than 9 months.

(2) The Commission may order the temporary change to be extended by not more than 3 months.

(f) (1) If the final rate set is higher than the rate set in the order for a temporary rate, the public service company may amortize and recover over a period that the Commission sets, through a temporary increase over the final rate set, the difference between the operating revenue obtained under the order for a temporary rate and the operating revenue that would have been obtained from the same volume of business from the final rate set.

(2) If the rate in the order for a temporary rate is higher than the final rate set, the Commission shall order a refund, charge off, or amortization under § 4-204(c) of this subtitle.

§4–206.

(a) At any time, the Commission may investigate and determine the fair value of the property of a public service company used and useful in providing service to the public.

(b) (1) The valuation:

(i) is not final until the Commission:

1. serves on the public service company a copy of the order setting the proposed valuation and the method used to set the valuation; and

2. allows a reasonable time in which to file a protest; and

(ii) is final if a protest is not filed within the time specified in the order.

(2) If a timely protest is filed, the Commission shall enter a final valuation by order after hearing.

(c) All final valuations are prima facie evidence of value in proceedings under this division.

§4–207.

(a) This section applies only to a gas company, electric company, or telephone company whose gross annual revenues, for the most recent calendar year for which data are available, are less than 3% of the total gross annual revenues of all public service companies in the State during the same calendar year.

(b) (1) When the Commission suspends a proposed new rate for a company subject to this section that is based on the existing authorized fair rate of return, the Commission promptly shall institute proceedings to determine if additional revenues are required to allow the company to earn the existing fair rate of return authorized in the previous base rate proceeding.

(2) The Commission shall:

(i) serve each of the parties to the previous base rate proceeding of that company with a copy of the suspension order; and

(ii) order the company to publish a display advertisement about the proposal in newspapers of general circulation in its service area.

(3) Proceedings under this section shall:

(i) account for revenues, expenses, and rate base in the same manner that the Commission employed in determining a just and reasonable rate in the previous base rate proceeding; and

(ii) exclude consideration of any increase in the rate of return, any change in rate structure, or any change in an accounting approach to any item pertaining to revenues, expenses, or rate base inconsistent with that used by the Commission in determining a just and reasonable rate in the previous base rate proceeding on the company.

(4) In proceedings under this section, the Commission may use a more recent past test period than that used in the previous base rate proceeding for the company.

(5) The Commission shall enter a final order as to the revenue requirement determined under this section within 90 days after the proposed new rate is filed.

(6) The final order shall:

(i) authorize a new rate distributing any change in the revenue requirement proportionally among the ratepayers without change in the rate structure; and

(ii) state whether further proceedings shall be held.

(7) If, in the final order, the Commission decides to conduct further proceedings under subsection (c) of this section, the final order may provide for refund, consistent with the provisions of § 4-204(c) of this subtitle, of any difference between the new rate authorized under this subsection and the rate the Commission sets under subsection (c) of this section.

(c) (1) If the Commission decides to conduct further proceedings under subsection (b) of this section, the Commission, after a hearing, may:

(i) modify the rate structure;

(ii) lower the authorized fair rate of return; or

(iii) modify the accounting approach to an item that pertains to revenues, expenses, or rate base.

(2) The Commission shall take any action under this subsection within 120 days after entry of a final order under subsection (b) of this section.

(d) (1) This section does not apply to a proposed new rate that is filed:

(i) less than 1 year after a previously proposed new rate under this section is filed; or

(ii) with a request for temporary rates under § 4-205 of this subtitle.

(2) (i) A company may not file a proposed new rate under this subtitle if any proposed new rate filed by the company under this section is pending, or a new rate filed by the company under this section has been in effect fewer than 90 days.

(ii) This paragraph does not preclude a company from filing a proposed new rate for a new service if the proposal does not affect the authorized rate of return.

(3) Unless the Commission provides otherwise, this section does not apply to a proposed new rate that is filed more than 3 years after the Commission

enters a final order authorizing the existing fair rate of return in the previous base rate proceeding.

§4–208.

(a) This section applies to a public service company that:

(1) provides gas or electric services;

(2) is subject to a cost allocation manual approved by the Commission;

(3) (i) engages in an unregulated business activity; or

(ii) has a subsidiary that engages in an unregulated business activity; and

(4) does not meet the standards for rate proceedings provided for under § 4-207 of this subtitle.

(b) (1) A public service company subject to this section shall file an independent audit opinion prepared by an entity approved by the Commission on the earliest of:

(i) once every 2 years; or

(ii) when the public service company:

1. files a request for a change in its base rate under this subtitle; or

2. has a major change in its corporate organization or structure as determined by the Commission.

(2) The independent auditor shall:

(i) examine:

1. compliance by the public service company with policies and procedures of the public service company's cost allocation manual;

2. proper allocation of costs to an affiliate of the public service company in accordance with the manual; and

3. appropriate charging of costs and transactions relative to the manual to the public service company and its affiliates; and

(ii) identify adjustments that should be made:

1. to the manual consistent with prior Commission rulings;

and

2. to the public service company or to an affiliate of the public service company relative to the examination of the allocation of costs and charging of costs and transactions.

(c) The cost of the independent audit opinion filed under subsection (b) of this section shall be borne by the stockholders of the public service company.

§4–209.

(a) With respect to the net capital costs associated with the relocation underground of utility lines and facilities in connection with projects required by § 8–401 of the Land Use Article, the Commission shall:

(1) set the amount of the monthly surcharge required to support the costs and determine which customers of the applicable utility are subject to the surcharge;

(2) include in the rate base the related net capital costs; or

(3) adopt another method to apportion the costs appropriately.

(b) A utility may not be required to pay more than 50% of the net capital costs of a relocation project.

(c) A county or municipal corporation may appropriate money for a relocation project from appropriate federal, State, and local funds it receives for this purpose.

§4–210.

(a) (1) In this section the following words have the meanings indicated.

(2) "Customer" means a retail natural gas customer.

(3) "Eligible infrastructure replacement" means a replacement or an improvement in an existing infrastructure of a gas company that:

(i) is made on or after June 1, 2013;

(ii) is designed to improve public safety or infrastructure reliability;

(iii) does not increase the revenue of a gas company by connecting an improvement directly to new customers;

(iv) reduces or has the potential to reduce greenhouse gas emissions through a reduction in natural gas system leaks; and

(v) is not included in the current rate base of the gas company as determined in the gas company's most recent base rate proceeding.

(4) "Plan" means a plan that a gas company files under subsection (d) of this section.

(5) "Project" means an eligible infrastructure replacement project proposed by a gas company in a plan filed under this section.

(b) It is the intent of the General Assembly that the purpose of this section is to accelerate gas infrastructure improvements in the State by establishing a mechanism for gas companies to promptly recover reasonable and prudent costs of investments in eligible infrastructure replacement projects separate from base rate proceedings.

(c) This section does not apply to a gas cooperative.

(d) (1) A gas company may file with the Commission:

(i) a plan to invest in eligible infrastructure replacement projects; and

(ii) in accordance with paragraph (4) of this subsection, a cost–recovery schedule associated with the plan that includes a fixed annual surcharge on customer bills to recover reasonable and prudent costs of proposed eligible infrastructure replacement projects.

(2) A plan under this subsection shall include:

(i) a time line for the completion of each eligible project;

(ii) the estimated cost of each project;

(iii) a description of customer benefits under the plan; and

(iv) any other information the Commission considers necessary to evaluate the plan.

(3) (i) When calculating the estimated cost of a project under paragraph (2) of this subsection, a gas company shall include:

1. the pretax rate of return on the gas company's investment in the project;

2. depreciation associated with the project, based on new assets less retired plant; and

3. property taxes associated with the project, based on new assets less retired plant.

(ii) The estimated project costs described in subparagraph (i) of this paragraph are collectible at the same time the eligible infrastructure replacement is made.

(iii) The pretax rate of return under subparagraph (i)1 of this paragraph shall:

1. be calculated using the gas company's capital structure and weighted average cost of capital as the Commission approved in the gas company's most recent base rate proceeding; and

2. include an adjustment for bad debt expenses as the Commission approved in the gas company's most recent base rate proceeding.

(4) For a plan filed under this section:

(i) the cost–recovery schedule shall include a fixed annual surcharge that:

1. may not exceed $2 each month on each residential customer account; and

2. for each nonresidential customer account, may not be less than the fixed annual surcharge applicable to a residential customer account, but shall be capped under item (ii) of this paragraph; and

(ii) to create a surcharge cap for all customer classes, costs shall be allocated to nonresidential and residential customers consistent with the proportions of total distribution revenues that those classes bear in accordance with the most recent base rate proceeding for the gas company.

(5) In a base rate proceeding after approval of a plan, the Commission shall, in establishing a gas company's revenue requirements, take into account any benefits the gas company realized as a result of a surcharge approved under the plan.

(6) Any adjustment for return on equity based on an approved plan only shall be considered and determined in a subsequently filed base rate case.

(e) (1) Within 180 days after a gas company files a plan, the Commission:

(i) may hold a public hearing on the plan; and

(ii) shall take a final action to approve or deny the plan.

(2) Within 120 days after a gas company files an amendment to an approved plan, the Commission shall take final action to approve or deny the amendment.

(3) The Commission may approve a plan if it finds that the investments and estimated costs of eligible infrastructure replacement projects are:

(i) reasonable and prudent; and

(ii) designed to improve public safety or infrastructure reliability over the short term and long term.

(4) (i) The Commission shall approve the cost–recovery schedule associated with the plan at the same time that it approves the plan.

(ii) Costs recovered under the schedule approved in subparagraph (i) of this paragraph may relate only to the projects within the plan approved by the Commission.

(5) The Commission may not consider a revenue requirement or rate–making issue that is not related to the plan when reviewing a plan for approval or denial unless the plan is filed in conjunction with a base rate case.

(f) (1) Subject to paragraph (2) of this subsection, if the Commission does not take final action on a plan within the time period required under subsection (e) of this section, the gas company may implement the plan.

(2) If a gas company implements a plan that the Commission has not approved, the gas company shall refund to customers any amount of the surcharge that the Commission later determines is not reasonable or prudent, including interest.

(g) (1) (i) A surcharge under this section shall be in effect for 5 years from the date of initial implementation of an approved plan.

(ii) 1. Before the end of the 5–year period, the gas company shall file a base rate case application.

2. In a base rate proceeding filed under subsubparagraph 1 of this subparagraph, if a plan approved by the Commission remains in effect:

A. eligible infrastructure project costs included in base rates in accordance with a final Commission order on the base rate case shall be removed from a surcharge; and

B. the surcharge mechanism shall continue for eligible future infrastructure project costs that are not included in the base rate case.

(2) (i) If the actual cost of a plan is less than the amount collected under a surcharge, the gas company shall refund to customers the difference on customer bills, including interest.

(ii) If the actual cost of a plan is more than the amount collected under the surcharge and the Commission determines that the higher costs were reasonably and prudently incurred, the Commission shall authorize the gas company to increase the surcharge to recover the difference, subject to the rate limit under subsection (d)(4) of this section.

(h) Each year a gas company shall file with the Commission a reconciliation to adjust the amount of a surcharge to account for any difference between the actual cost of a plan and the actual amount recovered under the surcharge.

(i) If, after approving a surcharge in a plan, the Commission establishes new base rates for the gas company that include costs on which the surcharge is based, the gas company shall file a revised rate schedule with the Commission that subtracts those costs from the surcharge.

(j) (1) The Commission may review a previously approved plan.

(2) If the Commission determines that an investment of a project or cost of a project no longer meets the requirements of subsection (e)(3) of this section, the Commission may:

(i) reduce future base rates or surcharges; or

(ii) alter or rescind approval of that part of the plan.

§4–301.

(a) Notwithstanding § 4-101 of this title or any other law to the contrary, the Commission may regulate a telephone company through alternative forms of regulation.

(b) 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:

(1) protects consumers by, at a minimum:

(i) producing affordable and reasonably priced basic local exchange service, as defined by the Commission; and

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

(2) encourages the development of competition; and

(3) is in the public interest.

(c) An alternative form of regulation may include:

(1) price regulation;

(2) revenue regulation;

(3) ranges of authorized return;

(4) rate of return;

(5) categories of services; or

(6) price indexing.

§4–302.

(a) (1) In this subsection, "operating ratio" means the relationship of common carrier expenses to common carrier operating revenues.

(2) In considering proper revenue under subsection (b)(3) of this section, the Commission shall determine a fair and equitable operating ratio.

(b) In setting a just and reasonable rate for common carriers, and classifications, regulations, and practices relating to common carriers, the Commission shall consider, among other factors:

(1) the inherent advantages of transportation by common carriers;

(2) the need, in the public interest, of adequate and efficient transportation services by common carriers at the lowest cost consistent with furnishing these services; and

(3) the need of revenues sufficient to enable common carriers to provide these services under honest, economical, and efficient management.

§4–303.

(a) The Commission shall establish pilotage fees and charges for pilotage services to vessels at a just and reasonable rate.

(b) The Commission shall give notice and hold a public hearing on each rate proposal as provided in this article.

(c) In determining a just and reasonable rate, the Commission shall consider:

(1) the draft, dimensions, and tonnage of the vessel piloted;

(2) the difficulty and inconvenience of the particular service and the time and skill required to render the service;

(3) the time required to render pilotage service at other United States ports and the fees and charges for the service;

(4) the public interest in maintaining efficient and reliable pilotage service; and

(5) other factors relevant to the determination of a just and reasonable

rate.

(d) A pilot may not demand or receive a different compensation for providing pilotage service than the rate set by the Commission under this section.

(e) The Commission shall impose an assessment on the Association of Maryland Pilots based on assessment guidelines established for public service companies under § 2-110 of this article. The assessment imposed under this subsection may not be less than $25,000.

(f) All pilotage fees and charges provided by applicable law shall remain in effect until changed by the Commission.

§4–303.1.

(a) The Commission shall establish fees and charges for a licensed docking master to provide docking services in the Ports of Maryland at a just and reasonable rate.

(b) The Commission shall give notice and hold a public hearing on each rate proposal as provided in this article.

(c) In determining a just and reasonable rate, the Commission shall consider:

(1) the draft, dimensions, and tonnage of the vessel;

(2) the difficulty and inconvenience of the particular service and the time and skill required to render the service;

(3) the time required to render docking service at other United States ports and the fees and charges for the service;

(4) the public interest in maintaining efficient and reliable docking service; and

(5) other factors relevant to the determination of a just and reasonable rate.

(d) A docking master licensed under Title 5.5 of the Business Occupations and Professions Article may not demand or receive a different compensation for providing docking services than the rate set by the Commission under this section.

(e) The Commission shall impose an assessment on the association based on assessment guidelines established for public service companies under § 2-110 of this article.

(f) All fees and charges provided by applicable law shall remain in effect until changed by the Commission.

§4–304.

(a) In this section, "jurisdiction" means a county or municipal corporation.

(b) This section does not apply if rates for sewage disposal service are specified in a contract between the jurisdictions that supply and receive the sewage disposal service.

(c) The Commission shall set only the rates for sewage disposal service that one jurisdiction supplies within the taxable limits of another jurisdiction:

(1) on written application by the jurisdiction that receives the service; and

(2) in the same way as rates are set for sewage disposal companies.

§4–305.

(a) In this section, "jurisdiction" means a county, sanitary district, or municipal corporation.

(b) This section does not affect §§ 35-138, 35-140, 35-141, and 35-145 of the Code of Public Local Laws of Baltimore County.

(c) The Commission shall set only the rates for water that one jurisdiction supplies within another jurisdiction:

(1) on written application by the jurisdiction that receives the water; and

(2) in the same way as rates are set for water companies.

§4–306.

(a) This section applies to any municipal corporation in Talbot County that supplies water to an area outside the boundaries of the municipal corporation.

(b) On written application, the Commission may grant the applicant a certificate of authority to establish a service area outside of its boundaries and to supply that service area with water.

§4–401.

As it considers necessary, and in accordance with the requirements of § 4-402 of this subtitle, the Commission may allow a gas company or electric company to establish a sliding scale to adjust costs of its fuel, purchased power, or purchased gas.

§4–402.

(a) (1) This section applies to:

(i) electric fuel rate adjustment clauses;

(ii) purchased power adjustment clauses; and

(iii) purchased gas adjustment clauses.

(2) This section does not apply to a small rural electric cooperative.

(b) A gas company or electric company that directly passes on to its customers changes in fuel costs, costs of purchased power, or costs of purchased gas shall verify and justify the adjusted costs to the Commission each month.

(c) The Commission shall order a company to charge off and amortize, by means of a temporary decrease of rates, any charge the Commission finds is unjustified because:

(1) the company failed to show that the charges were based solely on increased costs of fuel, purchased power, or purchased gas;

(2) the company failed to follow competitive practices in procuring and purchasing fuel, power, or gas; or

(3) the company failed to show that its practices in procuring and purchasing fuel were reasonable.

(d) At least once every 12 months, the Commission shall conduct a public evidentiary hearing on any changes in costs that a company directly passes on to its customers under this section.

§4–501.

(a) In its utility operations, a public service company may not:

(1) sell, render services, or furnish a commodity until the public service company files and publishes its rate schedules in accordance with § 4–202 of this title; or

(2) demand or collect:

(i) compensation that differs from compensation specified in its rate schedules that are in force at the time of the demand or collection; or

(ii) a charge that violates this division.

(b) A person may not assist, allow, or attempt to assist or allow the actions prohibited under this section by any means, including false billing, false classification, false weighing, or false report of weight, even if a public service company or its personnel consents to or connives with the prohibited action.

§4–502.

In an action by a public service company to collect a charge, the public service company may not recover any amount if, in the transaction that is the subject of the action, the public service company demanded a rate greater than that lawful under this division when the charge was made.

§4–503.

(a) This section does not apply to service rendered or commodities furnished:

(1) to the officers, employees, pensioners, and immediate family members of the officers, employees, and pensioners of a public service company;

(2) to the United States, the State, or a local government;

(3) to provide relief in cases of general epidemic, pestilence, flood, or other similar calamity;

(4) in the case of common carriers, to transport:

(i) personnel of another common carrier that reciprocates for personnel of the transporting common carrier;

(ii) hospital patients;

(iii) indigent, destitute, and homeless individuals;

(iv) persons exclusively engaged in charitable work;

(v) residents of federal or State veterans homes, including those about to enter a home or those returning from a home;

(vi) railway mail service employees and baggage agents;

(vii) post office, customs, and immigration inspectors;

(viii) newspaper vendors;

(ix) property for exhibition carried to or from fairs and expositions;

(x) employees of sleeping car companies, express companies, telegraph companies, and telephone companies doing business along the line of the common carrier;

(xi) persons and property incident to or connected with contracts for construction, operation, or maintenance of the plant of the transportation company, to the extent provided in the contracts;

(xii) individuals injured in accidents and physicians, nurses, or other necessary caretakers attending the injured individuals in transit;

(xiii) children under the age of 5 years for no charge;

(xiv) children under 12 years for half fare; or

(xv) persons at free or reduced rates that are otherwise authorized by law;

(5) in the case of common carriers, for the issuance of mileage, excursion, or commuter tickets;

(6) to free steamboat excursion transportation from May through August of each year, from Baltimore City to any place in the State, in exchange for services rendered in advertising the excursion business;

(7) to obtain essential data by a method that uses a limited sample of customers, in connection with a rate structure study conducted under formal proceedings before the Commission; or

(8) to telephone lifeline service provided to eligible subscribers under § 8-201 of this article.

(b) For any service rendered or commodity furnished, a public service company may not directly or indirectly, by any means, including special rates, rebates, drawbacks, or refunds:

(1) charge, demand, or receive from a person compensation that is greater or less than from any other person under substantially similar circumstances;

(2) extend a privilege or facility to a person, except those privileges and facilities that are extended uniformly to all persons under substantially similar circumstances;

(3) discriminate against a person, locality, or particular class of service; or

(4) give undue or unreasonable preference to or cause undue or unreasonable prejudice to a person, locality, or particular class of service.

§5–101.

(a) After providing notice and an opportunity for interested parties to be heard, the Commission may adopt regulations that prescribe standards for safe, adequate, reasonable, and proper service for any class of public service company or gas master meter operator.

(b) The standards adopted under subsection (a) of this section shall best

promote, in the opinion of the Commission, the security or convenience of:

(1) the public;

(2) those employed in furnishing services; and

(3) those to whom services are rendered.

(c) The Commission may:

(1) enforce the standards adopted under this section; and

(2) by order, as the Commission considers necessary, require changes and additions in the service of any public service company or gas master meter operator, including:

(i) repairs or improvements in plant;

(ii) increase in motive power; and

(iii) change in schedule or manner of operations.

§5–102.

(a) The Commission may:

(1) as it considers reasonable and proper, order a common carrier to issue mileage, excursion, school commuter, passenger commuter, or joint interchangeable mile tickets for all or part of the common carrier's route in the State; and

(2) require any two or more common carriers, whose lines form a continuous line of transportation or whose lines could form a continuous line of transportation by means of switch connection, to:

(i) establish through routes and joint rates;

(ii) provide for the manner of securing the through routes or paying the joint rates; and

(iii) apportion the through routes and joint rates between the affected common carriers.

(b) This section:

(1) is subject to § 7-208(f) of the Transportation Article; and

(2) does not limit § 5-101 of this subtitle.

§5–103.

(a) (1) The Commission may require a public service company to continue any service that the public service company renders to the public under any franchise, right, or permit, after any applicable expiration date.

(2) Unless authorized by the Commission, a public service company may not discontinue or abandon a service under a franchise, right, or permit.

(3) The Commission may authorize a public service company to discontinue or abandon a service under a franchise, right, or permit if the Commission finds that the present or future public convenience and necessity allows the discontinuance or abandonment.

(4) Denial of authorization to discontinue or abandon a service under a franchise, right, or permit does not preclude subsequent reapplication.

(b) (1) Whenever the Commission authorizes the abandonment or discontinuance of a franchise, right, or permit, as a whole or in part, that involves any service to or from a suburban community, the Commission:

(i) shall consider all applications to acquire the franchise, right, or permit to render the service; and

(ii) shall grant the application to the best qualified applicant.

(2) An abandoned or discontinued right that extends between mid-city and suburban termini shall continue to extend between the mid-city and suburban termini if the abandoned or discontinued right:

(i) as acquired by the abandoning or discontinuing public service company or its predecessor, extended from mid-city to suburban termini; or

(ii) was operated between the mid-city and suburban termini during most of its existence or for an aggregate of at least 15 years.

§5–104.

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

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

(1) revive a lapsed franchise;

(2) validate an invalid franchise;

(3) enlarge or add to the powers and privileges of a franchise; or

(4) waive a forfeiture.

§5–105.

The Commission shall require each gas company, electric company, and telephone company to exempt the dwelling units of subscribing individuals who are at least 60 years old from any cash deposit requirement, if the subscriber does not owe any past-due bill to that public service company.

§5–106.

Before a license or permit may be issued under this article to an employer to engage in an activity in which the employer may employ a covered employee, as defined in § 9-101 of the Labor and Employment Article, the employer shall file with the issuing authority:

(1) a certificate of compliance with the Maryland Workers' Compensation Act; or

(2) the number of a workers' compensation insurance policy or binder.

§5–201.

(a) A public service company may not exercise a franchise granted by law except to the extent authorized by the Commission.

(b) A public service company may not exercise a franchise unless it files with the Commission:

(1) a certified copy of its charter; and

(2) a statement by its president and secretary, signed under oath, that the appropriate local authorities have provided the required consent for the exercise of the franchise.

§5–202.

Without prior authorization of the Commission, a public service company may not:

(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.

§5–203.

(a) This section does not apply to a merger of or transfer of stock or other ownership interest between:

(1) a telephone company; and

(2) another entity with a greater than 50% ownership in common with the telephone company.

(b) Subject to § 6–101 of this article, without prior authorization of the Commission, a public service company may not purchase, acquire, take, or hold any part of the capital stock of another public service company that operates in Maryland.

(c) (1) This subsection applies to corporations that operate in Maryland.

(2) Except as provided in paragraph (5) of this subsection, without prior authorization of the Commission, a public service company may not:

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

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

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

(4) The Commission shall take action on an application for authorization under this section within a reasonable time after receipt.

(5) Prior authorization of the Commission is not required for an assumption or guarantee under paragraph (2)(i) of this subsection or an issuance under paragraph (2)(ii) of this subsection made by a gas company, electric company, or telephone company whose gross annual revenues, for the most recent calendar year for which data are available, are less than 3% of the total gross annual revenues of all public service companies in the State during the same calendar year, if the gas company, electric company, or telephone company:

(i) provides prior written notice to the Commission of the transaction; and

(ii) obtains approval of the transaction from the entity in another state that regulates the gas company, electric company, or telephone company.

§5–204.

(a) This section does not apply to:

(1) a municipal corporation, sanitary district, or other unit of government;

(2) an individual, for the construction of a water system or sewage disposal system for the individual's personal or private use; or

(3) a group of individuals for their joint personal or private use, unless the Commission finds that the joint use is for the purpose of generally serving a proposed new housing development.

(b) Without the prior authorization of the Commission, a person may not construct a water system or sewage disposal system for public use.

(c) (1) The Commission may authorize the construction of a water system or sewage disposal system for public use only on a finding that the construction of the water system or sewage disposal system is in the public interest.

(2) In determining whether the proposed construction of the water system or sewage disposal system is in the public interest, the Commission shall consider:

(i) the financing plans for the proposed construction; and

(ii) other pertinent facts and circumstances.

(d) An applicant for authorization to construct a water system or sewage disposal system:

(1) shall fully disclose to the Commission the financing plans for the construction; and

(2) has the burden of proof to satisfy the Commission that the construction is in the public interest.

(e) (1) After a hearing, the Commission may revoke an authorization to construct a water system or sewage disposal system if the Commission finds that the revocation is in the public interest.

(2) An order of revocation may be appealed in accordance with § 3-204 of this article.

(3) Subject to action of the Commission under § 3-205 of this article, the filing of an appeal does not stay an order of revocation.

(4) After the Commission issues an order of revocation, the water system or sewage disposal system may not be operated until the revocation is repealed by:

(i) the Commission; or

(ii) the final disposition of an appeal from the order of revocation.

§5–205.

(a) Without prior authorization of the Commission, a person may not transfer a controlling interest in a water company or sewage disposal company to another person.

(b) The Commission may authorize the transfer of a controlling interest in a water company or sewage disposal company if the Commission finds that the transfer is consistent with the public convenience and necessity.

§5–301.

(a) Except as otherwise provided by law, this section does not apply to a requirement or violation of:

(1) Subtitle 4 of this title;

(2) Title 7, Subtitle 1 of this article;

(3) Title 8, Subtitles 1 and 3 of this article; or

(4) Title 9, Subtitle 3 of this article.

(b) A public service company:

(1) shall comply fully with the requirements of this division; and

(2) may not violate any provision of this division.

§5–302.

(a) Except as provided in subsection (b) of this section, a public service company shall file with the Commission:

(1) an annual report for the preceding calendar year; and

(2) special reports, information, contracts, records, and copies as required by the Commission.

(b) Unless otherwise directed by the Commission, a public service company is not required to comply with subsection (a) of this section if the public service company is:

(1) a common carrier; or

(2) a telephone company whose rates are not regulated by the Commission

under Title 4 of this article.

(c) The Commission may require a public service company that files documents under subsection (a) of this section to file the documents under oath.

§5–303.

A public service company shall furnish equipment, services, and facilities that are safe, adequate, just, reasonable, economical, and efficient, considering the conservation of natural resources and the quality of the environment.

§5–304.

(a) (1) A public service company shall notify the Commission of any accident involving the public service company that results in:

(i) personal injury requiring hospitalization;

(ii) property damage exceeding $50,000; or

(iii) loss of life.

(2) The public service company shall notify the Commission within 30 days after the day the accident occurs or within a period that the Commission prescribes.

(b) The notice:

(1) shall be in a form that the Commission prescribes; and

(2) may not be admissible in evidence, or used for any purpose against the public service company that provides the notice, in an action for damages arising out of any matter that is reported in the notice.

§5–401.

Except as otherwise provided in this subtitle or by other law, the provisions of this subtitle are not subject to the jurisdiction of the Commission.

§5–402.

(a) This subtitle does not authorize a corporation to take or use property unless just compensation, as agreed on with the owner or awarded by a jury, has been paid or tendered to the parties entitled to compensation or paid into court.

(b) This subtitle does not authorize the location of a public road on private property without the consent of the owner or the decision of the county commissioners or county council after notice and an opportunity to be heard as required by law for opening or altering public roads.

§5–403.

(a) This section applies to a domestic or foreign corporation that is or may become engaged in the business of transmitting or supplying natural gas, artificial gas, or a mixture of natural and artificial gases.

(b) Subject to subsection (c) of this section, a corporation described in subsection (a) of this section may acquire by condemnation, in accordance with Title 12 of the Real Property Article, rights-of-way or easements necessary to lay, construct, modify, repair, maintain, operate, and remove pipelines and appurtenances to pipelines for transmitting and supplying gas.

(c) (1) Except as provided in paragraph (2) of this subsection, a corporation may not condemn rights-of-way or easements under subsection (b) of this section unless the corporation:

(i) 1. transmits gas directly to local consumers in the State along the corporation's proposed rights-of-way; and

2. offers to contract with those local consumers to supply them directly with gas on terms and conditions subject to the approval of the Commission; and

(ii) has certified to the State Department of Assessments and Taxation the name and address of a resident agent of the corporation in the State, service of process on whom shall bind the corporation until the appointment of a substitute is certified to the State Department of Assessments and Taxation.

(2) Paragraph (1) of this subsection does not affect the right of a corporation that was transmitting natural gas, artificial gas, or a mixture of natural and artificial gases for public use through one or more pipelines in the State on or before June 1, 1931, to condemn for public use necessary rights-of-way or easements for:

(i) a pipeline or appurtenances to a pipeline in use on or before June 1, 1931;

(ii) any incidental relocations of a pipeline or appurtenances to a pipeline in use on or before June 1, 1931; or

(iii) any additional pipelines or appurtenances to pipelines along and on the same routes or along and on any incidental relocations of a pipeline or appurtenances to a pipeline in use on or before June 1, 1931.

(d) This section does not affect the application of any provision of this article that applies generally or specifically to a corporation that is or may become engaged in the business of transmitting or supplying natural gas, artificial gas, or a mixture of natural and artificial gases.

§5–404.

(a) (1) In this section the following words have the meanings indicated.

(2) "Oil pipeline corporation" means a corporation of this State, any other state, or the United States, that is:

(i) engaged in the business of transporting refined petroleum products by pipeline as a common carrier public service corporation; and

(ii) subject to the jurisdiction of either the United States Department of Energy (Federal Energy Regulatory Commission) or the Commission.

(3) (i) "Property" means real property in fee simple or any lesser right, interest, or estate that is necessary for the intrastate or interstate purposes of the oil pipeline corporation or both.

(ii) "Property" includes:

1. privately owned property;

2. property owned by a public body; and

3. property devoted to public use if an acquisition under this section does not materially interfere with that public use.

(b) An oil pipeline corporation that is operating an oil pipeline that existed in the State on or before July 1, 1978, may acquire by condemnation, in accordance with Title 12 of the Real Property Article, any property necessary to:

(1) operate those existing oil pipelines and appurtenances; or

(2) construct and operate additional oil pipelines and appurtenances along, on, adjacent to, or incidentally deviating not more than 50 feet from the routes followed by the corporation's existing rights–of–way.

(c) The right to acquire property under this section may be exercised only in Anne Arundel, Baltimore, Carroll, Cecil, Harford, Howard, Montgomery, and Prince George's counties and Baltimore City.

(d) (1) An oil pipeline corporation shall restore to its original condition any property used for construction or maintenance of a pipeline.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the construction or maintenance of the pipeline and the restoration of the property shall be completed within 7 days after the start of the construction or maintenance on that parcel of property.

(ii) If weather conditions or the nature of the terrain make

completion within 7 days unfeasible, the oil pipeline corporation shall complete the construction or maintenance of the pipeline and the restoration of the property within 30 days.

(e) (1) The right to acquire property under this section may not be exercised unless the oil pipeline corporation, whether or not it is otherwise subject to the jurisdiction of the Commission, first obtains an order from the Commission finding the acquisition to be in the public interest.

(2) Before the Commission makes a finding and issues an order under this subsection, the Commission shall hold a public hearing.

(3) The oil pipeline corporation shall give written notice of the public hearing to all affected property owners.

(f) This section does not affect any other law of the State that applies generally or specifically to oil pipeline corporations.

§5–405.

(a) A railroad company or its authorized agent may agree with the owner to purchase, use, occupy, or divert the owner's land, earth, gravel, stone, timber, streams, materials, or improvements that the company wants for the proper construction or repair of the railroad company's roads or works.

(b) The company may acquire the property by condemnation under Title 12 of the Real Property Article if:

(1) the company cannot agree with the owner of the property; or

(2) an owner:

(i) is a minor, is adjudged to be mentally incompetent, or is under any other legal disability to contract; or

(ii) is absent from the county in which the property is located when the company wants the property.

§5–406.

(a) (1) A railroad company may change the location or grade of any portion of its road if the company finds the change is necessary for any reasonable cause, including to avoid:

(i) inconvenience to public travel;

(ii) dangerous or difficult curves or grades; or

(iii) unsafe or unsubstantial grounds or foundations.

(2) A change of location or grade under this section shall follow the general route of the existing road.

(3) A railroad company may enter on and take land and make surveys necessary to make the change in location or grade in accordance with Title 12 of the Real Property Article.

(b) (1) A railroad company is liable to the owner of the land on which the road was constructed for any damages caused by a change in location or grade of the road.

(2) The amount of damages determined shall be paid to the owner or deposited into court.

(3) An owner shall claim damages within:

(i) 30 days after actual notice of the intended change has been given to the owner, if the owner resides on the premises; or

(ii) 60 days after publication of notice in a newspaper in general circulation in the county, if the owner is a nonresident.

(c) If a railroad company condemns land under this section, the condemnation is binding on the company, unless the company chooses to abandon the location within 30 days after making the condemnation.

§5–407.

(a) A railroad company and the municipal corporation, public officer, or public authority that owns or has control of any road, street, alley, or other public way or ground necessary to locate any part of the railroad may agree on the manner, terms, and conditions allowing the railroad company to use or occupy the road, street, alley, or other public way or ground.

(b) If the parties are unable to agree and the railroad company needs to use or occupy the road, street, alley, or other public way or ground, the railroad company may acquire the property by condemnation in accordance with Title 12 of the Real Property Article.

(c) (1) A railroad company that lays track on any public street, road, alley, or other public way or ground is responsible for any damage done by the location of the track to private property on or near the public way or ground.

(2) The owner of the private property shall bring a civil action for damages under this subsection within 2 years after the completion of the track.

(d) A railroad company may not pass through Baltimore City without the consent of the Mayor and City Council.

§5–408.

The power of a railroad company to condemn land and other property under this subtitle includes the power to condemn, for railroad purposes, private crossings or ways and land and other property to provide substitute outlets.

§5–409.

Sections 5-405, 5-406, and 5-407 of this subtitle apply to all railroads operated by electricity, cable, or other improved motive power, whether the property proposed to be condemned is located in a county or Baltimore City, where streets and alleys have not been opened and occupied as city streets.

§5–410.

(a) This section applies to:

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

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

(3) a corporation formed as a Class 13 corporation under Article 23, § 28 of the Code of 1904; and

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

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

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

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

(c) (1) Before using either the surface of or the ground beneath the streets or highways of Baltimore City, the company shall obtain the consent of the Mayor and City Council.

(2) This subsection does not apply to corporations that were in practical operation on June 1, 1910, and that had laid or constructed lines, pipes, mains, or other structures in Baltimore City, unless the corporations use new and additional streets and highways in Baltimore City for their lines, pipes, mains, or other structures.

(d) This section does not authorize a telephone company described in

subsection (a)(4) of this section that, as of September 30, 1993, did not have the power of condemnation granted to a telegraph company under §§ 8-103, 8-104, 8-105, and 8-106(a) of this article, to acquire property for communications towers or buildings.

§5–411.

A water company may acquire by condemnation, in accordance with Title 12 of the Real Property Article, any land or water rights that the company is authorized to acquire to lay pipes or construct its work, if:

(1) the company cannot agree with the owner of the land or water rights; or

(2) an owner:

(i) is a minor, is adjudged to be mentally incompetent, or is under any other legal disability to contract; or

(ii) when the company needs the land or water rights, is absent from the county or city in which the property is located.

§6–101.

(a) (1) This subsection:

(i) applies only to corporations that operate in Maryland; and

(ii) does not apply to a transaction in which the capital stock of a telephone company is acquired by another entity with a greater than 50% ownership in common with the telephone company.

(2) Except as provided in paragraph (4) of this subsection, a public service company shall obtain authorization from the Commission before the public service company:

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

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

(iii) lends money to an affiliate, as defined in § 7–501 of this article, at rates or on terms that are significantly more favorable to the affiliate than the rates or terms that are otherwise commercially available to the affiliate.

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

(4) Prior authorization of the Commission is not required for an assumption or guarantee under paragraph (2)(i) of this subsection or an issuance under paragraph (2)(ii) of this subsection made by a gas company, electric company, or telephone company whose gross annual revenues, for the most recent calendar year for which data are available, are less than 3% of the total gross annual revenues of all public service companies in the State during the same calendar year, if the gas company, electric company, or telephone company:

(i) provides prior written notice to the Commission of the transaction; and

(ii) obtains approval of the transaction from the entity in another state that regulates the gas company, electric company, or telephone company.

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

(2) Authorization under this subsection does not:

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

(ii) waive a forfeiture.

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

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

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

(i) operates in Maryland; and

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

(4) (i) Except as provided in subparagraph (ii) of this paragraph, a stock corporation may not take, hold, or acquire more than 10% of the total capital stock of a public service company that operates in Maryland unless:

1. the stock is acquired as collateral security; and

2. the Commission approves the acquisition.

(ii) The Commission may authorize a public service company of the same class to take, hold, or acquire more than 10% of the total capital stock of a public service company that operates in Maryland.

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

(6) Notwithstanding paragraph (2) of this subsection, § 6–105 of this subtitle shall apply, and the provisions of this subsection do not apply, to the acquisition, ownership, or disposition of any capital stock or voting securities of a company that controls, directly or indirectly, a gas and electric company.

(7) Notwithstanding any other provision of this subsection, the Commission may authorize, in accordance with § 6–105 of this subtitle, the taking, holding, or acquiring of all or any part of the capital stock of a gas and electric company that operates in the State by a stock corporation or a public service company that is not of the same class as the gas and electric company.

§6–102.

(a) This section applies only to public service companies that operate in Maryland.

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

(1) acquire property;

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

(3) discharge or lawfully refund its obligations;

(4) maintain or improve service; or

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

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

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

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

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

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

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

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

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

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

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

(2) The order shall specify:

(i) the amount of the issuance authorized; and

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

(e) (1) Notwithstanding subsections (b), (c), (d), and (g) of this section, the Commission may approve the issuance of stocks, bonds, securities, notes, or other evidence of indebtedness in connection with the organization of a new public service company by the purchaser of the franchise or property of a public service company sold under judicial proceedings, mortgage, or deed of trust.

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

(f) A public service company's application for authorization under this section

of long–term debt in excess of $1,000,000 shall include a copy of any restrictive covenant attached to the debt.

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

(i) for proper corporate purposes;

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

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

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

§6–103.

(a) This section applies only to public service companies that operate in Maryland.

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

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

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

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

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

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

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

(i) a newly chartered public service company; or

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

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

§6–104.

Any contract, assignment, transfer, or agreement for transfer or purchase of stock in violation of the provisions of this article is void.

§6–105.

(a) In this section, "affiliate" has the meaning stated in § 7–501 of this article.

(b) (1) The General Assembly finds that:

(i) existing legislation requires the approval by the Commission of the acquisition by one public service company of another public service company's stocks and obligations, but does not require the Commission's approval of these acquisitions by persons not engaged in the public utility business in the State; and

(ii) an attempt by a person not engaged in the public utility business in the State to acquire the power to exercise any substantial influence over the policies and actions of a public service company that provides electricity or gas in the State could result in harm to the customers of the public service company, including the degradation of utility services, higher rates, weakened financial structure, and diminution of utility assets.

(2) The General Assembly declares that it is the policy of the State to regulate acquisitions by persons that are not engaged in the public utility business in the State of the power to exercise any substantial influence over the policies and actions of a public service company that provides electricity or gas in the State in order to prevent unnecessary and unwarranted harm to the customers of the public service company.

(c) This section applies to the acquisition of an electric company, gas and electric company, or a gas company that operates in Maryland.

(d) (1) A gas and electric company, at the same time as a filing by the company or within 10 days after receipt by the company, shall provide the Commission with a copy of any document regarding the acquisition of voting securities of the gas and electric company or any company that owns or controls the gas and electric company,

filed or received by the company, that is filed with:

(i) the Securities and Exchange Commission;

(ii) the Federal Energy Regulatory Commission;

(iii) the Nuclear Regulatory Commission;

(iv) the Department of Justice;

(v) the Federal Trade Commission; or

(vi) any successor agency.

(2) The Commission shall provide the gas and electric company with the same confidentiality and other protections provided by the federal agency with which the filing was made.

(e) (1) Without prior authorization from the Commission, a person may not acquire, directly or indirectly, the power to exercise any substantial influence over the policies and actions of an electric company, gas and electric company, or gas company, if the person would become an affiliate of the electric company, gas and electric company, or gas company as a result of the acquisition.

(2) For the purposes of this subsection, a person may not be considered to have acquired, directly or indirectly, the power to exercise any substantial influence over the policies and actions of a gas and electric company if the person:

(i) after any acquisition of voting interests of a company that owns or controls a gas and electric company, directly or indirectly, owns, controls, or has the right to vote, or direct the voting of, not more than 20% of the outstanding voting interests of a company that owns or controls a gas and electric company; and

(ii) does not have the right to designate more than 20% of the board of directors or other governing body of a company that owns or controls a gas and electric company.

(3) Paragraph (2) of this subsection may not be construed to apply to the acquisition of any voting interests of a gas and electric company.

(4) If a person that acquires voting securities of a company that owns or controls a gas and electric company after the acquisition actually exercises substantial influence over the policies and actions of a gas and electric company, the Commission may order compliance with, and take any actions authorized by, other provisions of this article with respect to the gas and electric company.

(f) An application for authorization under subsection (e) of this section must include detailed information regarding:

(1) the applicant's identity and financial ability;

(2) the background of the key personnel associated with the applicant;

(3) the source and amounts of funds or other consideration to be used in the acquisition;

(4) the applicant's compliance with federal law in carrying out the acquisition;

(5) whether the applicant or the key personnel associated with the applicant have violated any State or federal statutes regulating the activities of public service companies;

(6) all documents relating to the transaction giving rise to the application;

(7) the applicant's experience in operating public service companies providing electricity;

(8) the applicant's plan for operating the public service company;

(9) how the acquisition will serve the customers of the public service company in the public interest, convenience, and necessity; and

(10) any other information that the Commission may specify by regulation or order.

(g) (1) The Commission promptly shall:

(i) examine and investigate each application received under this section; and

(ii) undertake any proceedings necessary or convenient to review the application in accordance with Title 3 of this article and issue an order concerning the acquisition.

(2) The Commission shall consider the following factors in considering an acquisition under this section:

(i) the potential impact of the acquisition on rates and charges paid by customers and on the services and conditions of operation of the public service company;

(ii) the potential impact of the acquisition on continuing investment needs for the maintenance of utility services, plant, and related infrastructure;

(iii) the proposed capital structure that will result from the acquisition, including allocation of earnings from the public service company;

(iv) the potential effects on employment by the public service company;

(v) the projected allocation of any savings that are expected to the public service company between stockholders and rate payers;

(vi) issues of reliability, quality of service, and quality of customer service;

(vii) the potential impact of the acquisition on community investment;

(viii) affiliate and cross–subsidization issues;

(ix) the use or pledge of utility assets for the benefit of an affiliate;

(x) jurisdictional and choice–of–law issues;

(xi) whether it is necessary to revise the Commission's ring fencing and code of conduct regulations in light of the acquisition; and

(xii) any other issues the Commission considers relevant to the assessment of acquisition in relation to the public interest, convenience, and necessity.

(3) (i) If the Commission finds that the acquisition is consistent with the public interest, convenience, and necessity, including benefits and no harm to consumers, the Commission shall issue an order granting the application.

(ii) The Commission may condition an order authorizing the acquisition on the applicant's satisfactory performance or adherence to specific requirements.

(4) If the Commission does not find that the acquisition is consistent with the public interest, convenience, and necessity, including benefits and no harm to consumers, the Commission shall issue an order denying the application.

(5) The applicant bears the burden of showing that granting the acquisition is consistent with the public interest, convenience, and necessity, including benefits and no harm to consumers.

(6) (i) Except as provided in item (ii) of this subparagraph, the Commission shall issue an order with respect to the application no later than 180 days after the filing of the application for authorization.

(ii) Unless the Commission finds, based on good cause, that the 180–day period should be extended for an additional 45 days, failure of the Commission to issue an order within the 180–day period shall be considered to be an approval of the acquisition by the Commission.

(h) Nothing in this section prohibits dissemination by any party of information concerning the acquisition if the dissemination does not otherwise conflict with federal or State law.

§6–201.

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

(b) "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person.

(c) "Financing lease" means a lease that, during the noncancelable lease period:

(1) covers at least 75% of the economic life of the property; or

(2) has terms that assure the lessor of a full recovery of the fair market value that would normally be represented by the lessor's investment of the property at the start of the lease and a reasonable return on the use of the assets invested, subject only to limited risk in the realization of the residual interest in the property and the credit risks generally associated with secured loans.

(d) "Joint venture" means a joint business arrangement between a public service company and another person for mutual benefit, with the understanding that each will share in the profits and losses and have a voice in management.

(e) "Long-term debt" means a debt due at least 1 year after the date of indebtedness.

(f) "Parent" means:

(1) every firm, holding company, or other person that ultimately controls a public service company; or

(2) any intermediary entity that controls a public service company.

(g) "Person" includes an individual, corporation, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(h) "Short-term debt" means a debt due within 1 year after the date of indebtedness.

(i) "SIC code and short title" means a 4-digit industry Standard Industrial Classification code and short title listed in the most recent Standard Industrial Classification manual published by the Office of Management and Budget of the Executive Office of the President.

§6–202.

(a) The Commission may classify the public service companies under its jurisdiction.

(b) Two public service companies are of the same class, if they are both:

(1) common carrier companies;

(2) electric companies;

(3) gas companies;

(4) gas and electric companies;

(5) sewage disposal companies;

(6) telegraph companies;

(7) telephone companies; or

(8) water companies.

§6–203.

The Commission may:

(1) establish a uniform system of records for each class of public service company; and

(2) prescribe the manner and form in which a public service company shall keep records and enter particular items.

§6–204.

The Commission shall prescribe a system, a form of records, and a form of annual report for public service companies that conform as nearly as possible to the system and forms that any corresponding federal regulatory unit requires for public service companies of the same class in interstate commerce.

§6–205.

(a) (1) This subsection does not apply to railroads.

(2) Except as provided in subsection (b) of this section, each public service company shall file with the Commission an annual report containing information on its corporate structure, affiliations of its officers and directors, and debt holdings.

(3) (i) Notwithstanding any specific reporting requirements in this

subtitle, the Commission may prescribe the contents of the annual report to be filed by a public service company whose gross annual revenues for the most recent calendar year for which data are available are less than 0.003% of the total gross annual revenues of all public service companies in the State during the same calendar year.

(ii) A small rural electric cooperative described in § 7-502(a) of this article may satisfy the reporting requirement by submitting to the Commission a copy of a report including the required information that the small rural electric cooperative submits to the rural utilities service.

(b) Unless otherwise directed by the Commission, a public service company is not required to comply with subsection (a) of this section if the public service company is:

(1) a common carrier; or

(2) a telephone company whose rates are not regulated by the Commission under Title 4 of this article.

(c) The president, treasurer, or general manager of a public service company shall verify the company's annual report under oath.

(d) The Commission may:

(1) require a public service company to submit reports and information that the Commission reasonably desires;

(2) prescribe the form, contents, and deadlines for the reports and information; and

(3) require amendments or corrections to the reports within a set period.

§6–206.

(a) A public service company shall file its annual report with the Commission within the time the Commission sets after the end of the year that the report covers.

(b) (1) The Commission shall provide each public service company with a blank form of an annual report in time to allow the public service company to comply with subsection (a) of this section.

(2) Unless the Commission notifies a public service company of a proposed change at least 6 months before the start of the year for which an annual report is due, the Commission may not change the form of the annual report in a way that requires the public service company to change the manner or form of its record keeping.

§6–207.

In addition to any other information that the Commission requires, the annual report of a public service company shall state:

(1) the amount and kind of:

(i) authorized capital stock;

(ii) capital stock issued and outstanding;

(iii) authorized bonded indebtedness; and

(iv) bonds and other evidence of indebtedness issued and outstanding;

(2) receipts and expenditures for the year reported;

(3) the amount paid as dividends and interest on bonds or other evidence of indebtedness;

(4) the amount of salary paid to each officer, by name, and the amount paid as wages to employees;

(5) the location of the public service company's plants with a full description of each plant and franchise, stating in detail how each franchise was acquired; and

(6) when applicable:

(i) a monthly compilation of expenditures that were the basis for any fuel rate adjustment; and

(ii) an annual recapitulation of the information required under subitem (i) of this item.

§6–208.

(a) A public service company shall list in its annual report the name and address, basis of control, and principal business activities of:

(1) the public service company; and

(2) each:

(i) parent;

(ii) subsidiary of the public service company;

(iii) organization the public service company controls; and

(iv) joint venture in excess of $1,000,000 in which the public service company is involved.

(b) (1) For each principal business activity described in subsection (a) of this section, a public service company shall list and describe by SIC code and short title each industry in which the public service company's activities generated, during the reporting year, at least 10% of gross revenues or $5,000,000.

(2) The public service company shall compile the list described under paragraph (1) of this subsection in order of significance relative to the total activities of the public service company, based on the percentage of gross revenues generated within each industry.

(c) For each corporation, partnership, or other business organization in which a public service company owns more than 5% of the outstanding voting securities or other ownership interests, the public service company shall, in its annual report:

(1) list the corporation, partnership, or other business organization; and

(2) indicate the percentage that the public service company owns.

§6–209.

(a) (1) A public service company shall list in its annual report the name and address of:

(i) each principal officer, director, trustee, or partner of the public service company and its parent; and

(ii) each individual exercising functions similar to that of a director, trustee, or partner on behalf of the public service company and its parent.

(2) For each individual described in paragraph (1) of this subsection, the public service company shall list:

(i) the title and position with the public service company and any parent;

(ii) the title and position with any subsidiary of the public service company and any other company, firm, or organization that the public service company controls;

(iii) the principal occupation or business affiliation, if different than that provided in item (i) or (ii) of this paragraph; and

(iv) each affiliation with any other business or financial organization,

firm, or partnership doing business with the public service company.

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

(1) list each contract, agreement, or other business arrangement exceeding an aggregate value of $1,000,000 between the public service company and any business or financial organization, firm, or partnership listed under subsection (a)(2)(iii) and (iv) of this section;

(2) except for compensation related to a position with the public service company, list each contract, agreement, or other business arrangement with a value exceeding $2,500 entered into during the reporting year between the public service company and each officer and director listed in subsection (a) of this section;

(3) for each contract, agreement, or other business arrangement described in paragraph (1) or (2) of this subsection, identify the parties, amounts, dates, and product or service involved; and

(4) list the professional services performed for the public service company by each firm, partnership, or organization with which an officer or director of the public service company is affiliated.

§6–210.

(a) (1) Except as provided in paragraph (2) of this subsection, a public service company shall describe in its annual report each long-term debt of the public service company exceeding $1,000,000, including:

(i) the name and address of the creditor;

(ii) the character of the debt;

(iii) the nature of any security;

(iv) the date of origin of the debt;

(v) the date of maturity of the debt;

(vi) the total amount of the debt;

(vii) the rate of interest; and

(viii) the total amount of interest to be paid.

(2) If the long-term debt is in the form of bonds, debentures, or other widely held debt, the public service company shall list the name and address of the trustee, if available, in place of the name and address of the creditor.

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

(1) except for the accounts payable of the public service company, describe each short–term debt, including:

(i) the name and address of the creditor;

(ii) the character of the debt;

(iii) the period of the debt;

(iv) the rate of interest;

(v) the total amount of the debt;

(vi) the nature of any security; and

(vii) the date the debt was paid or shall be paid;

(2) describe, if involving aggregate payments exceeding $1,000,000, each financing lease, equipment trust, conditional sales contract, or major liability related to the capital assets of the public service company; and

(3) provide a copy of any restrictive covenant attached to the debt described in item (1) or (2) of this subsection.

(c) In its annual report, a public service company shall, if available:

(1) list the name and address of each holder of more than 5% of each issue reported under this section; and

(2) identify the holder as a bank, broker, holding company, individual, or other person.

§7–101.

Except as otherwise provided by law, the provisions of this subtitle are not subject to the jurisdiction of the Commission.

§7–102.

(a) A gas company incorporated in Maryland may:

(1) manufacture artificial gas;

(2) sell or furnish any quantity of natural gas or artificial gas that may be required in any municipal corporation or county of the State;

(3) lay pipe under the roadways or other public ways of any county or municipal corporation of the State to transmit natural gas or artificial gas; and

(4) connect the pipe from the place of supply to any structure or object.

(b) (1) A gas company must have the consent of the governing body of the municipal corporation or county before laying any gas pipe in accordance with subsection (a) of this section.

(2) The governing body of the municipal corporation or county may adopt reasonable regulations and conditions for the laying of a gas pipe, including regulations requiring the gas company to refill and repave any roadway or other public way under which the pipe is laid.

(c) A gas company, whether incorporated in Maryland or another state, that is authorized by a governing body of a municipal corporation or county to lay or maintain pipe or other structures in a roadway or other public way or place shall obtain consent from the Commission before using the pipe or other structure to transmit and supply natural gas, artificial gas, or a mixture of natural gas and artificial gas.

(d) This section does not:

(1) extend the duration of a franchise granted by the governing body of a municipal corporation or county; or

(2) except as provided in this section, change the terms or conditions of the franchise.

§7–103.

(a) An electric company incorporated in Maryland may:

(1) manufacture, sell, and furnish electric power in any municipal corporation or county of the State;

(2) construct a power line to transmit power under, along, on, or over the roadways or public ways of any municipal corporation or county of the State; and

(3) connect the power line from the place of supply to any other structure or object.

(b) (1) An electric company must have the consent of the governing body of the municipal corporation or county before laying or constructing any power line in accordance with subsection (a) of this section.

(2) The governing body of the municipal corporation or county may adopt reasonable regulations and conditions for the laying of a power line, including regulations requiring the electric company to refill and repave any roadway or public way under which the power line is laid.

§7–104.

The formation, organization, and governance of electric cooperatives incorporated in Maryland are governed by Title 5, Subtitle 6 of the Corporations and Associations Article.

§7–105.

(a) A water company incorporated in the State has the powers necessary for the purposes for which it is incorporated and may:

(1) acquire, possess, and use land, water rights, and other property for those purposes; and

(2) lay pipes and construct works necessary or suitable to carry out its purposes.

(b) (1) A water company shall obtain the consent of the governing body of the municipal corporation or county before laying pipes or constructing waterworks in that jurisdiction under subsection (a) of this section.

(2) The governing body of the municipal corporation or county may adopt reasonable regulations for the laying of pipes, construction of works, and operations of a water company.

(c) This section does not authorize the incorporation of a water company to operate in Baltimore City.

§7–106.

(a) This section does not qualify, limit, or abridge the power and authority, or the manner of exercise of any power and authority, conferred on a municipal corporation by its charter or a special act of the General Assembly to sell, lease, exchange, or otherwise dispose of any electric plant or gas plant.

(b) This section does not apply to:

(1) Talbot County;

(2) Washington County; or

(3) the municipal corporation of Berlin, Centreville, Hagerstown, Rock Hall, or Snow Hill.

(c) Subject to subsection (d) of this section, a municipal corporation that owns an electric plant or a gas plant may sell, lease, exchange, or otherwise dispose of the plant, or any part of or interest in the plant, to any electric company or gas company on terms and conditions determined by the municipal corporation.

(d) (1) The sale, lease, exchange, or other disposition of an electric plant or a gas plant by a municipal corporation is subject to approval by the Commission.

(2) If the Commission approves the sale, lease, exchange, or other disposition, at least twice within 15 days after the date of the order of approval by the Commission, the municipal corporation shall publish notice of the sale, lease, exchange, or other disposition and of the approval by the Commission:

(i) in a newspaper published in the municipal corporation; or

(ii) if no newspaper is published in the municipal corporation, in a newspaper published in the county in which the municipal corporation is located.

(e) (1) A proposed sale, lease, exchange, or other disposition of a municipally owned electric plant or gas plant shall be ratified at a special election by the affirmative vote of a majority of the residents of the municipal corporation eligible to vote at the last preceding regular election for municipal officers if a petition, subject to paragraph (2) of this subsection, is delivered to the municipal corporation requesting the municipality to hold a special election for the ratification or disapproval of the proposed sale, lease, exchange, or other disposition.

(2) A petition under paragraph (1) of this subsection shall be:

(i) in writing;

(ii) signed by at least 10% of the residents of the municipal corporation eligible to vote at the last preceding regular election for municipal officers; and

(iii) delivered within 30 days after the date of publication of the second notice required under subsection (d)(2) of this section.

(3) The municipal corporation shall hold a special election under this subsection at the time and place in the municipal corporation and in the manner that the municipal corporation requires.

(4) If the sale, lease, exchange, or other disposition is ratified at the special election, the municipal corporation shall consummate the sale, lease, exchange, or other disposition.

(f) (1) If a petition for a special election is not delivered to the municipal corporation in accordance with subsection (e) of this section:

(i) ratification at a special election is not required; and

(ii) the municipal corporation shall consummate the sale, lease, exchange, or other disposition.

(2) A sale, lease, exchange, or other disposition that is consummated under this subsection is as valid and effective as a disposition ratified under subsection (e) of this section.

§7–107.

Subject to the regulations of the Commission, the County Commissioners of Garrett County may adopt, amend, and enforce a reasonable charge for discontinuing and restoring water service.

§7–201.

(a) (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.

(4) To the extent that the Commission requires an electric company to report the information described in paragraph (3) of this subsection, a small rural electric cooperative described in § 7-502(a) of this title may satisfy the requirement by submitting to the Commission a copy of the power requirement study that the small rural electric cooperative submits to the rural utilities service.

(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.

§7–202.

(a) If the Commission determines that a site is needed, the Commission, on its own motion, may request the Secretary of Natural Resources to purchase a power plant site as provided in Title 3, Subtitle 3 of the Natural Resources Article.

(b) In determining whether a need exists for the State to purchase a power plant site, the Commission shall consider:

(1) the suitability of sites owned by an electric company, both within and outside the State;

(2) the anticipated growth of electric power demand and the alternative means and locations for meeting that demand, both within and outside the State; and

(3) any other factors required by law.

(c) (1) The Commission may determine that a power plant site is needed only after the Commission gives public notice and holds a public hearing.

(2) The hearing shall be held in the legislative district in which the site under consideration is located.

§7–203.

(a) (1) The Commission shall:

(i) impose an environmental surcharge per kilowatt hour of electricity distributed to retail electric customers within the State; and

(ii) authorize each electric company to add the full amount of the surcharge to its customers' bills.

(2) To the extent that an electric company fails to collect the surcharge from its customers, the amount uncollected shall be deemed a cost of power distribution and allowed and computed as such together with other allowable expenses for purposes of rate making.

(b) (1) The Comptroller shall collect the revenue from the surcharge imposed under subsection (a) of this section and place the revenue into a special fund, the Environmental Trust Fund.

(2) The Comptroller shall maintain the method of collection of the surcharge from each electric company, and the money collected shall accrue to the

Fund.

(c) (1) Each fiscal year, the Secretary of Natural Resources shall coordinate the preparation of the annual budget required to carry out the provisions of the Power Plant Research Program under Title 3, Subtitle 3 of the Natural Resources Article.

(2) Each fiscal year, on approval of the annual budget by the General Assembly for the Power Plant Research Program, the Commission shall establish the amount of the environmental surcharge per kilowatt hour of electric energy distributed in the State that is to be imposed on each electric company in accordance with subsection (a) of this section.

(d) (1) Notwithstanding any other provision of this subtitle, the amount of the surcharge for each account of each retail electric customer may not exceed the lesser of 0.15 mill per kilowatt hour or $1,000 per month.

(2) The Department of Natural Resources shall credit against the amount the Commission requires each electric company to pay into the Environmental Trust Fund 0.75% of the total surcharge amount attributed to the electric company on the basis of the amount of the electricity distributed in the State.

(e) To the extent that the Commission requires an electric company to report the total estimated kilowatt hours of electricity distributed in the State in order to calculate the surcharge under subsection (a)(1) of this section, a small rural electric cooperative described in § 7–502(a) of this title may satisfy the requirement by submitting to the Commission an estimate made in accordance with a formula approved by the Commission from information that the small rural electric cooperative submits to the rural utilities service that includes the required information.

(f) The surcharge imposed under this subtitle shall terminate on June 30, 2020.

§7–204.

(a) (1) Notwithstanding any other provision of this division, at least 30 days before a hearing, a public service company shall provide to each owner of land, by certified mail, written notice of intent to run a line or similar transmission device over, on, or under the land.

(2) The public service company shall determine the property owners from the current tax assessment records of the political subdivision in which the property is located.

(b) Unless the failure is willful or deliberate, the failure of a public service company to provide notice does not invalidate a public hearing or require that another hearing take place.

§7–205.

(a) (1) In this section, "modification" means a physical alteration of, replacement of, or other change to the facilities at a power plant, or a change in the fuel used by the plant, that could result in a change of the air emissions from the plant or from a generating unit of the plant.

(2) "Modification" does not include:

(i) routine maintenance or repairs of the facilities of a power plant; or

(ii) a change that the Commission determines will not result in an increase in air emissions from the plant or from a generating unit of the plant.

(b) Subject to subsections (c) through (e) of this section, a person may not commence a modification without the prior approval of the Commission under this title.

(c) (1) Unless the Commission orders otherwise, an application for a modification to a power plant shall be filed with the Commission at least 180 days before the date on which the modification is to commence.

(2) The applicant for the modification shall submit to the Commission and to the Department of the Environment all information relating to the modification, including:

(i) detailed plans and specifications; and

(ii) the impact of the modification on air quality.

(d) The Commission shall render its decision within 150 days after the day the application is filed.

(e) Notwithstanding the provisions of this section, a modification to a power plant that involves the short-term inability to obtain the type of fuel normally used by the plant is subject to Title 2, Subtitle 5 of the Environment Article.

§7–206.

(a) This section applies to the installation of pollution control equipment or a change in the method of operation at a generating station that a person performs in order to comply with Phase II pollution control requirements of the federal Clean Air Act.

(b) Any person that performs an installation or change in operation under subsection (a) of this section shall obtain prior review and approval of the Commission in accordance with:

(1) §§ 7-203, 7-207, and 7-208 of this subtitle; and

(2) the procedures set forth in § 7-205 of this subtitle and § 2-405 of the Environment Article.

(c) In order to meet compliance dates established under Title 2, Subtitle 10 of the Environment Article or the federal Clean Air Act, a Commission review and approval, or processing of an application for a certificate of public convenience and necessity under § 7-207 of this subtitle, shall be expedited and take precedence over other review and approval by the Commission if the review and approval or certificate of public convenience and necessity is required:

(1) for pollution control equipment or a change in the method of operation at a generating station; and

(2) for compliance with:

(i) Title 2, Subtitle 10 of the Environment Article;

(ii) regulations adopted by the Department of the Environment under Title 2, Subtitle 10 of the Environment Article; or

(iii) the federal Clean Air Act.

§7–207.

(a) (1) (i) In this section and § 7–208 of this subtitle, "construction" means:

1. any physical change at a site, including fabrication, erection, installation, or demolition; or

2. the entry into a binding agreement or contractual obligation to purchase equipment exclusively for use in construction in the State or to undertake a program of actual construction in the State which cannot be canceled or modified without substantial loss to the owner or operator of the proposed generating station.

(ii) "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.

(2) In this section, "qualified generator lead line" means an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts and would allow an out–of–state Tier 1 or Tier 2 renewable source to interconnect with a portion of the electric system in Maryland that is owned by an electric company.

(b) (1) (i) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction in the State of:

1. a generating station; or

2. a qualified generator lead line.

(ii) If a person obtains Commission approval for construction under § 7–207.1 of this subtitle, the Commission shall exempt a person from the requirement to obtain a certificate of public convenience and necessity under this section.

(iii) Notwithstanding subparagraph (i) of this paragraph, a person may not apply to obtain a certificate of public convenience and necessity for construction of a qualified generator lead line unless:

1. at least 90 days before the filing of an application for a certificate of public convenience and necessity, the person had in good faith offered the electric company that owns that portion of the electric grid in Maryland to which the qualified generator lead line would interconnect a full and fair opportunity for the electric company to construct the qualified generator lead line; and

2. at any time at least 10 days before the filing of an application for a certificate of public convenience and necessity, the electric company:

A. did not accept from the person a proposal or a negotiated version of the proposal under which the electric company would construct the qualified generator lead line; or

B. stated in writing that the electric company did not intend to construct the qualified generator lead line.

(2) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, and the Commission has found that the capacity is necessary to ensure a sufficient supply of electricity to customers in the State, a person may not exercise a right of condemnation in connection with the construction of a generating station.

(3) (i) Except as provided in paragraph (4) of this subsection, unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person 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 with the construction.

(ii) For construction related to an existing overhead transmission line, the Commission may waive the requirement in subparagraph (i) of this paragraph for good cause.

(iii) Notwithstanding subparagraph (i) of this paragraph and subject to subparagraph (iv) of this paragraph, the Commission may issue a certificate of public convenience and necessity for the construction of an overhead transmission line only if the applicant for the certificate of public convenience and necessity:

1. is an electric company; or

2. is or, on the start of commercial operation of the overhead transmission line, will be subject to regulation as a public utility by an officer or an agency of the United States.

(iv) The Commission may not issue a certificate of public convenience and necessity for the construction of an overhead transmission line in the electric distribution service territory of an electric company to an applicant other than an electric company if:

1. the overhead transmission line is to be located solely within the electric distribution service territory of that electric company; and

2. the cost of the overhead transmission line is to be paid solely by that electric company and its ratepayers.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, for construction related to an existing overhead transmission line designed to carry a voltage in excess of 69,000 volts, the Commission shall waive the requirement to obtain a certificate of public convenience and necessity if the Commission finds that the construction does not:

1. require the person to obtain new real property or additional rights–of–way through eminent domain; or

2. require larger or higher structures to accommodate:

A. increased voltage; or

B. larger conductors.

(ii) 1. For construction related to an existing overhead transmission line, including repairs, that is necessary to avoid an imminent safety hazard or reliability risk, a person may undertake the necessary construction.

2. Within 30 days after construction is completed under subsubparagraph 1 of this subparagraph, a person shall file a report with the Commission describing the work that was completed.

(c) (1) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice immediately or require the applicant to provide notice immediately of the application to:

(i) the Department of Planning;

(ii) the governing body of each county or municipal corporation in which any portion of the generating station, overhead transmission line, or qualified

generator lead line is proposed to be constructed;

(iii) the governing body of each county or municipal corporation within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line;

(iv) each member of the General Assembly representing any part of a county in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;

(v) each member of the General Assembly representing any part of each county within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line; and

(vi) all other interested persons.

(2) The Department 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 provide an opportunity for public comment and 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, an overhead transmission line designed to carry a voltage in excess of 69,000 volts, or a qualified generator lead line 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, overhead transmission line, or qualified generator lead line is proposed to be located, unless the governing body declines to participate in the hearing.

(3) Once in each of the 4 successive weeks immediately before the hearing date, the Commission shall provide weekly notice of the public hearing and an opportunity for public comment 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, overhead transmission line, or qualified generator lead line is proposed to be located; and

(2) the effect of the generating station, overhead transmission line, or qualified generator lead line on:

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

(ii) economics;

(iii) esthetics;

(iv) historic sites;

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

(vi) when applicable, air and water pollution; and

(vii) 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:

(1) take final action on an application for a certificate of public convenience and necessity only after due consideration of the need to meet existing and future demand for electric service; and

(2) require as an ongoing condition of the certificate of public convenience and necessity that an applicant complies with:

(i) all relevant agreements with PJM Interconnection, L.L.C., or its successors, related to the ongoing operation and maintenance of the overhead transmission line; and

(ii) all obligations imposed by the North America Electric Reliability Council and the Federal Energy Regulatory Commission related to the ongoing operation and maintenance of the overhead transmission line.

(g) (1) The Commission may not authorize, and a person 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.

§7–207.1.

(a) This section applies to a person who:

(1) constructs a generating station:

(i) designed to provide on–site generated electricity if:

1. the capacity of the generating station does not exceed 70 megawatts; and

2. the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; or

(ii) that produces electricity from wind if:

1. the generating station is land–based;

2. the capacity of the generating station does not exceed 70 megawatts;

3. the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company;

4. the Commission provides an opportunity for public comment at a public hearing as provided in subsection (f) of this section; and

5. the generating station's wind turbines are not located within a distance from the Patuxent River Naval Air Station that is determined by regulations adopted by the Commission in coordination with the Commander, Naval Air Warfare Center Aircraft Division, provided that the distance requirement under the regulation is:

A. not greater than is necessary to encompass an area in which utility scale wind turbines could create Doppler radar interference for missions at the Patuxent River Naval Air Station;

B. not greater than 46 miles, measured from location 38.29667N, 76.37668W; and

C. subject to modification if necessary to reflect changes in missions or technology at the Patuxent River Naval Air Station or changes in wind energy technology; or

(2) constructs a generating station if:

(i) the capacity of the generating station does not exceed 25 megawatts;

(ii) the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; and

(iii) at least 10% of the electricity generated at the generating station each year is consumed on–site.

(b) (1) The Commission shall require a person that is exempted from the requirement to obtain a certificate of public convenience and necessity to obtain approval from the Commission under this section before the person may construct a generating station described in subsection (a) of this section.

(2) An application for approval under this section shall:

(i) be made to the Commission in writing on a form adopted by the Commission;

(ii) be verified by oath or affirmation; and

(iii) contain information that the Commission requires, including:

1. proof of compliance with all applicable requirements of the independent system operator; and

2. a copy of an interconnection, operation, and maintenance agreement between the generating station and the local electric company.

(c) On receipt of an application for approval under this section, the Commission shall provide notice immediately or require the applicant to provide notice immediately of the application to:

(1) the governing body of each county or municipal corporation in which any portion of the generating station is proposed to be constructed;

(2) the governing body of each county or municipal corporation within 1

mile of the proposed location of the generating station;

(3) each member of the General Assembly representing any part of a county in which any portion of the generating station is proposed to be constructed; and

(4) each member of the General Assembly representing any part of each county within 1 mile of the proposed location of the generating station.

(d) When reviewing an application for approval under this section, the Commission shall:

(1) ensure the safety and reliability of the electric system;

(2) require the person constructing the generating station to notify the Commission 2 weeks before the first export of electricity from a generating station approved under this section; and

(3) conduct its review and approval in an expeditious manner.

(e) Except for the notice required under subsection (c) of this section, the Commission may waive an element of the approval process under this section if the Commission determines that the waiver is in the public interest.

(f) (1) The Commission shall provide an opportunity for public comment and hold a public hearing as provided under this subsection on an application for approval made under subsection (a)(1)(ii) of this section in each county and municipal corporation in which any portion of the construction of a generating station is proposed to be located.

(2) Upon the request of the governing body of a county or municipal corporation in which any portion of the construction of a generating station is proposed to be located, the Commission shall hold the public hearing jointly with the governing body.

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

§7–207.2.

(a) This section applies to a person who constructs a generating station that:

(1) has the capacity to produce at least 2 megawatts of electricity from a solar photovoltaic system; and

(2) is exempted under § 7–207.1 of this subtitle from the requirement to obtain a certificate of public convenience and necessity.

(b) (1) A person shall file an application for approval to construct a generating station under § 7–207.1 of this subtitle at least 6 months before construction commences.

(2) The Commission shall require a person who files an application for approval to construct a generating station to pay a deposit of 1% of total installed costs.

(c) (1) The Commission shall place any deposits collected under subsection (b) of this section into an escrow account.

(2) If a person demonstrates to the Commission that the person is fully authorized to commence construction within 18 months after filing an application for approval, the Commission shall refund the deposit, less reasonable administrative costs.

(3) (i) Subject to subparagraph (ii) of this paragraph, if a person does not commence construction within 18 months after filing an application for approval, the money held in the escrow account shall be:

1. deemed to be abandoned; and

2. transferred to the Maryland Strategic Energy Investment Fund under § 9–20B–05 of the State Government Article, less reasonable administrative costs.

(ii) 1. A person may request an extension for a project that does not commence construction within 18 months after the filing of an application for approval.

2. The Commission may grant the request based on factors the Commission considers compelling, including the occurrence of events outside the person's control.

§7–208.

(a) (1) In this section the following words have the meanings indicated.

(2) "Qualified offshore wind project" has the meaning stated in § 7–701 of this title.

(3) "Qualified submerged renewable energy line" means:

(i) a line carrying electricity supply and connecting a qualified offshore wind project to the transmission system; and

(ii) a line in which the portions of the line crossing any submerged lands or any part of a beach erosion control district are buried or submerged.

(b) This section applies to any person:

(1) constructing a generating station and its associated overhead transmission lines designed to carry a voltage in excess of 69,000 volts;

(2) exercising the right of condemnation in connection with the construction; or

(3) constructing a qualified submerged renewable energy line.

(c) (1) To obtain the certificate of public convenience and necessity required under § 7–207 of this subtitle for construction under this section, a person shall file an application with the Commission at least 2 years before construction of the facility will commence.

(2) The Commission may waive the 2–year requirement on a showing of good cause.

(d) The applicant shall:

(1) include in an application under this section the information that the Commission requests initially; and

(2) furnish any additional information that the Commission requests subsequently.

(e) (1) On the receipt of an application under this section, together with any additional information requested under subsection (d)(2) of this section, the Commission shall provide notice to:

(i) all interested persons;

(ii) the Department of Agriculture;

(iii) the Department of Business and Economic Development;

(iv) the Department of the Environment;

(v) the Department of Natural Resources;

(vi) the Department of Transportation;

(vii) the Department of Planning; and

(viii) the Maryland Energy Administration.

(2) On receipt of an application under this section, and whenever additional information is received under subsection (d)(2) of this section, the Commission shall provide notice immediately or require the applicant to provide

notice immediately to:

(i) the governing body of each county or municipal corporation in which any portion of the generating station or the associated overhead transmission lines is proposed to be constructed;

(ii) the governing body of each county or municipal corporation within 1 mile of the proposed location of the generating station or the associated overhead transmission lines;

(iii) each member of the General Assembly representing any part of a county in which any portion of the generating station or the associated overhead transmission lines is proposed to be constructed; and

(iv) each member of the General Assembly representing any part of each county within 1 mile of the proposed location of the generating station or the associated overhead transmission lines.

(3) The Commission shall hold a public hearing on the application as required by § 7–207 of this subtitle after:

(i) the receipt of any additional information requested under subsection (d)(2) of this section that the Commission considers necessary; and

(ii) any publication of notice the Commission considers to be proper.

(4) (i) At the public hearing, the Commission shall ensure presentation of the information and recommendations of the State units specified in paragraph (1) of this subsection and shall allow the official representative of each unit to sit during hearing of all parties.

(ii) Based on the evidence relating to the unit's areas of concern, the Commission shall allow each unit 15 days after the conclusion of the hearing to modify or affirm the unit's initial recommendations.

(f) Within 90 days after the conclusion of the hearing on an application under this section, the Commission shall:

(1) (i) grant a certificate of public convenience and necessity unconditionally;

(ii) grant the certificate, subject to conditions the Commission determines to be appropriate; or

(iii) deny the certificate; and

(2) notify all interested parties of its decision.

(g) (1) The Commission shall include in each certificate it issues under subsection (f) of this section:

(i) the requirements of the federal and State environmental laws and standards that are identified by the Department of the Environment; and

(ii) the methods and conditions that the Commission determines are appropriate to comply with those environmental laws and standards.

(2) The Commission may not adopt any method or condition under paragraph (1)(ii) of this subsection that the Department of the Environment determines is inconsistent with federal and State environmental laws and standards.

(h) (1) A decision of the Commission regarding the issuance of a certificate requires the vote of a majority of the members of the Commission.

(2) If a majority of the members of the Commission fails to reach agreement on the conditions to be attached to a conditional certificate, the certificate shall be denied.

(i) The grant of a certificate by the Commission to any person under subsection (f) of this section constitutes:

(1) authority for the person to dredge and construct bulkheads in the waters or private wetlands of the State and to appropriate or use the waters; and

(2) registration and a permit to construct, as required under Title 2, Subtitle 4 of the Environment Article.

§7–209.

(a) The Commission shall examine alternatives to the construction of a new transmission line in a service area, including the use of an existing transmission line of another company, if:

(1) the existing transmission line is convenient to the service area; or

(2) the use of the transmission line will best promote economic and efficient service to the public.

(b) In considering the use of an existing transmission line under subsection (a) of this section, the Commission need not consider whether the company that owns the line has a franchise in a service area.

§7–210.

(a) This section does not apply to Baltimore City.

(b) (1) A municipal corporation may not build, maintain, or operate a plant

for supplying gas or electricity for other than municipal purposes unless the municipal corporation has a certificate of authority from the Commission.

(2) If the Commission denies the certificate of authority, the municipal corporation may not reapply for a certificate until at least 6 months have elapsed from the date that the Commission denied the previous application.

(c) Subject to subsection (b) of this section, a municipal corporation in the business of supplying electricity for other than municipal purposes may own or finance an interest in an electric plant to secure an entitlement of electricity for its customers.

(d) If the boundaries of a municipal corporation are enlarged by annexation, the municipal corporation may acquire the exclusive right to supply electricity within the annexed area if:

(1) the municipal corporation:

(i) files a petition with the Commission seeking approval to acquire the exclusive right to supply electricity within the annexed area;

(ii) provides a copy of the petition to each electric company whose service territory or electric plant will be affected by the annexation; and

(iii) attaches to the petition a copy of the amendment to the municipal corporation charter that describes the area annexed and a description of the service territory, plant, equipment, and customers of each electric company that is likely to be affected by the annexation; and

(2) the Commission determines that modification of the service territory of an electric company and the transfer of a franchise or right under the franchise is in the public interest.

(e) (1) A municipal corporation that acquires the exclusive right under subsection (d) of this section to supply electricity within an area annexed by the municipal corporation may exercise the right of eminent domain to acquire the existing installed facilities of each electric company within the annexed area that are used solely to supply electricity to the annexed area.

(2) The value of any property taken under paragraph (1) of this subsection shall be determined as of the date of the taking.

§7–211.

(a) (1) In this section the following words have the meanings indicated.

(2) "Affiliate" has the meaning stated in § 7–501 of this title.

(3) "Demand response program" means a program established by an

electric company that promotes changes in electric usage by customers from their normal consumption patterns in response to:

(i) changes in the price of electricity over time; or

(ii) incentives designed to induce lower electricity use at times of high wholesale market prices or when system reliability is jeopardized.

(4) "Electricity consumption" and "electricity consumed" mean the sum of retail electricity sales to all customers and reported electricity losses within the electric distribution system.

(5) "Peak demand" means the highest level of electricity demand in the State measured in megawatts during the period from May 1 to September 30 on a weather–normalized basis.

(6) "Per capita electricity consumption" means the result calculated by dividing the total gigawatt–hours of electricity consumed by electricity customers in the State as of December 31 of a year, as determined by the Commission, by the population of the State as of December 31 of that year, as determined by the Department of Planning.

(7) "Plan" means an electricity savings and demand reduction plan and cost recovery proposal.

(8) "Provide heating, ventilation, air conditioning, or refrigeration services" has the meaning stated in § 9A–101 of the Business Regulation Article.

(b) The General Assembly finds and declares that:

(1) energy efficiency is among the least expensive ways to meet the growing electricity demands of the State; and

(2) to provide affordable, reliable, and clean energy for consumers of Maryland, it is the goal of the State to achieve the following energy efficiency, conservation, and demand response targets, based on 2007 electricity consumption:

(i) a 15% reduction in per capita electricity consumption by the end of 2015; and

(ii) a 15% reduction in per capita peak demand by the end of 2015.

(c) Beginning with the 2008 calendar year and each year thereafter, the Commission shall calculate:

(1) the per capita electricity consumption for that year; and

(2) the peak demand for that year.

(d) Subject to review and approval by the Commission, each gas company and electric company shall develop and implement programs and services to encourage and promote the efficient use and conservation of energy by consumers, gas companies, and electric companies.

(e) As directed by the Commission, each municipal electric utility and each electric cooperative that serves a population of less than 250,000 in its distribution territory shall include energy efficiency and conservation programs or services as part of their service to their customers.

(f) The Commission shall:

(1) require each gas company and electric company to establish any program or service that the Commission deems appropriate and cost effective to encourage and promote the efficient use and conservation of energy;

(2) adopt rate–making policies that provide cost recovery and, in appropriate circumstances, reasonable financial incentives for gas companies and electric companies to establish programs and services that encourage and promote the efficient use and conservation of energy; and

(3) ensure that adoption of electric customer choice under Subtitle 5 of this title does not adversely impact the continuation of cost–effective energy efficiency and conservation programs.

(g) Except as provided in subsection (e) of this section, on or before December 31, 2008, by regulation or order, the Commission shall:

(1) to the extent that the Commission determines that cost–effective energy efficiency and conservation programs and services are available, for each affected class, require each electric company to procure or provide for its electricity customers cost–effective energy efficiency and conservation programs and services with projected and verifiable electricity savings that are designed to achieve a targeted reduction of at least 5% by the end of 2011 and 10% by the end of 2015 of per capita electricity consumed in the electric company's service territory during 2007; and

(2) require each electric company to implement a cost–effective demand response program in the electric company's service territory that is designed to achieve a targeted reduction of at least 5% by the end of 2011, 10% by the end of 2013, and 15% by the end of 2015, in per capita peak demand of electricity consumed in the electric company's service territory during 2007.

(h) (1) (i) On or before July 1, 2008, and every 3 years thereafter, each electric company shall consult with the Maryland Energy Administration regarding the design and adequacy of the electric company's plan to achieve the electricity savings and demand reduction targets specified in subsection (g) of this section.

(ii) An electric company shall provide the Maryland Energy

Administration with any additional information regarding the plan, as requested.

(2) On or before September 1, 2008, and every 3 years thereafter, an electric company shall submit its plan to the Commission that details the electric company's proposals for achieving the electricity savings and demand reduction targets specified in subsection (g) of this section for the 3 subsequent calendar years.

(3) The Commission shall consider any written findings provided by the Maryland Energy Administration regarding the design and adequacy of the plan.

(4) Each electric company shall provide annual updates to the Commission and the Maryland Energy Administration on plan implementation and progress towards achieving the electricity savings and demand reduction targets specified in subsection (g) of this section.

(5) (i) The plan shall include a description of the proposed energy efficiency and conservation programs and services and the proposed demand response program, anticipated costs, projected electricity savings, and any other information requested by the Commission.

(ii) The plan shall address residential, commercial, and industrial sectors as appropriate, including low–income communities and low– to moderate–income communities.

(iii) 1. If, in connection with a program or service, the electric company proposes to provide heating, ventilation, air conditioning, or refrigeration services for its customers, the plan shall include procedures for the competitive selection of heating, ventilation, air conditioning, or refrigeration service providers.

2. On request by the electric company and for good cause shown, the Commission may waive the requirement that the electric company competitively select heating, ventilation, air conditioning, or refrigeration providers under subsubparagraph 1 of this subparagraph.

(6) The plan and any updates shall include a certification or recertification by the electric company that, if an affiliate of the electric company provides heating, ventilation, air conditioning, or refrigeration services through any existing contract or obligation in connection with a program or service, the customers of the electric company's regulated services will not subsidize the operations of the affiliate.

(7) The Commission shall review each electric company's plan to determine if the plan is adequate and cost–effective in achieving the electricity savings and demand reduction targets specified in subsection (g) of this section.

(i) (1) In determining whether a program or service encourages and promotes the efficient use and conservation of energy, the Commission shall consider the:

(i) cost–effectiveness;

(ii) impact on rates of each ratepayer class;

(iii) impact on jobs; and

(iv) impact on the environment.

(2) The Commission shall monitor and analyze the impact of each program and service to ensure that the outcome of each program and service provides the best possible results.

(3) In monitoring and analyzing the impact of a program or service under paragraph (2) of this subsection, if the Commission finds that the outcome of the program or services may not be providing the best possible results, the Commission shall direct the electric company to include in its annual update under subsection (h)(4) of this section specific measures to address the findings.

(4) An electric company that enters into a contract or obligation with an affiliate of the electric company to provide heating, ventilation, air conditioning, or refrigeration services in connection with a program or service shall notify the Commission within 30 days after entering into the contract or obligation that the electric company:

(i) has entered into a contract or obligation with an affiliate of the electric company; and

(ii) certifies that the customers of the electric company's regulated services will not subsidize the operations of the affiliate.

(j) (1) At least once each year, each electric company and gas company shall notify affected customers of the energy efficiency and conservation charges imposed and benefits conferred.

(2) The notice shall be provided by publication on the company's website and inclusion with billing information such as a bill insert or bill message.

(k) On or before March 1 of each year, the Commission, in consultation with the Maryland Energy Administration, shall report, subject to § 2–1246 of the State Government Article, to the General Assembly on:

(1) the status of programs and services to encourage and promote the efficient use and conservation of energy, including an evaluation of the impact of the programs and services that are directed to low–income communities, low– to moderate–income communities to the extent possible, and other particular classes of ratepayers;

(2) a recommendation for the appropriate funding level to adequately fund these programs and services; and

(3) in accordance with subsection (c) of this section, the per capita electricity consumption and the peak demand for the previous calendar year.

(l) Notwithstanding any other law, the Commission may not require or allow an electric company to require an electric customer to authorize the electric company to control the amount of the electric customer's electricity usage, including through control of the electric customer's thermostat.

(m) (1) On or before June 30, 2013, by regulation or order, the Commission shall establish a pilot program for electric customers to recharge electric vehicles during off–peak hours.

(2) (i) An electric company may request to participate in the pilot program.

(ii) The Commission shall make every effort to include at least two electric companies in the pilot program.

(3) The pilot program shall include incentives for residential, commercial, and governmental customers to recharge electric vehicles in a manner that will:

(i) increase the efficiency and reliability of the electric distribution system; and

(ii) lower electricity use at times of high demand.

(4) Incentives may include:

(i) time–of–day pricing of electricity;

(ii) credits on distribution charges;

(iii) rebates on the cost of charging systems;

(iv) demand response programs; or

(v) other incentives approved by the Commission.

(5) On or before February 1, 2015, the Commission shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly on the experience of the pilot program and the Commission's findings.

§7–212.

(a) On or before July 1, 2008, the Commission shall adopt regulations governing the purchase of liquid–immersed distribution transformers by electric companies.

(b) Except as provided in subsection (c) of this section, the regulations shall be

consistent with the regulations adopted by the U.S. Department of Energy.

(c) (1) Subject to paragraph (2) of this subsection, the regulations shall ensure that, subject to availability, purchases of liquid–immersed distribution transformers by electric companies occurring on or after January 1, 2009, are based on the life–cycle cost methodology contained in Section 2 of Standard TP–1–2002 published by the National Electrical Manufacturers Association.

(2) The regulations adopted under this section may not apply to an electric cooperative that supplies electricity to less than 60,000 electric meters in the State.

(d) For electric companies that maintain inventories of distribution transformers in the State for installation in adjacent service areas outside of the State, the Commission may also consider additional inventory management costs as costs for inclusion within the life–cycle cost methodology to be used by electric companies for purposes of this section.

§7–213.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Eligible reliability measure" means a replacement of or an improvement in existing infrastructure of an electric company that:

1. is made on or after June 1, 2014;

2. is designed to improve public safety or infrastructure reliability;

3. does not increase the revenue of an electric company by connecting an improvement directly to new customers; and

4. is not included in the current rate base of the electric company as determined in the electric company's most recent base rate proceeding.

(ii) "Eligible reliability measure" includes vegetation management measures that are necessary to meet applicable service quality and reliability standards under this section.

(3) "Fund" means the Electric Reliability Remediation Fund established under subsection (j) of this section.

(4) "System–average interruption duration index" or "SAIDI" means the sum of the customer interruption hours divided by the total number of customers served.

(5) "System–average interruption frequency index" or "SAIFI" means the sum of the number of customer interruptions divided by the total number of customers

served.

(b) It is the goal of the State that each electric company provide its customers with high levels of service quality and reliability in a cost–effective manner, as measured by objective and verifiable standards, and that each electric company be held accountable if it fails to deliver reliable service according to those standards.

(c) This section does not apply to small rural electric cooperatives or municipal electric companies.

(d) On or before July 1, 2012, the Commission shall adopt regulations that implement service quality and reliability standards relating to the delivery of electricity to retail customers by electric companies through their distribution systems, using:

(1) SAIFI;

(2) SAIDI; and

(3) any other performance measurement that the Commission determines to be reasonable.

(e) (1) The regulations adopted under subsection (d) of this section shall:

(i) include service quality and reliability standards, including standards relating to:

1. service interruption;

2. downed wire response;

3. customer communications;

4. vegetation management;

5. periodic equipment inspections;

6. annual reliability reporting; and

7. any other standards established by the Commission;

(ii) account for major outages caused by events outside the control of an electric company; and

(iii) for an electric company that fails to meet the applicable service quality and reliability standards, require the electric company to file a corrective action plan that details specific actions the company will take to meet the standards.

(2) The regulations adopted under subsection (d) of this section may

include a separate reliability standard for each electric company in order to account for system reliability differentiating factors, including:

(i) system design;

(ii) existing infrastructure;

(iii) customer density; and

(iv) geography.

(3) In adopting the regulations required under subsection (d) of this section, the Commission shall:

(i) consider applicable standards of the Institute of Electrical and Electronics Engineers;

(ii) ensure that the service quality and reliability standards are cost–effective; and

(iii) with respect to standards relating to vegetation management, consider:

1. limitations on an electric company's right to access private property; and

2. customer acceptance of vegetation management initiatives.

(4) A county or municipal corporation may not adopt or enforce a local law, rule, or regulation or take any other action that interferes with, or materially increases the cost of the work of an electric company toward, compliance with the vegetation management standards adopted under subsection (d) of this section.

(f) (1) On or before September 1 of each year, the Commission shall determine whether each electric company has met the service quality and reliability standards adopted by the Commission for that electric company under subsection (d) of this section and under § 7–213.1(e) of this subtitle.

(2) (i) This paragraph does not apply to electric cooperatives.

(ii) The Commission shall take appropriate corrective action against an electric company that fails to meet any or all of the applicable service quality and reliability standards, including the imposition of appropriate civil penalties for noncompliance as provided in § 13–201 of this article.

(iii) A civil penalty assessed under § 13–201 of this article for a violation of the service quality and reliability standards under this section shall be paid into the Fund.

(iv) An electric company may not recover the cost of any civil penalty paid under this section from ratepayers.

(g) (1) On or before April 1 of each year, each electric company shall submit to the Commission an annual performance report that summarizes the actual electric service reliability results for the preceding year.

(2) The annual performance report shall include:

(i) the electric company's average 3–year performance results;

(ii) actual year–end performance measure results;

(iii) an assessment of the results and effectiveness of the reliability objectives, planned actions and projects, programs, and load studies in achieving an acceptable reliability level; and

(iv) annual information that the Commission determines necessary to assess the electric company's efforts to maintain reliable electric service to all customers in the electric company's service territory, including:

1. current year expenditures, labor resource hours, and progress measures for each capital and maintenance program designed to support the maintenance of reliable electric service;

2. the number of outages by outage type;

3. the number of outages by outage cause;

4. the total number of customers that experienced an outage;

5. the total customer minutes of outage time; and

6. to the extent practicable, a breakdown, by the number of days each customer was without electric service, of the number of customers that experienced an outage.

(3) At the request of an electric company, the Commission shall hold a hearing to discuss the annual performance report of the electric company.

(h) This section may not be construed to limit the Commission's authority to adopt and enforce engineering and safety standards for electric companies.

(i) The Commission and each electric company assessed a penalty for a violation of service quality and reliability standards under this section shall establish priorities for targeting remediation efforts to improve electric service quality and reliability for the worst performing feeder lines and other distribution lines and equipment that shall be paid for, in whole or in part, using the Fund, as available and in accordance with

subsection (j) of this section.

(j) (1) There is an Electric Reliability Remediation Fund in the Commission.

(2) The purpose of the Fund is to provide resources to target remediation efforts to improve electric service quality and reliability for the worst performing electric distribution lines in the State.

(3) The Commission shall administer the Fund.

(4) (i) The Fund is a special, nonlapsing fund that is not subject to reversion under § 7–302 of the State Finance and Procurement Article.

(ii) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(5) The Fund consists of:

(i) revenue distributed to the Fund under § 13–201(e)(2) of this article for a violation of this section;

(ii) money appropriated in the State budget to the Fund; and

(iii) any other money from any other source accepted for the benefit of the Fund.

(6) (i) The Fund may be used only for eligible reliability measures.

(ii) The civil penalties collected from an electric company:

1. may be used only for eligible reliability measures and projects in the service territory of that electric company; but

2. may not replace or substitute for money already budgeted for or spent on any project, including an otherwise eligible reliability measure, that the electric company is required to implement under this section or any other law.

(7) (i) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(ii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

§7–213.1.

(a) In this section, "special medical needs facility" includes:

(1) an assisted living facility as defined in § 19–1801 of the Health – General Article;

(2) a congregate housing services program under Title 10, Subtitle 2 of the Human Services Article;

(3) a hospice facility as defined in § 19–901 of the Health – General Article;

(4) a hospital as defined in § 19–301 of the Health – General Article or a similar institution;

(5) a nursing home as defined in § 19–1401 of the Health – General Article; or

(6) any other type of facility that the Commission designates in regulation as a special medical needs facility.

(b) The purpose of this section is to:

(1) further the service quality and reliability goals under § 7–213 of this subtitle as they relate to special medical needs facilities; and

(2) encourage the reliable delivery of service to special medical needs facilities.

(c) The Secretary of Health and Mental Hygiene shall:

(1) on or before January 1 of each year, establish and provide a list of special medical needs facilities, including the licensed capacity of each facility, to each electric company for its service territory;

(2) post the list required under item (1) of this subsection on the Web site of the Department of Health and Mental Hygiene; and

(3) establish a procedure to allow a special medical needs facility to remove its information from the list established under item (1) of this subsection.

(d) On or before April 1 of each year, an electric company shall submit to the Commission as part of the electric company's annual performance report under § 7–213(g) of this subtitle:

(i) a list of special medical needs facilities that are served by protective devices that activated five or more times during the reporting period, resulting in a power outage;

(ii) a list of special medical needs facilities that experienced a service interruption that:

1. exceeded 4 consecutive hours during the reporting period; and

2. was reported to or was otherwise known to the electric company;

(iii) a list of special medical needs facilities that are served by the 3% of feeders assigned to an electric company's service territory in the State that are identified by the electric company as having the poorest reliability during the reporting period; and

(iv) a description of the electric company's performance in assessing and acting to remediate, and future plans and proposals to improve, the reliability of feeders and protective devices identified under this subsection.

(e) This section does not prohibit the Commission from taking the corrective action authorized in § 7–213(f)(2) of this subtitle against an electric company that fails to meet any or all of the applicable standards.

§7–214.

(a) (1) In this section the following words have the meanings indicated.

(2) "Contact voltage" means a voltage condition that may result in an object or surface being inadvertently energized.

(3) "Contact voltage risk zone" or "CVRZ" means the portions of each electric company's service territory that:

(i) are served by underground electric distribution plant; and

(ii) have substantial pedestrian traffic or population density, whether permanent, seasonal, or varying by time of day.

(4) "Contact voltage survey" means a survey performed by an electric company to detect contact voltage consistent with the electric company's voltage survey plan.

(5) (i) "Electric distribution plant" means all electric company plant used to distribute electricity to its customers.

(ii) "Electric distribution plant" includes covers and protective structures.

(iii) "Electric distribution plant" does not include customer meters and meter enclosures.

(6) "Voltage survey plan" means a plan, submitted by an electric company and approved by the Commission, that governs the electric company's contact voltage detection and testing equipment and voltage detection and testing procedures to be used when conducting contact voltage surveys.

(b) (1) On or before September 1, 2012, each electric company shall file with the Commission for approval:

(i) a list and location map for all CVRZs within its service territory, if applicable; or

(ii) if no CVRZs are designated in its service territory, a voltage survey plan.

(2) Within 30 days after the Commission approves a CVRZ within an electric company's service territory, the electric company shall file its voltage survey plan for Commission approval.

(3) On Commission approval of its voltage survey plan, each electric company shall conduct:

(i) an initial contact voltage survey of each CVRZ within 1 year after the Commission approves an electric company's voltage survey plan; and

(ii) subsequent surveys of each CVRZ as set forth in its voltage survey plan.

(4) Each electric company shall conduct an initial and each subsequent contact voltage survey within each CVRZ of all objects and surfaces that are:

(i) publicly accessible;

(ii) capable of conducting electricity; and

(iii) 1. electric distribution plant;

2. streetlights owned or maintained by the electric company;

3. streetlights and traffic signals owned by a municipal corporation or other unit of government, with the consent of the appropriate authority; and

4. public parks and playgrounds, with the consent of the appropriate authority.

(5) (i) For areas in each electric company's service territory not located in a CVRZ, except for wooden poles, the electric company shall conduct a contact voltage survey on all publicly accessible electric distribution plant and publicly accessible streetlights that the electric company owns or maintains that are capable of conducting electricity:

1. within 3 years after the initial approval of the voltage survey plan; and

2. subsequently as set forth in its voltage survey plan.

(ii) An electric company shall test each streetlight for contact voltage

after dark or when the light is illuminated.

(6) At least 60 days before implementing a material change to a voltage survey plan, an electric company shall file an amended voltage survey plan for Commission approval.

(7) The Commission may modify the frequency or scope of any contact voltage survey requirement on a showing of good cause.

(c) (1) Each electric company shall include in its voltage survey plan all equipment used for detecting contact voltage.

(2) (i) The type of each equipment must be certified by an independent test laboratory as being able to reliably detect voltages of 6 to 600 volts.

(ii) Each electric company shall include the certification when filing the voltage survey plan.

(d) (1) Each electric company shall confirm and document all contact voltage detected in its contact voltage survey using a voltmeter and a 500 ohm shunt resistor.

(2) Until a potential contact voltage condition can be confirmed under paragraph (1) of this subsection, each electric company shall make an area safe after detecting a potential contact voltage condition during its contact voltage survey.

(3) If an electric company detects a contact voltage measurement under paragraph (1) of this subsection that is at least 1 volt of alternating current, the electric company shall:

(i) perform a contact voltage survey on all objects and surfaces that are capable of conducting electricity and are publicly accessible within at least 30 feet of the location of the measured contact voltage;

(ii) when electric distribution plant or a street light that the electric company owns or maintains is indicating contact voltage:

1. immediately and continuously make the area safe; and

2. use best efforts to make a permanent repair to mitigate the contact voltage as soon as possible, but not later than 45 days, unless extraordinary circumstances exist and the area continues to be made safe through a temporary measure to mitigate the contact voltage;

(iii) when property that is not owned by the electric company is indicating contact voltage, immediately use best efforts to:

1. make the area safe; and

2. notify the customer or responsible person associated with the premises or customer–owned facility of the unsafe condition and the need for the customer to make a permanent repair to mitigate contact voltage; and

(iv) maintain written records of its actions to make the area safe and mitigate the contact voltage.

(e) (1) On or before April 1 of each year, each electric company shall file a compliance report with the Commission:

(i) describing the results of its contact voltage surveys; and

(ii) summarizing each known contact voltage electric shock and each contact voltage electric shock complaint received from a member of the public, whether the shock affected an individual or an animal.

(2) The Commission shall approve the form of the report.

(f) The Commission may impose a civil penalty under this division for a violation of this subsection.

(g) The Commission may, in its discretion, through order or regulation:

(1) waive or modify any provision of this section; or

(2) impose additional requirements as circumstances require.

§7–301.

(a) A person may not furnish or put in use for revenue billing purposes a gas meter or electric meter unless the Commission has authorized the meter's use.

(b) (1) Each gas company and electric company shall maintain suitable equipment, approved by the Commission, for testing the accuracy of a gas meter or electric meter furnished by the company for use by its customers.

(2) The gas company or electric company shall test a customer's meter with the equipment in accordance with § 7–302 of this subtitle.

(3) A small rural electric cooperative described in § 7–502(a) of this title may satisfy this section by demonstrating that the electric meters which it furnishes to customers comply with the standards of the utility regulatory body of the state in which the cooperative has its principal place of business.

(c) (1) This subsection applies to:

(i) a new residential multiple occupancy building;

(ii) a new shopping center; or

(iii) a new housing unit that is constructed, managed, operated, developed, or subsidized by a local housing authority established under Division II of the Housing and Community Development Article.

(2) The service restrictions imposed under this subsection do not apply to central hot water.

(3) Except as provided in § 7–304.1 of this subtitle, the Commission may not authorize a gas company or electric company to service an occupancy unit or shopping center unit subject to this subsection unless the building or shopping center has individual metered service or submetering as provided under § 7–303 or § 7–304 of this subtitle for each individually leased or owned occupancy unit or shopping center unit.

(4) In accordance with its regulations, the Commission may authorize a gas company or electric company to provide service for central heating or cooling systems, or a combination of those systems, to an occupancy unit or shopping center unit subject to this subsection if the Commission is satisfied that the service will result in a substantial net saving of energy over the energy saving that would result from individual metering or submetering as provided under § 7–303 or § 7–304 of this subtitle.

(d) The owner, operator, or manager of a residential multiple occupancy building or shopping center subject to this section may not impose a utility cost on an occupancy unit or shopping center unit, except for charges that:

(1) the Commission authorizes the gas company or electric company to impose; and

(2) the gas company or electric company actually imposes on the owner, operator, or manager.

§7–302.

(a) (1) By written request, a consumer may compel the Commission to inspect and test the consumer's electric meter or gas meter.

(2) The consumer is entitled to be present for the test.

(b) (1) The Commission shall set a percentage tolerance limit for the accuracy of an electric meter or gas meter.

(2) The Commission shall order a gas company or electric company to replace a meter at the company's expense if the meter is incorrect to the prejudice of the consumer by more than the percentage tolerance limit set by the Commission.

(c) (1) The Commission shall set a uniform reasonable fee for meter test services under this section.

(2) (i) If the test indicates that the meter is within the percentage tolerance limit set by the Commission under subsection (b)(1) of this section, the consumer shall pay the test fee.

(ii) If the test indicates that the meter is not within the percentage tolerance limit set by the Commission, the Commission shall refund the fee.

§7–303.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Apartment house" means one or more buildings that each contain more than two dwelling units and in which all the dwelling units are occupied primarily for nontransient use with rent paid at intervals of 1 week or longer.

(ii) "Apartment house" includes a residential condominium or cooperative, whether the units are rented or owner occupied.

(3) "Commercial rental unit" means any leased premises used for retail, commercial, clerical, or professional purposes.

(4) "Dwelling unit" means premises that consist of one or more rooms suitable for occupancy as a residence and that contain kitchen and bathroom facilities.

(5) "Office building" means one or more buildings that each contain two or more commercial rental units.

(6) "Shopping center" means any combination of privately owned commercial, professional, or retail establishments to which the general public is invited for business purposes.

(7) "Submetering" means the installation of equipment to determine the actual use of gas or electricity for each:

(i) residential unit in an apartment house; or

(ii) commercial rental unit in an office building or shopping center.

(b) An apartment house, office building, or shopping center that contains a combination of dwelling units or commercial rental units is included under the requirements of this section.

(c) Subject to the provisions of this section, and with the approval of the Commission, a local housing authority established under Division II of the Housing and Community Development Article may submeter any combination of apartment houses, commercial rental units, dwelling units, office buildings, and shopping centers.

(d) (1) Notwithstanding any other law, the Commission shall adopt

regulations to establish standards:

(i) by which an owner, operator, or manager of an apartment house, office building, or shopping center may install submetering equipment for each dwelling unit or commercial rental unit that is not individually metered for gas or electricity; and

(ii) to allocate fairly the cost of each unit's gas or electrical consumption.

(2) (i) An owner, operator, or manager of an apartment house, office building, or shopping center who installs submetering equipment under this section to provide bulk metered service may not impose on a unit in the facility any utility cost except the charges that the Commission authorizes and that the gas company or electric company actually imposes on the owner, operator, or manager.

(ii) The charges imposed under subparagraph (i) of this paragraph shall be allocated among the units in proportion to the actual usage of cubic feet or kilowatt hours by the unit.

(iii) The owner, operator, or manager of an apartment house, office building, or shopping center may collect an additional service charge not exceeding $1 per unit per month to cover administrative costs and billing.

(3) (i) The requirements of this paragraph do not apply to units constructed, managed, operated, developed, or subsidized by a local housing authority established under Division II of the Housing and Community Development Article.

(ii) If the owner, operator, or manager of an apartment house, office building, or shopping center installs submeters during the term of a lease or agreement that includes the cost of gas or electricity consumed for the unit, the owner, operator, or manager shall:

1. determine the amount of gas or electric costs saved by that unit; and

2. pass that amount on to the unit's occupant as a payment or reduction in rent.

(4) All submetering equipment under this section is subject to:

(i) the regulations and standards that the Commission adopts for the accuracy, testing, and record keeping of meters that gas companies or electric companies install; and

(ii) the meter requirements of §§ 7-301 and 7-302 of this subtitle.

(e) The regulations that the Commission adopts under this section shall:

(1) include appropriate safeguards for the occupant of the dwelling unit or commercial rental unit;

(2) require that the utility costs and charges on each unit be imposed in accordance with subsection (d)(2) of this section; and

(3) require that the owner, operator, or manager of the apartment house, office building, or shopping center:

(i) maintain adequate records regarding submetering; and

(ii) allow the occupant of the unit to inspect the records during reasonable business hours.

(f) A regulation or standard that the Commission adopts under this section may be enforced under §§ 3-104 and 13-101 of this article.

(g) The owner, operator, or manager of an apartment house, office building, or shopping center:

(1) may not be considered a public service company; and

(2) may use metering equipment only to allocate fairly the costs of gas or electric service among the occupants of the apartment house, office building, or shopping center in accordance with subsection (e) of this section.

(h) (1) A complaint by an occupant of a dwelling unit or commercial rental unit against an owner, operator, or manager of an apartment house, office building, or shopping center under this section may be filed in the county or municipal corporation where the apartment house, office building, or shopping center is located.

(2) A complaint filed under paragraph (1) of this subsection may be handled by:

(i) the landlord-tenant commission, if one exists, of the county or municipal corporation;

(ii) the consumer protection agency, if one exists, of the county or municipal corporation if there is not a landlord-tenant commission in the county or municipal corporation;

(iii) the Consumer Protection Division of the Office of the Attorney General, if there is not a consumer protection agency in the county or municipal corporation; or

(iv) any other State or local government unit or office designated to handle tenants' complaints.

(i) This section does not affect the right of an owner, operator, or manager of an apartment house, office building, or shopping center to redistribute gas or electricity to tenants or occupants.

§7–304.

(a) (1) In this section the following words have the meanings indicated.

(2) "Apartment house" has the meaning stated in § 7-303(a) of this subtitle.

(3) "Dwelling unit" has the meaning stated in § 7-303(a) of this subtitle.

(4) "Energy allocation system" means a method of determining the approximate energy use within an individual dwelling unit by a measuring device that the Commission approves.

(b) (1) Approval from the Commission is required before energy allocation equipment and procedures may be used by the owner, operator, or manager of an apartment house to determine the amount of gas or electricity used by an individual dwelling unit, if the amount of gas or electricity is determined by means other than by actual measurement of fuel or electric power consumed by the unit.

(2) An energy allocation system may not be used for direct billing of energy costs to the tenant of an individual dwelling unit unless the Commission approves the system in accordance with this subsection.

(c) (1) The Commission shall adopt regulations that specify the conditions under which the energy allocation equipment and procedures approved by it under subsection (b) of this section may be implemented.

(2) The regulations shall include requirements that the owner, operator, or manager of an apartment house shall use to inform consumers about estimated energy costs.

(d) The Commission shall send any complaint it receives about an individual dwelling unit's gas or electric power consumption to the Office of the Attorney General, Consumer Protection Division, if the dwelling unit's gas or electric power consumption is determined by the use of energy allocation equipment and procedures approved by the Commission under subsection (b) of this section.

§7–304.1.

(a) In this section, "master meter" means a meter used to measure, for billing purposes, the total amount of electricity or natural gas used in a building by a heating, ventilation, and air conditioning system, including the combined use from all individually leased or owned units and all common areas.

(b) The Commission may authorize the use of a master meter in a residential multiple occupancy building for heating, ventilation, and air conditioning services without requiring individual metering or submetering for heating, ventilation, and air conditioning services as provided under § 7–303 or § 7–304 of this subtitle if:

(1) the utility bill for heating, ventilation, and air conditioning services for each individually leased or owned occupancy unit is included in the rent for that unit;

(2) the Commission is satisfied that the use of the master meter for heating, ventilation, and air conditioning services will result in a net savings of energy over the energy savings that would result from individual metering or submetering for heating, ventilation, and air conditioning services; and

(3) each individually leased or owned occupancy unit:

(i) has individual metered service for other energy services; and

(ii) directly receives the utility bill for the other energy services.

(c) Before authorizing the use of a master meter for heating, ventilation, and air conditioning services, the Commission may review the proposed allocation of heating, ventilation, and air conditioning system expenses among individual units and common areas served by the master meter.

(d) In accordance with § 7–301 of this subtitle, an electric company or a gas company may inspect and test a master meter authorized for use by the Commission under this section.

§7–305.

(a) A gas company or electric company may bill its customers for gas, electricity, or any other service it renders only on the basis of the net total cost of the service under the applicable rate that is filed for that service.

(b) (1) The Commission may authorize a gas company or electric company to apply an additional charge over the net total cost to any bill or part of a bill that is not paid:

(i) within 20 days for a residential customer or residential cooperative; or

(ii) within 15 days for any other customer.

(2) (i) The additional charge that is applied by a gas company or electric company under this subsection may not exceed 5% of the net bill or part of the bill.

(ii) Unless the Commission approves the imposition of different charges on different classes of customers, any additional charges applied by a gas

company or electric company under this subsection shall be uniform for all customers.

§7–306.

(a) (1) In this section the following words have the meanings indicated.

(2) "Biomass" means "qualified biomass" as defined in § 7–701 of this title.

(3) "Closed conduit hydro" means a hydroelectric generating facility that:

(i) generates electricity within existing piping or limited adjacent piping of a potable water supply system;

(ii) is owned or operated by a municipal corporation or public water authority; and

(iii) is designed to produce less energy than is consumed to operate the water supply system.

(4) "Eligible customer–generator" means a customer that owns and operates, leases and operates, or contracts with a third party that owns and operates a biomass, micro combined heat and power, solar, fuel cell, wind, or closed conduit hydro electric generating facility that:

(i) is located on the customer's premises or contiguous property;

(ii) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and

(iii) is intended primarily to offset all or part of the customer's own electricity requirements.

(5) "Fuel cell" means an electric generating facility that:

(i) includes integrated power plant systems containing a stack, tubular array, or other functionally similar configuration used to electrochemically convert fuel to electric energy; and

(ii) may include:

1. an inverter and fuel processing system; and

2. other plant equipment to support the plant's operation or its energy conversion, including heat recovery equipment.

(6) "Micro combined heat and power" means the simultaneous or sequential production of useful thermal energy and electrical or mechanical power not exceeding 30 kilowatts.

(7) "Net energy metering" means measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by an eligible customer–generator and fed back to the electric grid over the eligible customer–generator's billing period.

(8) "Net excess generation" means the amount of the electricity generated by an eligible customer–generator that is in excess of the electricity consumed by the eligible customer–generator and that results in a negative kilowatt–hour reading at the end of the eligible customer–generator's billing cycle.

(b) The General Assembly finds and declares that a program to provide net energy metering for eligible customer–generators is a means to encourage private investment in renewable energy resources, stimulate in–State economic growth, enhance continued diversification of the State's energy resource mix, and reduce costs of interconnection and administration.

(c) An electric company serving an eligible customer–generator shall ensure that the meter installed for net energy metering is capable of measuring the flow of electricity in two directions.

(d) The Commission shall require electric utilities to develop a standard contract or tariff for net energy metering and make it available to eligible customer–generators on a first–come, first–served basis until the rated generating capacity owned and operated by eligible customer–generators in the State reaches 1,500 megawatts.

(e) (1) A net energy metering contract or tariff shall be identical, in energy rates, rate structure, and monthly charges, to the contract or tariff that the customer would be assigned if the customer were not an eligible customer–generator.

(2) (i) A net energy metering contract or tariff may not include charges that would raise the eligible customer–generator's minimum monthly charge above that of customers of the rate class to which the eligible customer–generator would otherwise be assigned.

(ii) Charges prohibited by this paragraph include new or additional demand charges, standby charges, customer charges, and minimum monthly charges.

(f) (1) The electric company shall calculate net energy metering in accordance with this subsection.

(2) Net energy produced or consumed on a regular basis shall be measured in accordance with standard metering practices.

(3) If electricity supplied by the grid exceeds electricity generated by the eligible customer–generator during a month, the eligible customer–generator shall be billed for the net energy supplied in accordance with subsection (e) of this section.

(4) If electricity generated by the eligible customer–generator exceeds the electricity supplied by the grid, the eligible customer–generator shall be billed only customer charges for that month in accordance with subsection (e) of this section.

(5) (i) An eligible customer–generator under paragraph (4) of this subsection may accrue net excess generation for a period:

1. not to exceed 12 months; and

2. that ends with the billing cycle that is complete immediately prior to the end of April of each year.

(ii) The electric company shall carry forward net excess generation until:

1. the eligible customer–generator's consumption of electricity from the grid eliminates the net excess generation; or

2. the accrual period under subparagraph (i) of this paragraph expires.

(iii) 1. The dollar value of net excess generation shall be equal to the generation or commodity portion of the rate that the eligible customer–generator would have been charged by the electric company averaged over the previous 12–month period ending with the billing cycle that is complete immediately prior to the end of April multiplied by the number of kilowatt–hours of net excess generation.

2. For customers served by an electricity supplier, the dollar value of the net excess generation shall be equal to the generation or commodity rate that the customer would have been charged by the electricity supplier multiplied by the number of kilowatt–hours of net excess generation.

(6) (i) On or before 30 days after the billing cycle that is complete immediately prior to the end of April of each year, the electric company shall pay each eligible customer–generator for the dollar value of any accrued net excess generation remaining at the end of the previous 12–month period ending with the billing cycle that is complete immediately prior to the end of April.

(ii) Within 15 days after the date the eligible customer–generator closes the eligible customer–generator's account, the electric company shall pay the eligible customer–generator for the dollar value of any accrued net excess generation remaining at the time the eligible customer–generator closes the account.

(7) (i) Notwithstanding paragraphs (5) and (6) of this subsection, an eligible customer–generator served by an electric cooperative that serves a population of less than 250,000 in its distribution territory may choose to be paid for the dollar value of net excess generation remaining at the end of each month instead of at the end of the accrual period specified under paragraph (5)(i) of this subsection.

(ii) If an eligible customer–generator chooses to be paid for the dollar value of net excess generation remaining at the end of each month:

1. the customer–generator may accrue net excess generation on a monthly basis;

2. the dollar value of the net excess generation shall be equal to the generation or commodity portion of the rate that the eligible customer–generator would have been charged by the electric company for the previous month; and

3. on or before 30 days after the end of each month, the electric cooperative shall pay the eligible customer–generator for the dollar value of net excess generation remaining at the end of the previous month.

(g) (1) The generating capacity of an electric generating system used by an eligible customer–generator for net metering may not exceed 2 megawatts.

(2) An electric generating system used by an eligible customer–generator for net metering shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

(3) The Commission may adopt by regulation additional control and testing requirements for eligible customer–generators that the Commission determines are necessary to protect public safety and system reliability.

(4) An electric company may not require an eligible customer–generator whose electric generating system meets the standards of paragraphs (2) and (3) of this subsection to:

(i) install additional controls;

(ii) perform or pay for additional tests; or

(iii) purchase additional liability insurance.

(5) An eligible customer–generator or the eligible customer–generator's assignee shall own and have title to all renewable energy attributes or renewable energy credits associated with any electricity produced by its electric generating system.

(h) On or before September 1 of each year, the Commission shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the status of the net metering program under this section, including:

(1) the amount of capacity of electric generating facilities owned and operated by eligible customer–generators in the State by type of energy resource;

(2) based on the need to encourage a diversification of the State's energy resource mix to ensure reliability, whether the rated generating capacity limit in subsection (d) of this section should be altered; and

(3) other pertinent information.

§7–306.1.

(a) A person who is negotiating a contract with an eligible customer–generator to install a solar electric generating facility on the customer–generator's property that the customer–generator owns and operates, leases and operates, or contracts with a third party that owns and operates and that requires interconnection with an electric company's distribution facilities:

(1) shall submit to the customer–generator's electric company a completed application for interconnection of the solar electric generating facility with the electric company's distribution facilities;

(2) before receiving the electric company's approval of the application submitted under paragraph (1) of this subsection:

(i) may accept payment from the customer–generator in connection with the contract; but

(ii) may not begin installation of the solar electric generating facility on the customer–generator's property;

(3) shall notify the customer–generator of the electric company's approval or disapproval of the application submitted under paragraph (1) of this subsection; and

(4) if the electric company disapproves the application submitted under paragraph (1) of this subsection, shall fully refund any payment from the customer–generator under paragraph (2)(i) of this subsection.

(b) On request of a person under subsection (a)(1) of this section, an electric company shall process an application submitted under subsection (a)(1) of this section and notify the person whether the application is approved or disapproved in accordance with a process and time frame specified in regulations adopted by the Commission.

§7–306.2.

(a) (1) In this section the following words have the meanings indicated.

(2) "Baseline annual usage" means:

(i) a subscriber's accumulated electricity use in kilowatt–hours for the 12 months before the subscriber's most recent subscription; or

(ii) for a subscriber that does not have a record of 12 months of electricity use at the time of the subscriber's most recent subscription, an estimate of the subscriber's accumulated 12 months of electricity use in kilowatt–hours, determined in a manner the Commission approves.

(3) "Community solar energy generating system" means a solar energy system that:

(i) is connected to the electric distribution grid serving the State;

(ii) is located in the same electric service territory as its subscribers;

(iii) is attached to the electric meter of a subscriber or is a separate facility with its own electric meter;

(iv) credits its generated electricity, or the value of its generated electricity, to the bills of the subscribers to that system through virtual net energy metering;

(v) has at least two subscribers;

(vi) does not have subscriptions larger than 200 kilowatts constituting more than 60% of its subscriptions;

(vii) has a generating capacity that does not exceed 2 megawatts as measured by the alternating current rating of the system's inverter; and

(viii) may be owned by any person.

(4) "Program" means the Community Solar Energy Generating Systems Pilot Program.

(5) "Subscriber" means a retail customer of an electric company that:

(i) holds a subscription to a community solar energy generating system; and

(ii) has identified one or more individual meters or accounts to which the subscription shall be attributed.

(6) "Subscriber organization" means:

(i) a person that owns or operates a community solar energy generating system; or

(ii) the collective group of subscribers of a community solar energy generating system.

(7) "Subscription" means the portion of the electricity generated by a

community solar energy generating system that is credited to a subscriber.

(8) "Unsubscribed energy" means any community solar energy generating system output in kilowatt–hours that is not allocated to any subscriber.

(9) "Virtual net energy metering" means measurement of the difference between the kilowatt–hours or value of electricity that is supplied by an electric company and the kilowatt–hours or value of electricity attributable to a subscription to a community solar energy generating system and fed back to the electric grid over the subscriber's billing period, as calculated under the tariffs established under subsection (e)(2) of this section.

(b) The General Assembly finds that:

(1) community solar energy generating systems:

(i) provide residents and businesses, including those that lease property, increased access to local solar electricity while encouraging private investment in solar resources;

(ii) enhance continued diversification of the State's energy resource mix to achieve the State's renewable energy portfolio standard and Greenhouse Gas Emissions Reduction Act goals; and

(iii) provide electric companies and ratepayers the opportunity to realize the many benefits associated with distributed energy; and

(2) it is in the public interest that the State enable the development and deployment of energy generation from community solar energy generating systems in order to:

(i) allow renters and low–income and moderate–income retail electric customers to own an interest in a community solar energy generating system;

(ii) facilitate market entry for all potential subscribers while giving priority to subscribers who are the most sensitive to market barriers; and

(iii) encourage developers to promote participation by renters and low–income and moderate–income retail electric customers.

(c) A community solar energy generating system, including a subscriber or subscriber organization associated with the community solar energy generating system, is not:

(1) an electric company;

(2) an electricity supplier; or

(3) a generating station.

(d) (1) (i) The Commission shall establish a pilot program for a Community Solar Energy Generating System Program.

(ii) The structure of the pilot program is as provided in this subsection.

(2) All rate classes may participate in the pilot program.

(3) Subscribers served by electric standard offer service and electricity suppliers may hold subscriptions to the same community solar energy generating system.

(4) A subscriber organization shall:

(i) determine how to allocate subscriptions to subscribers; and

(ii) notify an electric company and, if applicable, a relevant electricity supplier about the regulations the Commission adopts under subsection (e) of this section.

(5) An electric company shall use the tariff structure under subsection (e)(2) of this section to provide each subscriber with the credits.

(6) A subscriber may not receive credit for virtual net excess generation that exceeds 200% of the subscriber's baseline annual usage.

(7) Any unsubscribed energy generated by a community solar energy generating system that is not owned by an electric company shall be purchased under the electric company's process for purchasing the output from qualifying facilities at the amount it would have cost the electric company to procure the energy.

(8) An electric company shall use energy generated from a community solar energy generating system to offset purchases from wholesale electricity suppliers for standard offer service.

(9) All costs associated with small generator interconnection standards under COMAR 20.50.09 are the responsibility of the subscriber organization.

(10) A subscriber organization may petition an electric company to coordinate the interconnection and commencement of operations of a community solar energy generating system after the Commission adopts regulations required under subsection (e) of this section.

(11) A subscriber organization may contract with a third party for the third party to finance, build, own, or operate a community solar energy generating system.

(12) A municipal utility or cooperative utility may participate in the pilot program.

(13) Equipment for a community solar energy generating system may not be built on contiguous parcels of land unless the equipment is installed only on building rooftops.

(14) The pilot program shall:

(i) begin on the earlier of:

1. the date of submission of the first petition of a subscriber organization under paragraph (10) of this subsection after the Commission adopts the regulations required under subsection (e) of this section; or

2. 6 months after the Commission adopts those regulations; and

(ii) end 3 years after the beginning date.

(15) The Commission shall limit the pilot program in such a way that the Commission may conduct a meaningful study of the pilot program and its results, including:

(i) the appropriate number of community solar energy generating systems to be included in the pilot program;

(ii) the appropriate amount of generating capacity of the community solar energy generating systems to be included in the pilot program; and

(iii) a variety of appropriate geographical areas in the State for locating community solar energy generating systems to be included in the pilot program.

(e) On or before May 15, 2016, the Commission shall adopt regulations to implement this section, including regulations for:

(1) consumer protection;

(2) a tariff structure for an electric company to provide a subscriber with the kilowatt–hours or value of the subscriber's subscription, as the Commission determines;

(3) a calculation for virtual net energy metering as the Commission determines;

(4) a protocol for electric companies, electricity suppliers, and subscriber organizations to communicate the information necessary to calculate and provide the

monthly electric bill credits and yearly net excess generation payments required by this section; and

(5) a protocol for a subscriber organization to coordinate with an electric company for the interconnection and commencement of operations of a community solar energy generating system.

(f) (1) Subject to regulations or orders of the Commission, a contract relating to a community solar energy generating system or subscriber organization that is entered into during the pilot program shall remain in effect according to the terms of the contract, including after the termination of the pilot program.

(2) After termination of the pilot program, in accordance with the operational and billing requirements in subsection (d) of this section:

(i) a subscriber organization may continue the operation of a community solar energy generating system that began operation during the pilot program, including the creation and trading of subscriptions; and

(ii) in accordance with the tariffs established under subsection (e)(2) of this section, an electric company shall continue to facilitate the operation of a community solar energy generating system that began operation during the pilot program.

(g) The cumulative installed nameplate capacity under the pilot program shall count toward the overall limitation of 1,500 megawatts for all net metering projects in § 7–306(d) of this subtitle.

§7–307.

(a) In this section, "termination of service" means the termination, reduction, or refusal to reinstate gas or electric service, or any other action that has the effect of reducing or denying gas or electric service because of nonpayment.

(b) (1) Subject to paragraph (2) of this subsection, the Commission shall adopt regulations concerning the prohibition against or limitation of authority of a public service company to terminate service for gas or electricity to a low income residential customer during the heating season for nonpayment.

(2) In adopting the regulations required under paragraph (1) of this subsection, the Commission shall consider and may include provisions relating to:

(i) the circumstances under which service may and may not be limited or terminated;

(ii) the minimum heating levels required to maintain life, health, and safety;

(iii) the medical, age, disabling, or other individual characteristics that are relevant to a prohibition against or limitation on the termination of service;

(iv) the availability of and qualification for State and federal energy assistance;

(v) the financial eligibility standards relevant to a prohibition against or limitation on the termination of service;

(vi) the availability and appropriateness of equipment designed to limit the flow of service for gas or electricity;

(vii) the short-term and long-term alternative payment plans, for appropriate customers whose accounts are in arrears, that are best designed:

1. to allow present and future continuation of service; and

2. to encourage full payment over a period of time;

(viii) the methods that a public service company might use before and during the heating season to anticipate customer nonpayment, to assist those customers, and to avoid termination of service;

(ix) the procedures that a public service company uses to mitigate the problems of termination of service to customers, including customer contact;

(x) the procedure that a public service company shall follow before termination of service to a customer to avoid a threat to life, health, or safety;

(xi) the appropriate customer notice before the termination of service;

(xii) the appropriate opportunity and procedure for a customer to contest a proposed termination of service;

(xiii) the existence of other circumstances that because of an emergency, might justify a prohibition against or a limitation on the termination of service; and

(xiv) the economic implication of any restriction on termination of service.

(c) (1) In accordance with § 2–1246 of the State Government Article, on or before September 1 of each year, the Commission shall report to the General Assembly on terminations of service by public service companies during the previous heating season.

(2) The report shall include information in sufficient detail to indicate the effect of the terminations of service on various categories of customers, including:

(i) income levels;

(ii) geographic areas;

(iii) energy assistance recipients; and

(iv) any other category that the Commission determines is relevant to evaluate how the State may best address the problem of assuring adequate gas and electric service for low income residential customers.

§7–307.1.

(a) A public service company may not terminate electric or gas service to a residential customer in a designated weather station area because of nonpayment on a day for which the forecasted high temperature is 32 degrees Fahrenheit or below in that weather station area.

(b) A public service company may not terminate electric service to a residential customer in a designated weather station area because of nonpayment on a day for which the forecasted temperature is 95 degrees Fahrenheit or above in that weather station area.

(c) The Commission shall require each public service company that provides electric or gas service to designate and file with the Commission designated weather station areas within its service territory for use in administering the restrictions on weather–related terminations under subsections (a) and (b) of this section.

(d) This section may not be construed to limit the authority of the Commission to adopt, by regulation or order, additional limitations and conditions on termination of electric or gas service that are more protective of consumers.

(e) The Commission shall adopt regulations to carry out this section.

§7–307.2.

(a) This section applies only to property subject to a condominium regime established under Title 11 of the Real Property Article.

(b) Notwithstanding any other law, if a public service company bills the governing body of a condominium or a person designated by the governing body of a condominium for electric, gas, or water service for all or a portion of the units in a condominium property, and the charge for service is in arrears for at least 60 days, the public service company shall post notice conspicuously at or near the entry to the common area of the condominium.

(c) The public service company may enter onto the common area of a condominium property at a reasonable time to post the notice required under this section.

§7–308.

(a) In this section, "natural gas vehicle" means a vehicle operated on a public road and powered by natural gas.

(b) The sale by any person of natural gas that is received from a public service company for use as a motor fuel in a natural gas vehicle is not subject to regulation by the Commission.

(c) A person that sells natural gas received from a public service company for use as a motor fuel in a natural gas vehicle is not considered a public service company for purposes of this article.

§7–309.

(a) This section does not apply to electric cooperatives.

(b) (1) In this section the following words have the meanings indicated.

(2) "Affected dwelling unit" means a dwelling unit, as defined in § 7–303 of this subtitle, where the utility service:

(i) is in the landlord's name;

(ii) is delivered through a single meter to a single dwelling unit; and

(iii) does not use a master meter.

(3) "Co–occupant" means two or more adults who occupy the same dwelling unit as their primary domicile or legal residence within the State.

(4) "Landlord" means an owner of an affected dwelling unit who leases the affected dwelling unit to a tenant.

(5) "Tenant" means an occupant of an affected dwelling unit who:

(i) has a valid oral or written lease to reside in the affected dwelling unit; and

(ii) is not a co–occupant with the landlord in the affected dwelling unit.

(6) "Utility service" means gas or electric service provided to an affected dwelling unit by a public service company that is regulated by the Commission.

(7) "Utility service provider" means a public service company that:

(i) provides gas or electric service; and

(ii) is regulated by the Commission.

(c) If utility service at an affected dwelling unit is subject to the threat of termination or actual termination, a tenant residing in the affected dwelling unit:

(1) may apply for a new utility service account in the tenant's name; and

(2) may not incur liability for charges due on the landlord's account.

(d) (1) Subject to paragraphs (2) and (3) of this subsection, when a tenant applies for a new utility service account under subsection (c)(1) of this section, a utility service provider shall establish a new utility service account for the affected dwelling unit in the name of the tenant if the tenant meets the requirements of all applicable laws, regulations, and tariffs.

(2) A utility service provider may, in accordance with applicable laws, regulations, and tariffs, require a tenant to pay a deposit and past due balances from previous accounts in the tenant's name before establishing a new utility service account in the tenant's name.

(3) A utility service provider may not refuse or otherwise condition a tenant's ability to establish a new utility service account in the tenant's name because of arrearages on the landlord's account.

(e) Notwithstanding any other law governing the protection of customer information, if the billing address for a utility service account is different from the service address for the same utility service account and a utility service provider sends a termination notice to the billing address, the utility service provider shall:

(1) send a termination notice to the service address by first–class mail or post a termination notice in a conspicuous location at the service address at least 14 days before terminating utility service to the affected dwelling unit;

(2) ensure that the notice contains:

(i) the earliest date that service will be terminated; and

(ii) the telephone number the tenant may call to obtain further information;

(3) address the notice to "All Occupants"; and

(4) enclose the notice in an envelope that states on the address side, in bold, capitalized letters in at least 12–point type, the following: "IMPORTANT NOTICE TO ALL OCCUPANTS: UTILITY TERMINATION PENDING".

(f) If the billing address for a utility service account is the same as the service address for the same utility service account and the utility service provider

sends a termination notice, the notice shall be enclosed in an envelope, the address side of which shall have a written notice stating in bold, capitalized letters in at least 12–point type, the following: "IMPORTANT NOTICE TO ALL OCCUPANTS: UTILITY TERMINATION PENDING".

(g) A tenant may deduct from rent due to a landlord the amount of payments made to a utility service provider in accordance with § 8–212.3 of the Real Property Article.

(h) In a rate proceeding filed under Title 4, Subtitle 2 of this article, the Commission shall authorize the full and timely cost recovery of a utility service provider's prudently incurred costs arising from its obligations under this section.

§7–401.

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

(b) "B.T.U." means a British Thermal Unit which is the quantity of heat required to raise the temperature of 1 pound of water 1 degree Fahrenheit.

(c) "Builder" means:

(1) the person with whom the owner of a building enters into a contract or agreement to be principally responsible for the construction of the building, either individually or as a general contractor; or

(2) the owner of a building, if the owner constructs the building or serves as the owner's own general contractor.

(d) (1) "Building" means any new structure that:

(i) is designed for human use or occupancy;

(ii) provides a method of controlling energy usage within its exterior envelope; and

(iii) as designed, does not have a peak design rate of energy usage per square foot of floor area of less than 3.5 B.T.U. per hour or 1 watt.

(2) "Building" includes any portion of an otherwise excluded new structure if that portion of the structure is primarily for human use or occupancy because the exterior envelopes, heating, venting and air conditioning systems, service water heating, and electrical distribution and illuminating systems are designed for that portion of the structure that is primarily for human use or occupancy.

(3) "Building" does not include:

(i) an addition to an existing structure or a single-family dwelling

that is to constitute the principal residence of the builder;

(ii) a structure with a permanent heating and cooling system that utilizes a source other than natural gas, a petroleum product, or electricity;

(iii) an industrialized building as defined in § 12-301 of the Public Safety Article that bears an insignia furnished by the Department of Housing and Community Development under Title 12, Subtitle 3 of the Public Safety Article; and

(iv) a manufactured home as defined in § 12-301 of the Public Safety Article that bears an insignia issued by the Department of Housing and Community Development under Title 12, Subtitle 3 of the Public Safety Article.

(e) "Energy Code" means energy conservation standards adopted under COMAR 05.02.07.04 Maryland Building Performance Standards (MBPS) under the authority of Title 12, Subtitle 5 of the Public Safety Article.

(f) "Political subdivision" means a county, Baltimore City, or a municipal corporation.

§7–402.

Except as provided in § 7-406(c) of this subtitle, the provisions of this subtitle do not apply to any building constructed within the boundaries of a political subdivision if:

(1) the political subdivision has adopted the Energy Code; and

(2) the Energy Code adopted by the political subdivision applies to the building being constructed.

§7–403.

(a) (1) Except as provided in paragraph (2) of this subsection and § 7-404 of this subtitle, a builder of any building that is completed after July 1, 1982 shall certify under oath to the electric company designated to provide electric service to the building that the building meets the latest edition of the Energy Code.

(2) If the building was designed while the immediately preceding edition of the Energy Code was in effect and the building was constructed in accordance with the then preceding edition of the Energy Code, the builder may so certify in order to satisfy the requirements of this section.

(b) (1) The certification shall be made on a form that is provided by the Department of Housing and Community Development.

(2) The certificate shall contain a statement to the effect that any action brought by the first purchaser against the builder under § 7-406(b) of this subtitle

may be brought within 3 years after the date on which the builder provided the first purchaser with a copy of the certificate or the waiver as provided in § 7-406(a) of this subtitle.

(c) (1) The builder shall file the certificate with the electric company in person or by certified mail, return receipt requested.

(2) If the builder is a corporation, the certificate shall be submitted under oath by an officer of the corporation.

§7–404.

(a) Subject to the provisions of this section, the Department of Housing and Community Development may grant a waiver from the certification requirements specified in § 7-403 of this subtitle for any building:

(1) to which a significant commitment had been made to its design or construction prior to January 1, 1982; and

(2) for which imposition of energy conservation standards under this subtitle would pose a substantial financial hardship.

(b) For any waiver granted under this section, the Department shall issue a written statement that clearly identifies the building affected and that specifies that the Department has granted a waiver from the energy conservation requirements of this subtitle.

(c) To be effective, the builder shall file the statement of waiver issued by the Department of Housing and Community Development in person or by certified mail, return receipt requested, with the electric company designated to provide electric service to the building.

§7–405.

(a) (1) Except as provided in paragraph (2) of this subsection, an electric company may not provide electric service to any building on which construction is completed after July 1, 1982, unless the builder has filed with the company the certificate or statement of waiver that is required under this subtitle.

(2) Paragraph (1) of this subsection does not apply to the temporary provision of electric service for use only during the process of constructing a building.

(b) If it is later determined that a building did not conform to the energy conservation standards to which the builder has certified or that a false waiver was provided to the electric company by the builder, the electric company may not be held liable for that noncompliance.

(c) (1) Certificates and statements of waiver filed with an electric company

under this subtitle shall be made available to the public.

(2) The electric company:

(i) shall provide a copy of any certificate or statement of waiver that it has on file to any person on request within a reasonable time not to exceed 5 working days; and

(ii) may charge a reasonable fee for any copy of a certificate or statement of waiver that it provides.

(3) The electric company is not required to retain a certificate or a statement of waiver filed with the electric company under this subsection beyond 3 years from the date the certificate or statement of waiver was filed with the electric company.

§7–406.

(a) (1) A builder subject to the provisions of this subtitle shall:

(i) provide the first purchaser of the building with a copy of the certificate that is filed with the electric company; or

(ii) if the builder was issued a waiver under § 7-404 of this subtitle, provide the first purchaser with a copy of the statement of waiver.

(2) If the first purchaser of the building resells the building without having occupied or rented it, at the time of the resale, the first purchaser shall provide the next purchaser with the copy of the certificate or the statement of waiver.

(b) (1) If a builder fails to comply with the energy conservation standards required for certification under this subtitle, or the builder fails to obtain a statement of waiver under this subtitle, the builder is liable to the first purchaser who either occupies or rents the building for an amount not to exceed $2,000 and for:

(i) the cost of bringing the building into compliance with the standards required under this subtitle;

(ii) the reasonable attorney's fees and court costs of the purchaser; and

(iii) any reasonable costs incurred by the purchaser in determining that the builder did not comply with the energy conservation standards required under this subtitle.

(2) An action under this subsection may not be brought more than 3 years after the date on which the builder provided the purchaser with a copy of the certificate or the waiver.

(3) If the builder is a corporation and the corporation is dissolved, the purchaser may bring any action authorized under this subsection against any person who was an officer of the corporation at the time that the alleged violation occurred.

(c) (1) In any political subdivision that has adopted the Energy Code, if a builder of a building that is completed after July 1, 1982 willfully deviates from the approved plans for the building, the builder is liable to the first purchaser who either occupies or rents the building for an amount not to exceed $2,000 and for:

(i) the cost of bringing the building into compliance with the Energy Code;

(ii) the reasonable attorney's fees and court costs of the purchaser; and

(iii) any reasonable costs incurred by the purchaser in determining that the builder did not comply with the Energy Code.

(2) An action under this subsection may not be brought more than 3 years after the date on which a use and occupancy permit is issued for the building by the political subdivision in which the building is located.

(3) If the builder is a corporation and the corporation is dissolved, the purchaser may bring any action authorized under this subsection against any person who was an officer of the corporation at the time that the alleged violation occurred.

(4) The provisions of paragraph (1) of this subsection are in addition to any other remedies available under State or local law.

§7–407.

(a) A person who fails or causes another to fail to submit a certification or statement of waiver to an electric company as required by this subtitle and a person who knowingly submits or knowingly causes to be submitted a false certification or statement of waiver, is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000.

(b) An electric company that knowingly provides service in violation of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000.

§7–408.

This subtitle may be cited as the Energy Conservation Building Standards Act.

§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 an 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) "Independent system operator" means an entity authorized by the Federal Energy Regulatory Commission to control a regional transmission grid.

(i) "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 Electric Utilities; or

(3) another date or dates determined by the Commission under § 7–510(b) of this subtitle.

(j) "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.

(k) "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.

(l) (1) "Public purpose program" means a program implemented with the intention of furthering a public purpose.

(2) "Public purpose program" includes:

(i) a universal service program;

(ii) a program encouraging renewable energy resources;

(iii) a demand side management or other energy efficiency or conservation program; and

(iv) a consumer education program.

(m) "Qualified rate order" means an order of the Commission approving one or more intangible transition charges.

(n) "Standard offer service" means electric service that an electric company must offer to its customers under § 7–510(c) of this subtitle.

(o) "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.

(p) "Transition cost" means a cost, liability, or investment that:

(1) traditionally would have been or would be recoverable under rate–of–return regulation, but which may not be recoverable in a restructured electricity supply market; or

(2) arises as a result of electric industry restructuring and is related to the creation of customer choice.

(q) (1) "Universal service program" means a program that helps low–income customers maintain electric service.

(2) "Universal service program" includes customer bill assistance and payment 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.

(a) Except as required under subsection (b) of this section, the provisions of this subtitle may not be applied to a small rural electric cooperative that:

(1) has less than 10% of its distribution territory within the State;

(2) maintains its principal place of business outside the State; and

(3) is subject to, and conducts its operations within the State in compliance with, the laws of the state in which its principal place of business is located.

(b) (1) A small rural electric cooperative, as described in subsection (a) of this section, shall be subject to all requirements and prohibitions adopted under the authority of §§ 7-505(b)(1) through (4), (6), (7), (11), and (12) and 7-507(e), (h), (i), (k), and (l) of this subtitle.

(2) In addition to the requirements for a small rural electric cooperative set forth in paragraph (1) of this subsection, a member of a small rural electric cooperative that receives electricity or electricity supply services from an entity other than the small rural electric cooperative may receive these services only from an entity that is licensed under § 7-507 of this subtitle.

§7–504.

The General Assembly finds and declares that the purpose of this subtitle is to:

(1) establish customer choice of electricity supply and electricity supply services;

(2) create competitive retail electricity supply and electricity supply services markets;

(3) deregulate the generation, supply, and pricing of electricity;

(4) provide economic benefits for all customer classes; and

(5) ensure compliance with federal and State environmental standards.

§7–505.

(a) (1) 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 ensure compliance with federal and State environmental regulations, be fair to customers, electric company investors, customers of municipal electric utilities, electric companies, and electricity suppliers, and provide economic benefits to all customer classes.

(2) The Commission shall consider the restructuring plans of municipal electric utilities, as specified under § 7–510 of this subtitle.

(b) (1) The Commission shall issue the orders or adopt the regulations required under this subsection before the implementation of customer choice.

(2) The Commission shall order a universal service program, to be made available on a statewide basis, to benefit low–income customers, in accordance with § 7–512.1 of this subtitle.

(3) The Commission shall order an electric company to adopt policies and practices reasonably designed to prevent:

(i) discrimination against a person, locality, or particular class of service or giving undue or unreasonable preference in favor of the electric company's own electricity supply, other services, divisions, or affiliates, if any; and

(ii) any other forms of self–dealing or practices that could result in noncompetitive electricity prices to customers.

(4) (i) The Commission shall, by regulation or order, require each electric company and electricity supplier to provide adequate and accurate information to each customer on the available electric services of the electric company or electricity supplier, including disclosure, every 6 months, of a uniform common set of information about:

1. the fuel mix of the electricity purchased by customers, including categories of electricity from coal, natural gas, nuclear, oil, hydroelectric, solar, biomass, wind, and other resources, or disclosure of a regional fuel mix average; and

2. the emissions, on a pound per megawatt–hour basis, of pollutants identified by the Commission, or disclosure of a regional fuel mix average.

(ii) The Commission may require an electric company or an electricity supplier to provide documentation supporting the disclosures required under subparagraph (i) of this paragraph.

(5) (i) The Commission shall, by regulation or order, require the unbundling of electric company rates, charges, and services into standardized categories determined by the Commission.

(ii) The Commission shall, by regulation or order, require that customers' bills for electricity service indicate charges for:

1. distribution and transmission;

2. transition charge or credit;

3. universal service program charges;

4. customer charges;

5. taxes; and

6. other charges identified by the Commission.

(6) The Commission shall issue orders or regulations to prevent an electric company and an electricity supplier from disclosing a retail electric customer's billing, payment, and credit information without the retail electric customer's consent, except as allowed by the Commission for bill collection or credit rating reporting purposes.

(7) An electricity supplier may not engage in marketing, advertising, or trade practices that are unfair, false, misleading, or deceptive.

(8) The Commission shall determine the terms, conditions, and rates of standard offer service in accordance with:

(i) Title 4 of this article; or

(ii) as applicable, § 7–510(c)(4) of this subtitle.

(9) 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.

(10) (i) On or before July 1, 2000, the Commission shall issue orders or adopt regulations reasonably designed to ensure the creation of competitive electricity supply and electricity supply services markets, with appropriate customer safeguards.

(ii) On or before July 1, 2000, the Commission shall require:

1. an appropriate code of conduct between the electric company and an affiliate providing electricity supply and electricity supply services in the State;

2. access by electricity suppliers and customers to the electric company's transmission and distribution system on a nondiscriminatory basis;

3. appropriate complaint and enforcement procedures; and

4. any other safeguards deemed necessary by the Commission to ensure the creation and maintenance of a competitive electricity supply and electricity supply services market.

(iii) On or before July 1, 2000, the Commission shall require, among other factors, functional, operational, structural, or legal separation between the electric company's regulated businesses and its nonregulated businesses or nonregulated affiliates.

(11) Nothing in this title may be construed as preventing the application of State and federal consumer protection and antitrust laws to electric companies and their affiliates, and to electricity suppliers.

(12) The Commission, in consultation with the Department of the Environment, shall adopt appropriate measures to maintain environmental standards, adapt existing programs, and develop new programs as appropriate to ensure compliance with federal and State environmental protection standards.

(13) (i) An electric company shall comply with all requirements of the Commission in conducting regulated operations in compliance with this division.

(ii) The Commission shall require each electric company to adopt a code of conduct to be approved by the Commission by a date to be determined by the Commission to prevent regulated service customers from subsidizing the services of unregulated businesses or affiliates of the electric company.

(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 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) (i) Except as provided in subparagraph (ii) of this paragraph, the cap required under paragraph (1) of this subsection does not apply to the recovery of costs added after January 1, 2000, in accordance with § 7–512(c) of this subtitle.

(ii) The cap required under paragraph (1) of this subsection applies to the recovery of:

1. any transition costs under § 7–513 of this subtitle;

2. any costs included in rates on January 1, 2000, in accordance with § 7–512(c) of this subtitle; and

3. costs for the universal service program established under § 7–512.1 of this subtitle.

(3) As part of a settlement, the Commission may approve a cap for a different time period or an alternative price protection plan that the Commission determines is equally protective of ratepayers.

(4) (i) 1. Subject to the provisions of paragraph (5) of this subsection, the Commission shall reduce residential rates for each investor–owned electric company by an amount between 3% and 7.5% of base rates, as measured on June 30, 1999.

2. The reduction required under subsubparagraph 1 of this subparagraph shall begin on the initial implementation date and remain in effect for 4 years.

3. The Commission shall determine the allocation of the rate reduction among the generation, transmission, and distribution residential rate components.

(ii) In achieving the rate reduction required under subparagraph (i) of this paragraph, the Commission shall consider:

1. the expiration of any surcharge;

2. changes in the electric company's tax liability;

3. cost of service determinations ordered by the Commission;

4. net transition costs or benefits;

5. the effect on the competitive electricity supply market;

6. whether the rate reduction and rate cap will unduly impair the electric company's financial condition;

7. the costs associated with the universal service program; and

8. the interests of the public, including shareholders of the electric company.

(iii) The Commission may, within the parameters provided in subparagraph (i) of this paragraph, increase or decrease the actual rate reduction required.

(iv) The Commission may allow the recovery of any extraordinary costs based on the circumstances of an individual electric company if the Commission determines that the action is necessary and in the public interest.

(v) In determining the rate reduction required under subparagraph (i) of this paragraph, the Commission may not increase rates for nonresidential customers.

(5) The requirements of paragraph (4) of this subsection do not apply to an electric company if the Commission approves or has in effect a settlement that the Commission determines is equally protective of ratepayers.

(e) (1) The Commission shall assess the amount of electricity generated in Maryland as well as the amount of electricity imported from other states in order to determine whether a sufficient supply of electricity is available to customers in the State.

(2) On or before January 1 in 2001, 2003, 2005, and 2007, the Commission shall report to the General Assembly in accordance with § 2–1246 of the State Government Article on its assessment under this subsection, and any recommendations for legislation which may be needed to ensure an adequate supply of electricity for customers in the State.

§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 § 7–213 of this title and applicable orders, tariffs, and regulations of the Commission.

(d) The electric company shall connect customers and deliver electricity on behalf of electricity suppliers consistent with the provisions of this division.

(e) The electric company shall provide standard offer service under § 7–510(c) of this subtitle.

§7–507.

(a) A person, other than an electric company providing standard offer service under § 7-510(c) of this subtitle or a municipal electric utility serving customers solely in its distribution territory, 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, including:

(i) proof of technical and managerial competence;

(ii) proof of compliance with all applicable requirements of the Federal Energy Regulatory Commission, and any independent system operator or regional or system transmission operator to be used by the licensee;

(iii) a certification of compliance with applicable federal and State environmental laws and regulations that relate to the generation of electricity; and

(iv) payment of the applicable licensing fee.

(c) The Commission shall, 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 is qualified 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:

(i) electricity suppliers that serve only large customers; and

(ii) the different categories of electricity suppliers.

(d) A license issued under this section may not be transferred without prior Commission approval.

(e) The Commission shall adopt regulations or issue orders to:

(1) protect consumers, electric companies, and electricity suppliers from anticompetitive and abusive practices;

(2) require each electricity supplier to provide, in addition to the requirements under § 7-505(b)(5) of this subtitle, adequate and accurate customer information to enable customers to make informed choices regarding the purchase of any electricity services offered by the electricity supplier;

(3) establish reasonable restrictions on telemarketing;

(4) establish procedures for contracting with customers;

(5) establish requirements and limitations relating to deposits, billing, collections, and contract cancellations;

(6) establish provisions providing for the referral of a delinquent account by an electricity supplier to the standard offer service under § 7-510(c) of this subtitle; and

(7) establish procedures for dispute resolution.

(f) In accordance with regulations or orders of the Commission, electricity bills, for competitive and regulated electric services, provided to consumers may provide, in addition to the requirements of § 7-505(b)(5) of this subtitle and subsection (e)(2) of this section, the following information:

(1) the identity and phone number of the electricity supplier of the service;

(2) sufficient information to evaluate prices and services; and

(3) information identifying whether the price is regulated or competitive.

(g) (1) An electricity supplier or any person or governmental unit may not, without first obtaining the customer's permission:

(i) make any change in the electricity supplier for a customer; or

(ii) add a new charge for a new or existing service or option.

(2) The Commission shall adopt regulations or issue orders establishing procedures to prevent the practices prohibited under paragraph (1) of this subsection.

(h) (1) An electricity supplier may not discriminate against any customer based wholly or partly on race, color, creed, national origin, or sex of an applicant for service or for any arbitrary, capricious, or unfairly discriminatory reason.

(2) An electricity supplier may not refuse to provide service to a customer except by the application of standards that are reasonably related to the electricity supplier's economic and business purposes.

(i) An electricity supplier shall be subject to all applicable federal and State environmental laws and regulations.

(j) An electricity supplier shall post on the Internet information that is readily understandable about its services and rates for small commercial and residential electric customers.

(k) (1) The Commission may revoke or suspend the license of an electricity supplier, impose a civil penalty or other remedy, order a refund or credit to a customer, 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;

(vii) failing to pay, collect, remit, or calculate accurately applicable State or local taxes;

(viii) violating a provision of this article or any other applicable consumer protection law of the State;

(ix) conviction of a felony by the licensee or principal of the licensee or any crime involving fraud, theft, or deceit; and

(x) suspension or revocation of a license by any State or federal authority.

(l) (1) An electricity supplier or person selling or offering to sell electricity in the State in violation of this section, after notice and an opportunity for a hearing, is subject to:

(i) a civil penalty of not more than $10,000 for the violation; or

(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 after considering:

(i) the number of previous violations of any provision of this division;

(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.

(m) 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.

(n) The Commission may order the electricity supplier to cease adding or soliciting additional customers or to cease serving customers in the State.

(o) The Commission shall consult with the Consumer Protection Division of the Office of the Attorney General before issuing regulations designed to protect consumers.

(p) The People's Counsel shall have the same authority in licensing, complaint, and dispute resolution proceedings as it has in Title 2 of this article.

(q) Nothing in this subtitle may be construed to affect the authority of the Division of Consumer Protection in the Office of the Attorney General to enforce violations of Titles 13 and 14 of the Commercial Law Article or any other applicable State law or regulation in connection with the activities of electricity suppliers.

§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 to an affiliate may not affect or restrict the Commission's determination of the value of a generation asset for purposes of transition costs or benefits 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 or benefits 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:

(i) that the appropriate accounting has been followed;

(ii) that 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 that, as part of a settlement approved by the Commission, remain regulated or are recovered through the distribution function.

(b) (1) Subject to paragraph (2) of this subsection, this section does not apply to an investor–owned electric company until the electric company:

(i) transfers generation facilities and generation assets to an affiliate of the electric company, and the affiliate operates the facilities and assets; or

(ii) sells the generation facilities and generation assets to a nonaffiliate.

(2) (i) Notwithstanding the provisions of paragraph (1) of this subsection, this section applies to an investor–owned electric company that does not transfer its generation facilities and generation assets to an affiliate or sell its generation facilities and generation assets to a nonaffiliate if, on January 1, 1999, the retail peak load of the investor–owned electric company in the State was less than 1,000 megawatts.

(ii) An investor–owned electric company to which this section applies through subparagraph (i) of this paragraph shall, by January 1, 2001:

1. transfer its generation facilities and generation assets to an affiliate of the investor–owned electric company that operates the facilities and assets; or

2. sell 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 latest of:

(1) the date when all customers of that electric company are eligible for customer choice under § 7–510 of this subtitle;

(2) the date when the amount of transition costs or benefits arising from the generation that is deregulated has been finally determined by the Commission under § 7–513(a) through (c) of this subtitle; or

(3) the date on which the obligation of the electric company to provide standard offer service under § 7–510(c)(3)(ii) of this subtitle terminates.

§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 residential class in the State of each electric company shall have the opportunity for customer choice;

(ii) on January 1, 2001, the entire industrial class and the entire commercial class in the State of each electric company shall have the opportunity for customer choice;

(iii) on July 1, 2001, two-thirds of the residential class in the State of each electric company shall have the opportunity for customer choice;

(iv) on July 1, 2002, all customers of each electric company shall have the opportunity for customer choice; and

(v) 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) (i) In accordance with this paragraph, the Commission may adopt a separate schedule for municipal electric utilities for the implementation of customer choice.

(ii) A municipal electric utility may not be required to make its service territory available for customer choice unless it elects to do so.

(iii) If a municipal electric utility elects to allow customer choice, the municipal electric utility shall file a proposed plan and schedule with the Commission.

(iv) The Commission may approve each municipal electric utility plan and schedule after considering the features that distinguish the municipal electric utility from other electric companies.

(v) Nothing in this subtitle may be construed to require the functional, operational, structural, or legal separation of the regulated and nonregulated operations of the municipal electric utility.

(3) On or before October 1, 2003, each municipal electric utility shall report, subject to § 2-1246 of the State Government Article, to the General Assembly on the status of the opportunity for customer choice in its service territory, including:

(i) if the service territory of the municipal electric utility is available for customer choice, its experience, through July 1, 2003, with the transition to customer choice; or

(ii) if the service territory of the municipal electric utility is not available for customer choice as of July 1, 2003, its proposed intention to make customer choice available in the future.

(4) If a municipal electric utility serves customers outside its distribution territory, electricity suppliers licensed under § 7-507 of this subtitle may serve the customers in the distribution territory of the municipal electric utility.

(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) Electricity 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 subsection (a) of this section;

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

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

(iv) does not choose an electricity supplier;

(v) chooses the standard offer service; or

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

(3) (i) Except as provided under subparagraph (ii) of this paragraph, any obligation of an electric company to provide standard offer service shall cease on July 1, 2003.

(ii) 1. Electric cooperatives and municipal electric 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.

2. On and after July 1, 2003, an electric company continues to have the obligation to provide standard offer service to residential and small commercial customers at a market price that permits recovery of the verifiable, prudently incurred costs to procure or produce the electricity plus a reasonable return.

(iii) 1. On or before December 31, 2008, and every 5 years thereafter, the Commission shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly on the status of the standard offer service, the development of competition, and the transition of standard offer service to a default service.

2. The Commission shall establish, by order or regulation, the definition of "default service".

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

(ii) 1. Under the obligation to provide standard offer service in accordance with paragraph (3)(ii) of this subsection, the Commission, by regulation or order, and in a manner that is designed to obtain the best price for residential and small commercial customers in light of market conditions at the time of procurement and the need to protect these customers from excessive price increases:

A. shall require each investor–owned electric company to obtain its electricity supply for residential and small commercial customers participating in standard offer service through a competitive process in accordance with this paragraph; and

B. may require or allow an investor–owned electric company to procure electricity for these customers directly from an electricity supplier through one or more bilateral contracts outside the competitive process.

2. A. As the Commission directs, the competitive process shall include a series of competitive wholesale bids in which the investor–owned electric company solicits bids to supply anticipated standard offer service load for residential and small commercial customers as part of a portfolio of blended wholesale supply contracts of short, medium, or long terms, and other appropriate electricity products and strategies, as needed to meet demand in a cost–effective manner.

B. The competitive process may include different bidding structures and mechanisms for base load, peak load, and very short–term procurement.

C. By regulation or order, as a part of the competitive process,

the Commission shall require or allow the procurement of cost–effective energy efficiency and conservation measures and services with projected and verifiable energy savings to offset anticipated demand to be served by standard offer service, and the imposition of other cost–effective demand–side management programs.

3. A. In order to prevent an excessive amount of load being exposed to upward price risks and volatility, the Commission may stagger the dates for the competitive wholesale auctions.

B. By regulation or order, the Commission may allow a date on which a competitive wholesale auction takes place to be altered based on current market conditions.

4. By regulation or order, the Commission may allow an investor–owned electric company to refuse to accept some or all of the bids made in a competitive wholesale auction in accordance with standards adopted by the Commission.

5. The investor–owned electric company shall publicly disclose the names of all bidders and the names and load allocation of all successful bidders 90 days after all contracts for supply are executed.

(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.

(6) In order to meet long–term, anticipated demand in the State for standard offer service and other electricity supply, the Commission may require or allow an investor–owned electric company to construct, acquire, or lease, and operate, its own generating facilities, and transmission facilities necessary to interconnect the generating facilities with the electric grid, subject to appropriate cost recovery.

(7) (i) To determine whether an appropriate phased implementation of electricity rates that is necessary to protect residential customers from the impact of sudden and significant increases in electricity rates, the Commission in the case of an increase of 20% or more over the previous year's total electricity rates, shall conduct evidentiary proceedings, including public hearings.

(ii) 1. A deferral of costs as part of a phased implementation of electricity rates by an investor–owned electric company shall be treated as a regulatory asset to be recovered in accordance with a rate stabilization plan under Part III of this subtitle or any other plan for phased implementation approved by the Commission.

2. A deferral of costs under this paragraph must be just, reasonable, and in the public interest.

(iii) The Commission shall approve the recovery of deferred costs under subparagraph (ii) of this paragraph as:

1. long–term recovery in accordance with a rate stabilization plan under Part III of this subtitle; or

2. short–term recovery through a rate proceeding mechanism approved by the Commission.

(iv) The Commission may approve a phasing in of increased costs by:

1. placing a cap on rates and allowing recovery over time; or

2. allowing rates to increase and providing for a rebate to customers of any excess costs paid.

(8) (i) An electric cooperative that as of July 1, 2006, supplied its standard offer service load through a portfolio of blended wholesale supply contracts of short, medium, and long terms, and other appropriate electricity products and strategies, as needed to meet demand in a cost–effective manner, may choose to continue to use a blended portfolio:

1. as approved and modified by the electric cooperative's board of directors; and

2. with appropriate review for prudent cost recovery as determined by the Commission.

(ii) The Commission may not set or enforce a termination date for the procurement of supply through a managed portfolio previously approved by the Commission.

(9) (i) The Commission, on request by an electric cooperative or on its own initiative, shall initiate a proceeding to investigate options for a rate stabilization plan to assist residential electric customers to gradually adjust to market rates over an extended period of time.

(ii) If an electric cooperative determines that total electric rates for residential customers are anticipated to increase by more than 20% in a 12–month period resulting from an increase in the cost of generation, the electric cooperative shall survey its membership to determine whether to make a request to the Commission to initiate a proceeding under subsection (a) of this section.

(iii) Notwithstanding subparagraphs (i) and (ii) of this paragraph, as approved by the Commission, an electric cooperative may receive a modification in distribution and transmission rates.

(d) Notwithstanding the dates set forth in this section or any other law, customer choice may not commence until legislation is enacted by the General Assembly 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.

(f) A county or municipal corporation may not act as an aggregator unless the Commission determines there is not sufficient competition within the boundaries of the county or municipal corporation.

§7–510.1.

(a) The Commission shall educate customers about customer choice in accordance with this section.

(b) (1) The Commission shall:

(i) host and regularly update a user–friendly customer choice education section on its Web site that complies with standards issued under § 508 of the federal Rehabilitation Act of 1973; and

(ii) prominently display a link to that section of the Commission's Web site on the home page of the Commission's Web site.

(2) The customer choice education section of the Commission's Web site shall include:

(i) a clear and simple description of:

1. customer choice;

2. how customers can shop for an electricity supplier;

3. what kinds of competitive electricity supply options customers have, including:

A. renewable energy supply;

B. fixed and variable pricing; and

C. other common contract terms;

4. the current price of standard offer service in the service territory of each electric company; and

5. the continuing role of the electric company in delivering electricity to a customer that chooses an electricity supplier;

(ii) fact sheets that:

1. answer common questions about customer choice;

2. advise customers about the questions customers should ask when choosing an electricity supplier; and

3. list the kinds of disclosures that electricity suppliers must make to customers;

(iii) a list of all electricity suppliers that have open offers to supply electricity in a customer's service area, searchable by service territory or jurisdiction; and

(iv) a statement indicating that customers who have entered into a contract with a competitive electricity supplier for electricity supply should be aware of the ending date of the contract so that they may determine, before being placed into a renewal contract with the current electricity supplier, whether they would like to:

1. shop for an alternative electricity supplier;

2. renew with the current electricity supplier; or

3. return to the standard offer service which may be offered at a price that is less than the renewal price offered by the current electricity supplier.

(3) To the extent practicable, the list of electricity suppliers required under paragraph (2)(iii) of this subsection shall include:

(i) the terms of any open offers to supply electricity, including:

1. the duration of the contract;

2. the cost of electricity per kilowatt–hour; and

3. any cancellation fees; and

(ii) a link to the Web site of each electricity supplier with an open offer to supply electricity.

(c) (1) To ensure the currency and accuracy of information required under subsection (b)(2)(iii) of this section, the Commission shall maintain a secure portal on its Web site to receive information about offers to supply electricity from electricity suppliers.

(2) At least once each month, each electricity supplier with an open offer to supply electricity shall submit detailed information about the offer to the Commission through a secure portal maintained by the Commission on the Commission's Web site for this purpose.

(d) The Commission shall work with media outlets in the State to develop and air public service announcements publicizing customer choice and directing customers

to the Commission's Web site for additional information.

(e) The Commission shall recover the cost of complying with this section in accordance with § 2–110 of this article.

(f) On or before December 31 of each year, the Commission shall report, in accordance with § 2–1246 of the State Government Article, to the General Assembly on the status and success of the Commission's efforts to educate customers about customer choice under this section.

§7–511.

(a) Except for electric cooperatives and municipal electric 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.

(c) (1) A person other than an electric company or a municipal electric utility may not engage in the business of competitive billing services in a local jurisdiction that assesses a local energy tax, unless the person holds a license issued by that jurisdiction.

(2) An application for a local competitive billing services license shall be made in accordance with the requirements of the local jurisdiction.

(3) (i) A local jurisdiction may require an applicant or licensee to:

1. hold a license issued by the Commission, as provided under § 7-507 of this subtitle;

2. post a bond or other similar instrument in an amount equal to 15% of the bond required under § 7-507 of this subtitle; and

3. have a resident agent in the State.

(ii) A local jurisdiction may not require an applicant or licensee to pay a fee or other charge for the local license.

(d) (1) A local jurisdiction may revoke or suspend the local license if the licensee fails, within 15 days of the due date established by the local jurisdiction, to pay or remit all of the applicable local energy taxes on services.

(2) A local jurisdiction may reinstate the license after payment of all local energy taxes due.

(3) A local jurisdiction may choose not to reinstate a license that has been revoked or suspended 3 times in a 12-month period.

(4) A local jurisdiction shall report any revocation or suspension of a license to the Commission.

(e) The Commission shall adopt regulations or issue an order to establish procedures for the assumption of billing responsibilities by the electric company that distributes electricity in the relevant service territory if a local license is revoked or suspended.

§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 that have been or will be incurred by the electric company under public purpose programs established by law or ordered by the Commission.

(2) (i) Except as provided in paragraph (3) of this subsection, the costs subject to this subsection shall be funded by a surcharge or other cost recovery mechanism collected on a statewide basis that:

1. fully recovers from customers the costs of the plans and programs; and

2. subject to subparagraph (ii) of this paragraph, with respect to any of these costs not included in rates on January 1, 2000, is not subject to any otherwise applicable cap.

(ii) The recovery by an electric company of costs for a universal service program is subject to any applicable cap regardless of when the costs are included in rates.

(3) During the fiscal year ending June 30, 2000, an electric company may not, under paragraph (2) of this subsection, recover costs of a consumer education program established by law, regulation, or order.

§7–512.1.

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

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

(i) bill assistance;

(ii) low–income residential weatherization; and

(iii) the retirement of arrearages for electric customers who have not received assistance in retiring arrearages under the universal service program within the preceding 7 fiscal years.

(3) The Department of Housing and Community Development is responsible for administering the low–income residential weatherization component of the electric universal service program.

(4) (i) The Department of Human Resources, through the Office of Home Energy Programs, is responsible for administering the bill assistance and the arrearage retirement components of the electric universal service program.

(ii) The Department of Human Resources may:

1. establish minimum and maximum benefits available to an electric customer under the bill assistance and arrearage retirement components; and

2. coordinate benefits under the electric universal service program with benefits under the Maryland Energy Assistance Program and other available energy assistance programs.

(5) The Department of Human Resources may, with input from a panel or roundtable of interested parties, contract to assist in administering the bill assistance and the arrearage retirement components of the electric universal service program.

(6) The Commission has oversight responsibility for the bill assistance and the arrearage retirement components of the electric universal service program.

(7) In a specific case, the electric universal service program may waive the income eligibility limitation under paragraph (1) of this subsection in order to provide assistance to an electric customer who would qualify for a similar waiver under the Maryland Energy Assistance Program established under Title 5, Subtitle 5A of the Human Services Article.

(b) (1) All customers shall contribute to the funding of the electric universal service program through a charge collected by each electric company.

(2) The Commission shall determine a fair and equitable allocation for collecting the charges among all customer classes pursuant to subsection (e) of this section.

(3) In accordance with subsection (f)(6) of this section, any unexpended bill assistance and arrearage retirement funds returned to customers under subsection (f) of this section shall be returned to each customer class as a credit in the same proportion that the customer class contributed charges to the fund.

(4) An electric company shall recover electric universal service program costs in accordance with § 7–512 of this subtitle.

(5) As determined by the Office of Home Energy Programs, bill assistance payments to an electric company may be on a monthly basis for each customer.

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

(7) The Commission may not assess the electric universal service surcharge on a per kilowatt–hour basis.

(c) (1) On or before December 1 of each year, the Commission shall report, subject to § 2–1246 of the State Government Article, to the General Assembly on the electric universal service program, including:

(i) subject to subsection (e) of this section, a recommendation on the total amount of funds for the program for the following fiscal year based on:

1. the level of participation in and the amounts expended on bill assistance and arrearage retirement during the preceding fiscal year;

2. how bill assistance and arrearage retirement payments were calculated during the preceding fiscal year;

3. the projected needs for the bill assistance and the arrearage retirement components for the next fiscal year; and

4. the amount of any bill assistance or arrearage retirement surplus carried over in the electric universal service program fund under subsection (f)(6)(i) of this section;

(ii) for bill assistance, the total amount of need, as determined by the Commission, for electric customers with annual incomes at or below 175% of the federal poverty level and the basis for this determination;

(iii) the amount of funds needed, as determined by the Commission, to retire arrearages for electric customers who have not received assistance in retiring

arrearages under the electric universal service program within the preceding 7 fiscal years, and the basis for this determination;

(iv) the amount of funds needed, as determined by the Commission, for bill assistance and arrearage retirement, respectively, for customers for whom income limitations may be waived under subsection (a)(7) of this section, and the basis for each determination;

(v) the impact on customers' rates, including the allocation among customer classes, from collecting the total amount recommended by the Commission under item (i) of this paragraph; and

(vi) the impact of using other federal poverty level benchmarks on costs and the effectiveness of the electric universal service program.

(2) (i) To assist the Commission in preparing its recommendations under paragraph (1) of this subsection, the Office of Home Energy Programs shall report to the Commission each year on:

1. the number of customers and the amount of distributions made to fuel customers under the Maryland Energy Assistance Program established under Title 5, Subtitle 5A of the Human Services Article, identified by funding source and fuel source;

2. the cost of outreach and education materials provided by the Office of Home Energy Programs for the electric universal service program; and

3. the amount of money that the Department of Human Resources receives, and is projected to receive, for low–income energy assistance from:

A. the Maryland Strategic Energy Investment Fund under § 9–20B–05 of the State Government Article;

B. with respect to electric customers only, the Maryland Energy Assistance Program; and

C. any other federal, State, local, or private source.

(ii) The Office of Home Energy Programs may satisfy the reporting requirement of subparagraph (i)1 of this paragraph by providing the Commission with a copy of material that contains the required information and that the Office of Home Energy Programs submits to the federal government.

(iii) The Commission shall include the information provided by the Office of Home Energy Programs under subparagraph (i) of this paragraph in its report to the General Assembly under paragraph (1) of this subsection.

(3) Subject to subsection (d)(2) of this section, the Commission shall

include the information provided by the Department of Housing and Community Development under subsection (d)(1) of this section in its report to the General Assembly under paragraph (1) of this subsection.

(4) The Office of Legislative Audits shall conduct an audit of the electric universal service program at least once every 3 years and shall report the results of the audit in accordance with § 2–1224 of the State Government Article.

(d) (1) On or before December 1 of each year, the Department of Housing and Community Development shall report, in accordance with § 2–1246 of the State Government Article, to the General Assembly on the low–income residential weatherization component of the electric universal service program, including:

(i) the amount of funds expended during the preceding fiscal year;

(ii) the level of participation during the preceding fiscal year, including the number of households served in each area of the State; and

(iii) the types of projects, including the average cost per unit, provided to households during the preceding fiscal year.

(2) The Department of Housing and Community Development may satisfy the reporting requirement under paragraph (1) of this subsection by requesting the Commission to include the information in the Commission's report required under subsection (c) of this section and providing the information to the Commission by the date specified by the Commission.

(e) The total amount of funds to be collected for the electric universal service program each year shall be $37 million, allocated in the following manner:

(1) $27.4 million shall be collected from the industrial and commercial classes; and

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

(f) (1) In this subsection, "fund" means the electric universal service program fund.

(2) There is an electric universal service program fund.

(3) (i) 1. The Comptroller shall collect the revenue collected by electric companies under subsection (b) of this section and place the revenue into the fund.

2. The General Assembly may appropriate funds supplemental to the funds collected under subsubparagraph 1 of this subparagraph.

(ii) The fund is a continuing, nonlapsing fund that is not subject to §

7–302 of the State Finance and Procurement Article.

(iii) The purpose of the fund is to assist electric customers as provided in subsection (a)(1) of this section.

(4) The Department of Human Resources, with oversight by the Commission, shall disburse the bill assistance and arrearage retirement funds in accordance with the provisions of this section.

(5) The Comptroller annually shall disburse up to $1,000,000 of low–income residential weatherization funds to the Department of Housing and Community Development, as provided in the State budget.

(6) (i) At the end of a given fiscal year, any unexpended bill assistance and arrearage retirement funds that were collected for that fiscal year shall be retained in the fund and shall be made available for disbursement through the first 6 months of the next fiscal year to customers who:

1. qualify for assistance from the fund during the given fiscal year;

2. apply for assistance from the fund before the end of the given fiscal year; and

3. remain eligible for assistance at the time services are provided.

(ii) If the Commission determines that an extension is needed, the Commission may extend up to an additional 3 months the period in which unexpended bill assistance and arrearage retirement funds may be made available for disbursement under subparagraph (i) of this paragraph.

(iii) Any bill assistance and arrearage retirement funds collected for a given fiscal year that are retained under subparagraph (i) of this paragraph and that remain unexpended at the end of the period allowed under subparagraphs (i) and (ii) of this paragraph shall be returned to each customer class in the proportion that the customer class contributed charges to the fund for the given fiscal year in the form of a credit toward the charge assessed in the following fiscal year.

(g) (1) If a party to a merger or acquisition of an electric company or an affiliate of an electric company is required to distribute a credit to the customers in the electric company's service territory under an agreement with the Commission in connection with the merger or acquisition, the Commission shall consider the adequacy of the current funding of the electric universal service program in providing assistance to customers who qualify under this section.

(2) Any funds deposited into the electric universal service program fund as a result of an agreement with the Commission in connection with a merger or

acquisition of an electric company or an affiliate of an electric company are in addition to, and may not substitute for, funds collected under subsection (e) of this section.

§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 for customers who access 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) (i) The competitive transition charge may be included on bills to customers for a period determined by the Commission.

(ii) The Commission may establish recovery periods of different lengths for each electric company and for different categories of transition costs.

(4) A competitive transition charge, or other appropriate mechanism determined by the Commission, may not apply to any on-site generated electricity to the extent of:

(i) the existing facilities' installed generating capacity as of January 1, 1999;

(ii) the generating capacity of an existing facility to be installed under a legally binding contract:

1. executed on or before January 1, 1999; or

2. 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; or

(iii) for a facility with a capacity of 500 kilowatts or less:

1. the first 80 megawatts of the aggregate statewide generating capacity of on-site generating facilities;

2. the generating capacity of the facility if the facility:

A. is installed between January 1, 2000 and December 31, 2003;

B. derives electricity from fuel cells, photovoltaics, wind machines, or microturbines; and

C. has an energy conversion efficiency greater than 40%; or

3. the generating capacity of the facility if the facility:

A. is installed after January 1, 2004;

B. derives electricity from fuel cells, photovoltaics, wind machines, or microturbines; and

C. has an energy conversion efficiency greater than 50%.

(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 may be construed as preventing the

Commission from approving for an investor-owned electric company:

(i) an adjustment mechanism proposed by the 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 or an affiliate to a nonaffiliate that are consummated on or before June 30, 2005; or

(iii) any other mechanism as part of a settlement.

(e) (1) In determining the appropriate transition costs or benefits for each electric company's generation-related assets, the Commission shall:

(i) conduct public hearings; and

(ii) consider, in addition to other appropriate evidence of value:

1. book value and fair market value;

2. auctions and sales of comparable assets;

3. appraisals;

4. the revenue the company would receive under rate-of-return regulation;

5. the revenue the company would receive in a restructured electricity supply market; and

6. computer simulations provided to the Commission.

(2) The Commission shall determine any equitable allocation of costs or benefits between shareholders and ratepayers. In determining the allocation of transition costs or benefits, the Commission shall consider the following factors:

(i) the prudence and verifiability of the original investment;

(ii) whether the investment continues to be used and useful;

(iii) whether the loss is one of which investors can be said to have reasonably borne the risk; and

(iv) whether investors have already been compensated for the risk.

(f) This section does not apply to rate stabilization costs established or qualified rate orders issued under Part III or Part IV of this subtitle.

§7–514.

(a) (1) 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 or any other anticompetitive conduct.

(2) 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 or any other anticompetitive conduct.

(b) If, as a result of an investigation conducted under this section, the Commission determines that market power or any other anticompetitive conduct 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 or any other anticompetitive conduct activities.

(c) The Commission shall include antitrust principles in performing its analysis under this section.

(d) The Commission shall cooperate with and share information with the Antitrust Division of the Office of the Attorney General.

(e) The rights and remedies provided in this section supplement any other rights or remedies that may exist under State or federal law or common law.

§7–515.

An electricity supplier that also provides distribution service, or that has an affiliate that provides distribution service, in Pennsylvania, Delaware, West Virginia, Virginia, or 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.

(a) (1) In recognition of the potential environmental impacts of restructuring the electric industry, it is the intent of the General Assembly to minimize the effects of electric restructuring on the environment.

(2) Electric companies in Maryland shall conduct a study that tracks shifts in generation and emissions as a result of restructuring the electric industry.

(3) The study shall be submitted to the Department of the Environment and the Commission one year after the initial date of implementation of customer choice.

(4) Electric companies in Maryland shall update the study twice and submit each updated study to the Department of the Environment and the Commission on or before December 31, 2003 and on or before December 31, 2005.

(b) If, after review of the study required under subsection (a) of this section, the Department of the Environment determines that the emissions levels impose a higher emission burden in Maryland, the Department of the Environment, in consultation with the Commission, shall study the appropriateness, constitutionality, and feasibility of establishing an air quality surcharge or other mechanism to protect Maryland's environment in connection with the implementation of customer choice of electricity suppliers.

§7–517.

This subtitle may be referred to as the "Electric Customer Choice and Competition Act of 1999".

§7–520.

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

(b) "Assignee" means any individual, corporation, or other legally recognized entity to which an electric company transfers all or a portion of its interest in rate stabilization property, other than as security, including any assignee of that party.

(c) (1) "Financing party" means a holder of rate stabilization bonds.

(2) "Financing party" includes a trustee, collateral agent, and any other person acting for the benefit of the holder.

(d) "Qualified rate order" means an order of the Commission approving one or more qualified rate stabilization charges.

(e) "Qualified rate stabilization charge" means that portion of a usage-based nonbypassable rate, charge, or similar appropriate mechanism for the provision, availability, or termination of electric service, approved in connection with a rate stabilization plan in accordance with § 7-522 or § 7-548 of this subtitle, that a qualified rate order of the Commission authorizes to be imposed for the recovery of rate stabilization costs.

(f) "Rate stabilization bond" means a bond, debenture, note, certificate of participation or beneficial interest, or other evidence of indebtedness or ownership that:

(1) is authorized in a qualified rate order and issued under an executed trust indenture or other agreement of an electric company or assignee; and

(2) is secured by, evidences an ownership interest in, or is payable from rate stabilization property.

(g) (1) "Rate stabilization cost" means a cost, liability, or investment that an electric company incurs or will incur under a rate stabilization plan approved by the Commission.

(2) "Rate stabilization cost" includes:

(i) the excess of the contracted price incurred by an electric company for the purchase of energy supplies to be required for retail customers to whom it provides standard offer service, over the amounts that it is authorized to charge currently to those customers under the rate stabilization plan;

(ii) the approved costs of issuing, supporting, and servicing rate stabilization bonds; and

(iii) any approved costs for retiring and refunding existing debt and equity securities of the electric company issued to temporarily finance those rate stabilization costs.

(h) "Rate stabilization plan" means a plan approved by the Commission in accordance with this part.

(i) (1) "Rate stabilization property" means the right, title, and interest of an electric company or assignee in a qualified rate order.

(2) "Rate stabilization property" includes:

(i) all rights in, to, and under a qualified rate order, including the right to impose and collect rate stabilization charges and rights to revenues, collections, claims, payments, money, or other property and amounts arising from the imposition of rate stabilization charges under the qualified rate order; and

(ii) in the hands of an assignee, the right to require the electric company to provide electric services and to collect and remit the qualified rate stabilization charges authorized in the qualified rate order, but not the right or duty to provide electric services.

§7–521.

This part applies to an electric company that:

(1) has an obligation to provide standard offer service to residential electricity customers in accordance with § 7-510(c) of this subtitle; and

(2) is not subject to a rate cap or price freeze under § 7-505(d) of this subtitle during the period for which a rate stabilization plan is requested under this part.

§7–522.

(a) An electric company subject to this part may file a rate stabilization plan with the Commission for approval.

(b) The rate stabilization plan may include both short-term and long-term deferrals of incremental expenses of electricity supplies.

§7–523.

(a) The Commission may require that a deferral of expenses under a rate stabilization plan be either voluntary or mandatory if the Commission finds that the required type of deferral is in the public interest.

(b) The rate stabilization plan may provide that a deferral shall be secured through the issuance of rate stabilization bonds authorized by a qualified rate order under this part.

§7–524.

(a) Tariffs implementing a rate stabilization plan may provide that:

(1) residential customers shall be charged the full cost of residential standard offer service necessary to recover the electric company's costs under § 7-510(c)(3) of this subtitle; and

(2) any credits or recoveries required or authorized under this part shall be reflected as nonbypassable credits or charges on the electric distribution portion of each residential customer's bill.

(b) As part of the submission of a rate stabilization plan, an electric company may apply to the Commission for a qualified rate order for the financing and recovery of its approved rate stabilization costs in accordance with this part.

§7–525.

(a) The Commission may authorize an electric company to recover, as additional rate stabilization costs, the actual cost to the electric company of carrying the deferred expenses as regulatory assets under short-term and long-term deferral plans.

(b) The actual cost is equal to the deferred expenses as regulatory assets multiplied by the electric company's cost of debt.

(c) If the electric company secures the debt in accordance with this part, the

cost of the secured debt is substituted for the electric company's cost of debt.

§7–526.

(a) An electric company may apply to the Commission for a qualified rate order for the financing and recovery of its rate stabilization costs.

(b) On application of an electric company, the Commission may adopt a qualified rate order if the Commission finds that the total amount of revenue to be collected under the qualified rate order is less than the rate stabilization costs revenue that would be recovered over the same period using the electric company's weighted average cost of capital.

(c) The rate stabilization costs to be financed and recovered under a qualified rate order may be reduced by funds contributed from other sources.

§7–527.

(a) The qualified rate order shall set forth the rate stabilization costs to be recovered and the period over which the nonbypassable qualified rate stabilization charges shall be recovered.

(b) The recovery period may not exceed 12 years.

§7–528.

(a) A qualified rate order shall become effective in accordance with its terms.

(b) After a qualified rate order becomes effective, the qualified rate order and the qualified rate stabilization charges authorized in the qualified rate order are irrevocable and are not subject to reduction, impairment, or adjustment by further action of the Commission except in accordance with §§ 7-531, 7-533, and 7-534 of this subtitle.

(c) (1) A qualified rate order is not subject to rehearing by the Commission.

(2) A qualified rate order may be reviewed by appeal only to the Circuit Court of Baltimore City by a party to the proceeding filed within 15 days after the qualified rate order is signed by the Commission.

(3) The judgment of the circuit court may be reviewed only by direct appeal to the Court of Appeals of Maryland filed within 15 days after entry of judgment.

(4) All appeals shall be heard and determined by the circuit court and by the Court of Appeals of Maryland as expeditiously as possible with lawful precedence over other matters.

(5) Review on appeal shall be based solely on the record before the

Commission and briefs to the courts and shall be limited to whether the qualified rate order conforms to the Constitution and laws of this State and the United States and is within the authority of the Commission under this subtitle.

(6) The review process in this subsection shall be the exclusive remedy to challenge or review a qualified rate order.

§7–529.

The Commission shall make a final decision on the issuance of a qualified rate order under this part no later than 60 days after the electric company files its request for the qualified rate order.

§7–530.

A qualified rate order approved by the Commission shall include terms ensuring that the imposition and collection of qualified rate stabilization charges authorized in the order are nonbypassable.

§7–531.

The Commission shall establish specific procedures and time frames for the review and adjustment of qualified rate stabilization charges at least once each year, within 90 days before the anniversary date of the issuance of the rate stabilization bonds, to correct any overcollections or undercollections of the preceding 12 months and to ensure the expected recovery of amounts sufficient to timely provide all payments of debt service and other required amounts and charges in connection with the rate stabilization bonds.

§7–532.

(a) A qualified rate order shall terminate and expire 1 year after the date of its adoption if, during that period, no rate stabilization bonds authorized in the qualified rate order shall have been issued.

(b) This period shall be extended by any period during which judicial proceedings for review may be pending in accordance with § 7-528(c) of this subtitle.

§7–533.

(a) At the request of an electric company, the Commission may adopt a qualified rate order providing for retiring and refunding rate stabilization bonds if the Commission finds that the future qualified rate stabilization charges required to service the new rate stabilization bonds, including transaction costs, will be less than the future qualified rate stabilization charges required to service the rate stabilization bonds being refunded.

(b) On the retirement of the refunded rate stabilization bonds, the Commission

shall adjust the related qualified rate stabilization charges accordingly.

§7–534.

(a) At the request of an electric company, the Commission may modify an existing qualified rate order, or issue an additional qualified rate order, providing for the issuance of:

(1) additional rate stabilization bonds for rate stabilization costs not recovered under an original qualified rate order; or

(2) new rate stabilization bonds for the combined purposes of:

(i) financing and recovering rate stabilization costs not recovered under an original qualified rate order; and

(ii) subject to § 7-533 of this subtitle, retiring and refunding existing rate stabilization bonds.

(b) Unless otherwise provided in the modified or additional qualified rate order or in the trust agreement securing the additional or new rate stabilization bonds, the additional or new rate stabilization bonds are:

(1) considered to be of the same issue as the original issue; and

(2) entitled to payment from the same funds as the original issue, without preference or priority of the rate stabilization bonds of the original issue.

§7–535.

(a) A rate stabilization bond issued under this part is not a debt, liability, or a pledge of the full faith and credit of the State or any other governmental unit.

(b) The issuance of a rate stabilization bond under this part is not directly, indirectly, or contingently a moral or other obligation of the State or any other governmental unit to levy or pledge any tax or to make an appropriation to pay the rate stabilization bond.

(c) Each rate stabilization bond issued under this part shall state on its face that:

(1) the State and any governmental unit are not obliged to pay the principal of or interest on the bond; and

(2) neither the full faith and credit nor the taxing power of the State or any other governmental unit is pledged to the payment of the principal of or interest on a rate stabilization bond.

(d) (1) The State pledges, for the benefit and protection of financing parties

and the electric company, that it will not take or allow any action that would impair the value of rate stabilization property, or, except as allowed in accordance with §§ 7-531, 7-533, and 7-534 of this subtitle, reduce, alter, or impair the qualified rate stabilization charges to be imposed, collected, and remitted to financing parties, until the principal, interest, and premium, and any other charges incurred and contracts to be performed in connection with the related rate stabilization bonds have been paid and performed in full.

(2) Any party issuing rate stabilization bonds is authorized to include this pledge in any documentation relating to those bonds.

§7–536.

A qualified rate order under this part that authorizes the issuance of rate stabilization bonds may:

(1) state the rights and remedies of bondholders and any assignee; and

(2) contain provisions to protect and enforce the rights and remedies of bondholders and any assignee.

§7–537.

(a) The rights and interests of an electric company or successor under a qualified rate order, including the right to impose, collect, and receive qualified rate stabilization charges authorized in the order:

(1) become rate stabilization property when they are first transferred to an assignee or are pledged in connection with the issuance of rate stabilization bonds; but

(2) are only contract rights before that first transfer or pledge.

(b) Rate stabilization property constitutes a present property right:

(1) for purposes of contracts concerning the sale or pledge of property, even though the imposition and collection of qualified rate stabilization charges depends on further acts of the electric company or others that have not yet occurred; and

(2) for all purposes until the later of:

(i) the period provided in the qualified rate order, to the extent provided in that order; or

(ii) the payment in full of the rate stabilization bonds, including all principal, interest, premium, costs, and arrearages on the bonds.

(c) All revenues and collections resulting from qualified rate stabilization

charges are proceeds only of the rate stabilization property arising from the qualified rate order.

§7–538.

A transaction that involves the transfer and ownership of rate stabilization property and the receipt of rate stabilization charges are exempt from State and local income, sales, franchise, gross receipts, and other taxes or similar charges.

§7–539.

(a) An agreement by an electric company or assignee to transfer rate stabilization property that expressly states that the transfer is a sale or other absolute transfer signifies that:

(1) the transaction is a true sale and is not a secured transaction; and

(2) legal and equitable title has passed to the entity to which the rate stabilization property is transferred.

(b) The status of the transfer as a true sale prevails regardless of any recourse the purchaser may have against the seller, or any other term of the parties' agreement, including:

(1) the seller's retention of an equity interest in the rate stabilization property;

(2) the fact that the electric company acts as the collector of qualified rate stabilization charges relating to the rate stabilization property; and

(3) the treatment of the transfer as a financing for tax, financial reporting, or other purposes.

§7–540.

(a) The interest of an assignee or pledgee in rate stabilization property and in the revenues and collections arising from that property is not subject to setoff, counterclaim, surcharge, or defense by the electric company or any other person or in connection with the bankruptcy of the electric company or any other entity.

(b) A qualified rate order remains in effect and unabated notwithstanding the bankruptcy of the electric company, its successors, or assignees.

§7–541.

(a) (1) The electric bill of an electric company that has obtained a qualified rate order and issued rate stabilization bonds must:

(i) explicitly reflect that a portion of the charges on the bill

represents qualified rate stabilization charges approved in a qualified rate order issued to the electric company; and

(ii) if the rate stabilization property has been transferred to an assignee, include a statement to the effect that:

1. the assignee is the owner of the rights to qualified rate stabilization charges; and

2. the electric company or any other entity, if applicable, is acting as a collection agent or servicer for the assignee.

(2) The tariff applicable to customers must indicate the qualified rate stabilization charge and the ownership of that charge.

(b) The failure of an electric company to comply with this section may not invalidate, impair, or affect any qualified rate order, rate stabilization property, qualified rate stabilization charge, or rate stabilization bonds.

§7–542.

(a) (1) Rate stabilization property does not constitute an account or general intangible under § 9-102 of the Commercial Law Article.

(2) The creation, granting, perfection, and enforcement of liens and security interests in rate stabilization property, including all proceeds of that property, are governed by this section and not by the Maryland Uniform Commercial Code.

(b) (1) A valid and enforceable lien and security interest in intangible rate stabilization property, including all proceeds of that property, may be created only by a qualified rate order and the execution and delivery of a security agreement with a financing party in connection with the issuance of rate stabilization bonds.

(2) (i) The lien and security interest shall attach automatically from the time that value is received for the bonds.

(ii) On perfection through the filing of notice with the State Department of Assessments and Taxation in accordance with the procedures prescribed under subsection (d) of this section:

1. the lien and security interest shall be a continuously perfected lien and security interest in the rate stabilization property; and

2. all proceeds of the property, whether accrued or not, shall have priority in the order of filing and take precedence over any subsequent judicial or other lien creditor.

(3) The security interest shall be perfected:

(i) retroactive to the date value was received if notice is filed within 10 days after value is received for the rate stabilization bonds; or

(ii) as of the date of filing, if notice is not filed within that 10-day period.

(c) (1) Subject to paragraph (2) of this subsection, transfer of an interest in rate stabilization property to an assignee shall be perfected against all third parties, including subsequent judicial or other lien creditors, when:

(i) the qualified rate order becomes effective;

(ii) transfer documents have been delivered to the assignee; and

(iii) a notice of that transfer has been filed in accordance with procedures adopted under subsection (d) of this section.

(2) If notice of the transfer has not been filed in accordance with this subsection within 10 days after the delivery of transfer documentation, the transfer of the interest is not perfected against third parties until the notice is filed.

(d) The State Department of Assessments and Taxation shall implement this section by establishing and maintaining a separate system of records for the filing of notices under this section and prescribing the procedures for those filings based on Title 9 of the Maryland Uniform Commercial Code, as adapted to this subtitle and using the terms defined in this subtitle.

(e) (1) The priority of a lien and security interest perfected under this section is not impaired by:

(i) any later modification of the qualified rate order under § 7-531, § 7-533, or § 7-534 of this subtitle; or

(ii) the commingling of funds arising from qualified rate stabilization charges with other funds.

(2) Any other security interest that may apply to those funds shall be terminated when they are transferred to a segregated account for the assignee or a financing party.

(3) If rate stabilization property has been transferred to an assignee, any proceeds of that property shall be held in trust for the assignee.

(f) If a default or termination occurs under the rate stabilization bonds:

(1) the financing parties or their representatives may foreclose on or otherwise enforce their lien and security interest in any intangible rate stabilization property as if they were secured parties under Title 9 of the Maryland Uniform

Commercial Code;

(2) the Commission may order that amounts arising from qualified rate stabilization charges be transferred to a separate account for the financing parties' benefit, to which their lien and security interest shall apply; and

(3) on application by or on behalf of the financing parties, the Circuit Court for Baltimore City, Business and Technology Case Management Program, shall order the sequestration and payment to the financing parties of revenues arising from the qualified rate stabilization charges.

(g) The court order under subsection (f) of this section shall remain in full force and effect notwithstanding any reorganization, bankruptcy, or other insolvency proceedings with respect to the electric company or its successors or assignees.

(h) This section does not limit any other remedies available to the applying party.

§7–543.

(a) This section applies to a person that is a successor to an electric company, whether through:

(1) a reorganization, bankruptcy, or other insolvency proceeding;

(2) a merger or acquisition, sale, or other business combination; or

(3) a transfer by operation of law.

(b) A successor to an electric company shall perform and satisfy all obligations of, and have the same rights under a qualified rate order as, the electric company under the qualified rate order in the same manner and to the same extent as the electric company, including:

(1) collecting the revenues, collections, payments, or proceeds of the rate stabilization property; and

(2) paying them to the person entitled to receive them.

§7–544.

An assignee or financing party may not be considered to be a public service company or an electricity supplier solely by virtue of the transactions described in this part.

§7–547.

This part applies to an investor-owned electric company that has an obligation to provide standard offer service under § 7-510(c) of this subtitle to residential electric

customers for whom rate cap or price freeze service established under a settlement agreement approved in accordance with § 7-505(d) of this subtitle expires at the end of June 30, 2006.

§7–548.

(a) (1) (i) Notwithstanding any other provision of this article, but subject to paragraphs (2) through (4) of this subsection, an electric company to which this part applies shall file tariffs with the Commission that implement a rate stabilization plan consistent with this part.

(ii) 1. The Commission shall review the tariffs required under subparagraph (i) of this paragraph.

2. Within 20 days after the filing of the tariffs required under subparagraph (i) of this paragraph, the Commission shall issue an order implementing the rate stabilization plan in accordance with this part and Part III of this subtitle.

3. The order issued by the Commission shall include a requirement that the electric company establish regulatory assets to account for the rate stabilization costs deferred under the rate stabilization plan.

(2) Under the rate stabilization plan, the residential standard offer service rate shall recover the costs to the electric company under § 7-510(c)(3) of this subtitle deferred during the period July 1, 2006 through May 31, 2007.

(3) Any credit or charges to the cost of standard offer service for residential electric customers required or authorized under this part shall be included as a nonbypassable credit or charge on the electric distribution portion of the bill of each residential electric customer of the electric company.

(4) An electric company may apply to the Commission for a qualified rate order under Part III of this subtitle for the financing and recovery of its rate stabilization costs.

(b) (1) The increase in the total rates charged to each residential electric customer on standard offer service, as compared with the total rates for residential electric customers in effect on June 30, 2006, shall be:

(i) from July 1, 2006 through May 31, 2007, 15% of the total rate in effect on June 30, 2006; and

(ii) from June 1, 2007, at the option of the customer, to:

1. the full market rate; or

2. an intermediate level under an opt-in short-term rate stabilization plan as allowed under § 7-510(c) of this subtitle which will smooth the

transition to the full market rate for residential customers without adversely affecting the creditworthiness of the electric company.

(2) Standard offer service for residential electric customers shall be at full market rates under this part starting January 1, 2008.

(3) A rate stabilization cost may not be recovered before January 1, 2007.

(4) For purposes of calculating the rates to be charged under paragraph (1) of this subsection, the rate stabilization charge may not be considered to be part of the total rates charged to residential electric customers.

(5) The Commission need not conduct evidentiary proceedings under § 7-510(c)(7)(i) of this subtitle to determine the second or subsequent phase of the transition to full market rates under this part.

(c) (1) The electric company shall provide each residential electric customer a deferral credit equal to the difference between the cost incurred by the electric company under § 7-510(c)(3) of this subtitle and the rates authorized in subsection (b)(1) of this section.

(2) (i) The total amount of cost recovery deferred through deferral credits provided to residential electric customers shall be a rate stabilization cost to be recovered as a regulatory asset.

(ii) The total cost deferred may be secured under Part III of this subtitle.

(3) (i) Subject to subparagraph (ii) of this paragraph, the electric company shall perform a reconciliation of any overcollection or undercollection of the deferred costs and expenses resulting from this rate stabilization plan:

1. each year during the rate stabilization plan; and

2. within 90 days after the end of the rate stabilization plan.

(ii) To the extent that securitization is implemented under Part III of this subtitle, any reconciliations made in accordance with subparagraph (i) of this paragraph shall be in addition to any reconciliations made under Part III of this subtitle.

(d) Rate stabilization costs shall be recovered by the electric company from the residential electric customers through a usage-based rate stabilization charge over a period not to exceed 10 years.

(e) Notwithstanding any other provision of this subtitle, as approved by the Commission, an electric company may receive a modification in distribution and transmission rates while the rate stabilization plan is in effect. However, the

modification may not alter the rate stabilization charges approved in accordance with Part III of this subtitle.

§7–549.

(a) In this section, "actual cost" means the costs and expenses deferred as regulatory assets multiplied by:

(1) the electric company's cost of debt; or

(2) if the electric company secures the debt under Part III of this subtitle, the cost of the secured debt.

(b) An electric company shall recover, as an additional rate stabilization cost, the actual cost to the electric company of carrying the costs and expenses deferred as regulatory assets under the rate stabilization plan.

§7–601.

In this subtitle, "consumer" and "customer" each means a retail gas customer.

§7–602.

The General Assembly finds and declares that the purpose of this subtitle is to:

(1) clarify existing law regarding the provision of competitive retail gas supply and gas supply services in the State;

(2) require the Commission to license gas suppliers;

(3) authorize the Commission to adopt complaint procedures;

(4) establish certain requirements relating to the competitiveness of retail gas supply and gas supply services markets; and

(5) establish standards for the protection of consumers.

§7–603.

(a) The Commission shall license gas suppliers and shall have the same authority as the Commission has under § 7-507 of this title for electricity suppliers, including the authority to:

(1) revoke or suspend a license;

(2) impose a moratorium, civil penalty, or other remedy; or

(3) order a refund for or credit to a customer.

(b) The Commission shall adopt licensing requirements and procedures for gas suppliers that protect consumers, the public interest, and the collection of all State and local taxes.

§7–604.

(a) On or before July 1, 2001, the Commission shall adopt consumer protection orders or regulations for gas suppliers that:

(1) protect consumers from discriminatory, unfair, deceptive, and anticompetitive acts and practices in the marketing, selling, or distributing of natural gas;

(2) provide for contracting, enrollment, and billing practices and procedures; and

(3) the Commission considers necessary to protect the consumer.

(b) In adopting orders and regulations under this section, unless the Commission determines that the circumstances do not require consistency, the Commission shall:

(1) provide customers with protections consistent with applicable protections provided to retail electric customers; and

(2) impose appropriate requirements on gas suppliers that are consistent with applicable requirements imposed on electricity suppliers.

§7–605.

(a) This subtitle may not be construed to:

(1) affect the authority of the Division of Consumer Protection of the Office of the Attorney General to enforce violations of Titles 13 and 14 of the Commercial Law Article or any other applicable State law or regulation in connection with the activities of gas suppliers; or

(2) exempt gas companies and gas suppliers from otherwise applicable State or federal consumer protection and antitrust laws.

(b) The Commission shall consult with the Consumer Protection Division of the Office of the Attorney General before adopting regulations designed to protect consumers of gas supply and gas supply services.

(c) The People's Counsel has the same authority in licensing, complaint, and dispute resolution proceedings as the People's Counsel has under Subtitle 5 of this title and Title 2 of this article.

(d) In connection with a consumer complaint or Commission investigation under this subtitle, a gas supplier shall provide to the Commission access to any accounts, books, papers, and documents that the Commission considers necessary to resolve a matter in dispute.

§7–606.

The Commission may adopt regulations or adopt orders to implement this subtitle that it considers necessary and in the public interest.

§7–607.

This subtitle may be referred to as the "Natural Gas Supplier Licensing and Consumer Protection Act of 2000".

§7–701.

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

(b) "Administration" means the Maryland Energy Administration.

(c) "Fund" means the Maryland Strategic Energy Investment Fund established under § 9–20B–05 of the State Government Article.

(d) "Geothermal heating and cooling system" means a system that:

(1) exchanges thermal energy from groundwater or a shallow ground source to generate thermal energy through a geothermal heat pump or a system of geothermal heat pumps interconnected with any geothermal extraction facility that is:

(i) a closed loop or a series of closed loop systems in which fluid is permanently confined within a pipe or tubing and does not come in contact with the outside environment; or

(ii) an open loop system in which ground or surface water is circulated in an environmentally safe manner directly into the facility and returned to the same aquifer or surface water source;

(2) meets or exceeds the current federal Energy Star product specification standards;

(3) replaces or displaces inefficient space or water heating systems whose primary fuel is electricity or a nonnatural gas fuel source;

(4) replaces or displaces inefficient space cooling systems that do not meet federal Energy Star product specification standards;

(5) is manufactured, installed, and operated in accordance with applicable government and industry standards; and

(6) does not feed electricity back to the grid.

(e) "Industrial process load" means the consumption of electricity by a manufacturing process at an establishment classified in the manufacturing sector under the North American Industry Classification System, Codes 31 through 33.

(f) "Offshore wind energy" means energy generated by a qualified offshore wind project.

(g) "Old growth timber" means timber from a forest:

(1) at least 5 acres in size with a preponderance of old trees, of which the oldest exceed at least half the projected maximum attainable age for the species; and

(2) that exhibits several of the following characteristics:

(i) shade–tolerant species are present in all age and size classes;

(ii) randomly distributed canopy gaps are present;

(iii) a high degree of structural diversity characterized by multiple growth layers reflecting a broad spectrum of ages is present;

(iv) an accumulation of dead wood of varying sizes and stages of decomposition accompanied by decadence in live dominant trees is present; and

(v) pit and mound topography can be observed.

(h) "Offshore wind renewable energy credit" or "OREC" means a renewable energy credit equal to the generation attributes of 1 megawatt–hour of electricity that is derived from offshore wind energy.

(i) "PJM region" means the control area administered by the PJM Interconnection, as the area may change from time to time.

(j) "Poultry litter" means the fecal and urinary excretions of poultry, including wood shavings, sawdust, straw, rice hulls, and other bedding material for the disposition of manure.

(k) "Qualified offshore wind project" means a wind turbine electricity generation facility, including the associated transmission–related interconnection facilities and equipment, that:

(1) is located on the outer continental shelf of the Atlantic Ocean in an area that:

(i) the United States Department of the Interior designates for leasing after coordination and consultation with the State in accordance with § 388(a) of the Energy Policy Act of 2005; and

(ii) is between 10 and 30 miles off the coast of the State;

(2) interconnects to the PJM Interconnection grid at a point located on the Delmarva Peninsula; and

(3) the Commission approves under § 7–704.1 of this subtitle.

(l) (1) "Qualifying biomass" means a nonhazardous, organic material that is available on a renewable or recurring basis, and is:

(i) waste material that is segregated from inorganic waste material and is derived from sources including:

1. except for old growth timber, any of the following forest–related resources:

A. mill residue, except sawdust and wood shavings;

B. precommercial soft wood thinning;

C. slash;

D. brush; or

E. yard waste;

2. a pallet, crate, or dunnage;

3. agricultural and silvicultural sources, including tree crops, vineyard materials, grain, legumes, sugar, and other crop by–products or residues; or

4. gas produced from the anaerobic decomposition of animal waste or poultry waste; or

(ii) a plant that is cultivated exclusively for purposes of being used at a Tier 1 renewable source or a Tier 2 renewable source to produce electricity.

(2) "Qualifying biomass" includes biomass listed in paragraph (1) of this subsection that is used for co–firing, subject to § 7–704(d) of this subtitle.

(3) "Qualifying biomass" does not include:

(i) unsegregated solid waste or postconsumer wastepaper; or

(ii) an invasive exotic plant species.

(m) "Thermal biomass system" means a system that:

(1) uses:

(i) primarily animal manure, including poultry litter, and associated bedding to generate thermal energy; and

(ii) food waste or qualifying biomass for the remainder of the feedstock;

(2) is used in the State; and

(3) complies with all applicable State and federal statutes and regulations, as determined by the appropriate regulatory authority.

(n) "Renewable energy credit" or "credit" means a credit equal to the generation attributes of 1 megawatt–hour of electricity that is derived from a Tier 1 renewable source or a Tier 2 renewable source that is located:

(1) in the PJM region;

(2) outside the area described in item (1) of this subsection but in a control area that is adjacent to the PJM region, if the electricity is delivered into the PJM region; or

(3) on the outer continental shelf of the Atlantic Ocean in an area that:

(i) the United States Department of the Interior designates for leasing after coordination and consultation with the State in accordance with § 388(a) of the Energy Policy Act of 2005; and

(ii) is between 10 and 30 miles off the coast of the State.

(o) "Renewable energy portfolio standard" or "standard" means the percentage of electricity sales at retail in the State that is to be derived from Tier 1 renewable sources and Tier 2 renewable sources in accordance with § 7–703(b) of this subtitle.

(p) "Renewable on–site generator" means a person who generates electricity on site from a Tier 1 renewable source or a Tier 2 renewable source for the person's own use.

(q) (1) "Solar water heating system" means a system that:

(i) consists of glazed liquid–type flat–plate or tubular solar collectors or concentrating solar thermal collectors as defined and certified to the OG–100 standard of the Solar Ratings and Certification Corporation;

(ii) generates energy using solar radiation for the purpose of heating water; and

(iii) does not feed electricity back to the electric grid.

(2) "Solar water heating system" does not include a system that generates

energy using solar radiation for the sole purpose of heating a hot tub or swimming pool.

(r) "Tier 1 renewable source" means one or more of the following types of energy sources:

(1) solar energy, including energy from photovoltaic technologies and solar water heating systems;

(2) wind;

(3) qualifying biomass;

(4) methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;

(5) geothermal, including energy generated through geothermal exchange from or thermal energy avoided by, groundwater or a shallow ground source;

(6) ocean, including energy from waves, tides, currents, and thermal differences;

(7) a fuel cell that produces electricity from a Tier 1 renewable source under item (3) or (4) of this subsection;

(8) a small hydroelectric power plant of less than 30 megawatts in capacity that is licensed or exempt from licensing by the Federal Energy Regulatory Commission;

(9) poultry litter–to–energy;

(10) waste–to–energy;

(11) refuse–derived fuel; and

(12) thermal energy from a thermal biomass system.

(s) "Tier 2 renewable source" means hydroelectric power other than pump storage generation.

§7–702.

(a) It is the intent of the General Assembly to:

(1) recognize the economic, environmental, fuel diversity, and security benefits of renewable energy resources;

(2) establish a market for electricity from these resources in Maryland; and

(3) lower the cost to consumers of electricity produced from these resources.

(b) The General Assembly finds that:

(1) the benefits of electricity from renewable energy resources, including long-term decreased emissions, a healthier environment, increased energy security, and decreased reliance on and vulnerability from imported energy sources, accrue to the public at large; and

(2) electricity suppliers and consumers share an obligation to develop a minimum level of these resources in the electricity supply portfolio of the State.

§7–703.

(a) (1) (i) The Commission shall implement a renewable energy portfolio standard that, except as provided under paragraphs (2) and (3) of this subsection, applies to all retail electricity sales in the State by electricity suppliers.

(ii) If the standard becomes applicable to electricity sold to a customer after the start of a calendar year, the standard does not apply to electricity sold to the customer during that portion of the year before the standard became applicable.

(2) A renewable energy portfolio standard may not apply to electricity sales at retail by any electricity supplier:

(i) in excess of 300,000,000 kilowatt–hours of industrial process load to a single customer in a year;

(ii) to residential customers in a region of the State in which electricity prices for residential customers are subject to a freeze or cap contained in a settlement agreement entered into under § 7–505 of this title until the freeze or cap has expired; or

(iii) to a customer served by an electric cooperative under an electricity supplier purchase agreement that existed on October 1, 2004, until the expiration of the agreement.

(3) The portion of a renewable energy portfolio standard that represents offshore wind energy may not apply to electricity sales at retail by any electricity supplier in excess of:

(i) 75,000,000 kilowatt–hours of industrial process load to a single customer in a year; and

(ii) 3,000 kilowatt–hours of electricity in a month to a customer who is an owner of agricultural land and files an Internal Revenue Service form 1040,

schedule F.

(b) The renewable energy portfolio standard shall be as follows:

(1) in 2006, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;

(2) in 2007, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;

(3) in 2008, 2.005% from Tier 1 renewable sources, including at least 0.005% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(4) in 2009, 2.01% from Tier 1 renewable sources, including at least 0.01% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(5) in 2010, 3.025% from Tier 1 renewable sources, including at least 0.025% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(6) in 2011, 5.0% from Tier 1 renewable sources, including at least 0.05% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(7) in 2012, 6.5% from Tier 1 renewable sources, including at least 0.1% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(8) in 2013, 8.2% from Tier 1 renewable sources, including at least 0.25% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(9) in 2014, 10.3% from Tier 1 renewable sources, including at least 0.35% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(10) in 2015, 10.5% from Tier 1 renewable sources, including at least 0.5% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(11) in 2016, 12.7% from Tier 1 renewable sources, including at least 0.7% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(12) in 2017:

(i) 13.1% from Tier 1 renewable sources, including:

1. at least 0.95% derived from solar energy; and

2. an amount set by the Commission under § 7–704.2(a) of this subtitle, not to exceed 2.5%, derived from offshore wind energy; and

(ii) 2.5% from Tier 2 renewable sources;

(13) in 2018:

(i) 15.8% from Tier 1 renewable sources, including:

1. at least 1.4% derived from solar energy; and

2. an amount set by the Commission under § 7–704.2(a) of this subtitle, not to exceed 2.5%, derived from offshore wind energy; and

(ii) 2.5% from Tier 2 renewable sources;

(14) in 2019, 17.4% from Tier 1 renewable sources, including:

(i) at least 1.75% derived from solar energy; and

(ii) an amount set by the Commission under § 7–704.2(a) of this subtitle, not to exceed 2.5%, derived from offshore wind energy;

(15) in 2020, 18% from Tier 1 renewable sources, including:

(i) at least 2.0% derived from solar energy; and

(ii) an amount set by the Commission under § 7–704.2(a) of this subtitle, not to exceed 2.5%, derived from offshore wind energy;

(16) in 2021, 18.7% from Tier 1 renewable sources, including:

(i) at least 2.0% derived from solar energy; and

(ii) an amount set by the Commission under § 7–704.2(a) of this subtitle, not to exceed 2.5%, derived from offshore wind energy; and

(17) in 2022 and later, 20% from Tier 1 renewable sources, including:

(i) at least 2% derived from solar energy; and

(ii) an amount set by the Commission under § 7–704.2(a) of this subtitle, not to exceed 2.5%, derived from offshore wind energy.

(c) Before calculating the number of credits required to meet the percentages established under subsection (b) of this section, an electricity supplier shall exclude from its total retail electricity sales all retail electricity sales described in subsection (a)(2) and (3) of this section.

(d) Subject to subsections (a) and (c) of this section and in accordance with § 7–704.2 of this subtitle, an electricity supplier shall meet the renewable energy portfolio standard by accumulating the equivalent amount of renewable energy credits that equal the percentages required under this section.

§7–704.

(a) (1) Energy from a Tier 1 renewable source:

(i) is eligible for inclusion in meeting the renewable energy portfolio standard regardless of when the generating system or facility was placed in service; and

(ii) may be applied to the percentage requirements of the standard for either Tier 1 renewable sources or Tier 2 renewable sources.

(2) (i) Energy from a Tier 1 renewable source under § 7–701(r)(1), (5), (9), (10), or (11) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard only if the source is connected with the electric distribution grid serving Maryland.

(ii) If the owner of a solar generating system in this State chooses to sell solar renewable energy credits from that system, the owner must first offer the credits for sale to an electricity supplier or electric company that shall apply them toward compliance with the renewable energy portfolio standard under § 7–703 of this subtitle.

(3) Energy from a Tier 1 renewable source under § 7–701(r)(8) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard if it is generated at a dam that existed as of January 1, 2004, even if a system or facility that is capable of generating electricity did not exist on that date.

(4) Energy from a Tier 2 renewable source under § 7–701(s) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard through 2018 if it is generated at a system or facility that existed and was operational as of January 1, 2004, even if the facility or system was not capable of generating electricity on that date.

(b) On or after January 1, 2004, an electricity supplier may:

(1) receive renewable energy credits; and

(2) accumulate renewable energy credits under this subtitle.

(c) (1) This subsection applies only to a generating facility that is placed in service on or after January 1, 2004.

(2) (i) On or before December 31, 2005, an electricity supplier shall receive 120% credit toward meeting the renewable energy portfolio standard for energy derived from wind.

(ii) After December 31, 2005, and on or before December 31, 2008, an electricity supplier shall receive 110% credit toward meeting the renewable energy

portfolio standard for energy derived from wind.

(3) On or before December 31, 2008, an electricity supplier shall receive 110% credit toward meeting the renewable energy portfolio standard for energy derived from methane under § 7–701(r)(4) of this subtitle.

(d) An electricity supplier shall receive credit toward meeting the renewable energy portfolio standard for electricity derived from the biomass fraction of biomass co–fired with other fuels.

(e) (1) In this subsection, "customer" means:

(i) an industrial electric customer that is not on standard offer service; or

(ii) a renewable on–site generator.

(2) This subsection does not apply to offshore wind renewable energy credits.

(3) (i) A customer may independently acquire renewable energy credits to satisfy the standards applicable to the customer's load, including credits created by a renewable on–site generator.

(ii) Credits that a customer transfers to its electricity supplier to meet the standard and that the electricity supplier relies on in submitting its compliance report may not be resold or retransferred by the customer or by the electricity supplier.

(4) A renewable on–site generator may retain or transfer at its sole option any credits created by the renewable on–site generator, including credits for the portion of its on–site generation from a Tier 1 renewable source or a Tier 2 renewable source that displaces the purchase of electricity by the renewable on–site generator from the grid.

(5) A customer that satisfies the standard applicable to the customer's load under this subsection may not be required to contribute to a compliance fee recovered under § 7–706 of this subtitle.

(6) The Commission shall adopt regulations governing the application and transfer of credits under this subsection consistent with federal law.

(f) (1) In order to create a renewable energy credit, a Tier 1 renewable source or Tier 2 renewable source must substantially comply with all applicable environmental and administrative requirements, including air quality, water quality, solid waste, and right–to–know provisions, permit conditions, and administrative orders.

(2) (i) This paragraph applies to Tier 1 renewable sources that

incinerate solid waste.

(ii) At least 80% of the solid waste incinerated at a Tier 1 renewable source facility shall be collected from:

1. for areas in Maryland, jurisdictions that achieve the recycling rates required under § 9–505 of the Environment Article; and

2. for other states, jurisdictions for which the electricity supplier demonstrates recycling substantially comparable to that required under § 9–505 of the Environment Article, in accordance with regulations of the Commission.

(iii) An electricity supplier may report credits received under this paragraph based on compliance by the facility with the percentage requirement of subparagraph (ii) of this paragraph during the year immediately preceding the year in which the electricity supplier receives the credit to apply to the standard.

(g) (1) Energy from a solar water heating system is eligible for inclusion in meeting the renewable energy portfolio standard.

(2) A person that owns and operates a solar water heating system shall receive a renewable energy credit equal to the amount of energy, converted from BTUs to kilowatt–hours, that is generated by the system that is used by the person for water heating.

(3) The total amount of energy generated and consumed for a nonresidential or commercial solar water heating system shall be measured by an on–site meter that meets the required performance standards of the International Organization of Legal Metrology.

(4) The total amount of energy generated and consumed by a residential solar water heating system shall be:

(i) measured by a meter that meets the required standards of the International Organization of Legal Metrology; or

(ii) 1. measured by the Solar Ratings and Certification Corporation's OG–300 thermal performance rating for the system or an equivalent certification that the Commission approves in consultation with the Administration; and

2. certified to the OG–300 standard of the Solar Ratings and Certification Corporation or an equivalent certification body that the Commission approves in consultation with the Administration.

(5) A residential solar water heating system shall be installed in accordance with applicable State and local plumbing codes.

(6) A residential solar water heating system may not produce more than five solar renewable energy credits in any 1 year.

(h) (1) Energy from a geothermal heating and cooling system is eligible for inclusion in meeting the renewable energy portfolio standard.

(2) A person shall receive a renewable energy credit equal to the amount of energy, converted from BTUs to kilowatt–hours, that is generated by a geothermal heating and cooling system for space heating and cooling or water heating if the person:

(i) owns and operates the system;

(ii) leases and operates the system; or

(iii) contracts with a third party who owns and operates the system.

(3) To determine the energy savings of a geothermal heating and cooling system for a residence, the Commission shall:

(i) identify available Internet–based energy consumption calculators developed by the geothermal heating and cooling industry;

(ii) collect the following data provided in the renewable energy credit application that:

1. describes the name of the applicant and the address at which the geothermal heating and cooling system is installed; and

2. provides the annual BTU energy savings attributable to home heating, cooling, and water heating; and

(iii) in determining the annual amount of renewable energy credits awarded for the geothermal heating and cooling system, convert the annual BTUs into annual megawatt hours.

(4) To determine the energy savings of a nonresidential geothermal heating and cooling system, the Commission shall:

(i) use the geothermal heating and cooling engineering technical system designs provided with the renewable energy credit application; and

(ii) in determining the annual amount of renewable energy credits awarded for the geothermal heating and cooling system, convert the annual BTUs into annual megawatt hours.

(5) A geothermal heating and cooling system shall be installed in accordance with applicable State well construction and local building code standards.

(i) (1) Energy from a thermal biomass system is eligible for inclusion in

meeting the renewable energy portfolio standard.

(2) (i) A person that owns and operates a thermal biomass system that uses anaerobic digestion is eligible to receive a renewable energy credit.

(ii) A person that owns and operates a thermal biomass system that uses a thermochemical process is eligible to receive a renewable energy credit if the person demonstrates to the Maryland Department of the Environment that the operation of the thermal biomass system:

1. is not significantly contributing to local or regional air quality impairments; and

2. will substantially decrease emissions of oxides of nitrogen beyond that achieved by a direct burn combustion unit through the use of precombustion techniques, combustion techniques, or postcombustion techniques.

(3) A person that is eligible to receive a renewable energy credit under paragraph (2) of this subsection shall receive a renewable energy credit equal to the amount of energy, converted from BTUs to kilowatt–hours, that is generated by the thermal biomass system and used on site.

(4) The total amount of energy generated and consumed for a residential, nonresidential, or commercial thermal biomass system shall be measured by an on–site meter that meets the required performance standards established by the Commission.

(5) The Commission shall adopt regulations for the metering, verification, and reporting of the output of thermal biomass systems.

§7–704.1. IN EFFECT

(a) (1) After the effective date of Commission regulations implementing this section and § 7–704.2 of this subtitle, a person may submit an application to the Commission for approval of a proposed offshore wind project.

(2) (i) On receipt of the application for approval of a qualified offshore wind project, the Commission shall:

1. open an application period when other interested persons may submit applications for approval of qualified offshore wind projects; and

2. provide notice that the Commission is accepting applications for approval of qualified offshore wind projects.

(ii) The Commission shall set the closing date for the application period to be no sooner than 90 days after the notice provided under subparagraph (i) of this paragraph.

(3) In its discretion, the Commission may provide for additional application periods.

(b) Unless extended by mutual consent of the parties, the Commission shall approve, conditionally approve, or deny an application within 180 days after the close of the application period.

(c) An application shall include:

(1) a detailed description and financial analysis of the offshore wind project;

(2) the proposed method of financing the offshore wind project, including documentation demonstrating that the applicant has applied for all current eligible State and federal grants, rebates, tax credits, loan guarantees, or other programs available to offset the cost of the project or provide tax advantages;

(3) a cost–benefit analysis that shall include at a minimum:

(i) a detailed input–output analysis of the impact of the offshore wind project on income, employment, wages, and taxes in the State with particular emphasis on in–State manufacturing employment;

(ii) detailed information concerning assumed employment impacts in the State, including the expected duration of employment opportunities, the salary of each position, and other supporting evidence of employment impacts;

(iii) an analysis of the anticipated environmental benefits, health benefits, and environmental impacts of the offshore wind project to the citizens of the State;

(iv) an analysis of any impact on residential, commercial, and industrial ratepayers over the life of the offshore wind project;

(v) an analysis of any long–term effect on energy and capacity markets as a result of the proposed offshore wind project;

(vi) an analysis of any impact on businesses in the State; and

(vii) other benefits, such as increased in–State construction, operations, maintenance, and equipment purchase;

(4) a proposed OREC pricing schedule for the offshore wind project that shall set a price for the generation attributes, including the energy, capacity, ancillary services, and environmental attributes;

(5) a decommissioning plan for the project, including provisions for decommissioning as required by the United States Department of the Interior;

(6) a commitment to:

(i) abide by the requirements set forth in subsection (e) of this section; and

(ii) deposit at least $6,000,000, in the manner required under subsection (g) of this section, into the Maryland Offshore Wind Business Development Fund established under § 9–20C–03 of the State Government Article;

(7) a description of the applicant's plan for engaging small businesses, as defined in § 14–501 of the State Finance and Procurement Article;

(8) a commitment that the applicant will:

(i) use best efforts to apply for all eligible State and federal grants, rebates, tax credits, loan guarantees, or other similar benefits as those benefits become available; and

(ii) pass along to ratepayers, without the need for any subsequent Commission approval, 80% of the value of any state or federal grants, rebates, tax credits, loan guarantees, or other similar benefits received by the project and not included in the application; and

(9) any other information the Commission requires.

(d) (1) The Commission shall use the following criteria to evaluate and compare proposed offshore wind projects:

(i) lowest cost impact on ratepayers of the price set under a proposed OREC pricing schedule;

(ii) potential reductions in transmission congestion prices within the State;

(iii) potential changes in capacity prices within the State;

(iv) potential reductions in locational marginal pricing;

(v) potential long–term changes in capacity prices within the State from the offshore wind project as it compares to conventional energy sources;

(vi) the extent to which the cost–benefit analysis submitted under subsection (c)(3) of this section demonstrates positive net economic, environmental, and health benefits to the State;

(vii) the extent to which an applicant's plan for engaging small businesses meets the goals specified in Title 14, Subtitle 5 of the State Finance and Procurement Article;

(viii) the extent to which an applicant's plan provides for the use of skilled labor, particularly with regard to the construction and manufacturing components of the project, through outreach, hiring, or referral systems that are affiliated with registered apprenticeship programs under Title 11, Subtitle 4 of the Labor and Employment Article;

(ix) the extent to which an applicant's plan provides for the use of an agreement designed to ensure the use of skilled labor and to promote the prompt, efficient, and safe completion of the project, particularly with regard to the construction, manufacturing, and maintenance of the project;

(x) the extent to which an applicant's plan provides for compensation to its employees and subcontractors consistent with wages outlined under §§ 17–201 through 17–228 of the State Finance and Procurement Article;

(xi) siting and project feasibility;

(xii) the extent to which the proposed offshore wind project would require transmission or distribution infrastructure improvements in the State;

(xiii) estimated ability to assist in meeting the renewable energy portfolio standard under § 7–703 of this subtitle; and

(xiv) any other criteria that the Commission determines to be appropriate.

(2) In evaluating and comparing an applicant's proposed offshore wind project under paragraph (1) of this subsection, the Commission shall contract for the services of independent consultants and experts.

(3) The Commission shall verify that representatives of the United States Department of Defense and the maritime industry have had the opportunity, through the federal leasing process, to express concerns regarding project siting.

(4) (i) In this paragraph, "minority" means an individual who is a member of any of the groups listed in § 14–301(k)(1)(i) of the State Finance and Procurement Article.

(ii) If an applicant is seeking investors in a proposed offshore wind project, it shall take the following steps before the Commission may approve the proposed project:

1. make serious, good–faith efforts to solicit and interview a reasonable number of minority investors;

2. as part of the application, submit a statement to the Commission that lists the names and addresses of all minority investors interviewed and whether or not any of those investors have purchased an equity share in the entity

submitting an application; and

3. as a condition to the Commission's approval of the offshore wind project, sign a memorandum of understanding with the Commission that requires the applicant to again make serious, good–faith efforts to interview minority investors in any future attempts to raise venture capital or attract new investors to the offshore wind project.

(iii) The Governor's Office of Minority Affairs, in consultation with the Office of the Attorney General, shall provide assistance to all potential applicants and potential minority investors to satisfy the requirements under subparagraph (ii)1 and 3 of this paragraph.

(e) (1) The Commission may not approve an applicant's proposed offshore wind project unless:

(i) the proposed offshore wind project demonstrates positive net economic, environmental, and health benefits to the State, based on the criteria specified in subsection (c)(3) of this section;

(ii) the projected net rate impact for an average residential customer, based on annual consumption of 12,000 kilowatt–hours, combined with the projected net rate impact of other qualified offshore wind projects, does not exceed $1.50 per month in 2012 dollars, over the duration of the proposed OREC pricing schedule;

(iii) the projected net rate impact for all nonresidential customers considered as a blended average, combined with the projected net rate impact of other qualified offshore wind projects, does not exceed 1.5% of nonresidential customers' total annual electric bills, over the duration of the proposed OREC pricing schedule; and

(iv) the price set in the proposed OREC price schedule does not exceed $190 per megawatt–hour in 2012 dollars.

(2) (i) When calculating the net benefits to the State under paragraph (1)(i) of this subsection, the Commission shall contract for the services of independent consultants and experts.

(ii) When calculating the projected net average rate impacts under paragraph (1)(ii) and (iii) of this subsection, the Commission shall apply the same net OREC cost per megawatt–hour to residential and nonresidential customers.

(3) (i) The findings and evidence relied on by the General Assembly for the continuation of the Minority Business Enterprise Program under Title 14, Subtitle 3 of the State Finance and Procurement Article, as enacted by Chapter 253 of the Acts of 2011 and Chapter 154 of the Acts of 2012, are incorporated in this paragraph.

(ii) To the extent practicable and permitted by the United States

Constitution, approved applicants for a proposed offshore wind project shall comply with the State's Minority Business Enterprise Program.

(iii) 1. The Commission may not approve an application until the Governor's Office of Minority Affairs, in consultation with the Office of the Attorney General, and the applicant have established a clear plan for setting reasonable and appropriate minority business enterprise participation goals and procedures for each phase of the qualified offshore wind project.

2. To the extent practicable, the goals and procedures specified in subsubparagraph 1 of this subparagraph shall be based on the requirements of Title 14, Subtitle 3 of the State Finance and Procurement Article and the regulations implementing that subtitle.

(f) (1) An order the Commission issues approving a proposed offshore wind project shall:

(i) specify the OREC price schedule, which may not authorize an OREC price greater than $190 per megawatt–hour in 2012 dollars;

(ii) specify the duration of the OREC pricing schedule, not to exceed 20 years;

(iii) specify the number of ORECs the offshore wind project may sell each year;

(iv) provide that:

1. a payment may not be made for an OREC until electricity supply is generated by the offshore wind project; and

2. ratepayers, purchasers of ORECs, and the State shall be held harmless for any cost overruns associated with the offshore wind project; and

(v) require that any debt instrument issued in connection with a qualified offshore wind project include language specifying that the debt instrument does not establish a debt, obligation, or liability of the State.

(2) An order approving a proposed offshore wind project vests the owner of the qualified offshore wind project with the right to receive payments for ORECs according to the terms in the order.

(g) (1) Within 60 days after the Commission approves the application of a proposed offshore wind project, the qualified offshore wind project shall deposit $2,000,000 into the Maryland Offshore Wind Business Development Fund established under § 9–20C–03 of the State Government Article.

(2) Within 1 year after the initial deposit under paragraph (1) of this

subsection, the qualified offshore wind project shall deposit an additional $2,000,000 into the Maryland Offshore Wind Business Development Fund.

(3) Within 2 years after the initial deposit under paragraph (1) of this subsection, the qualified offshore wind project shall deposit an additional $2,000,000 into the Maryland Offshore Wind Business Development Fund.

7–704.1. // EFFECTIVE JUNE 30, 2016 PER CHAPTER 3 OF 2013 //

(a) (1) After the effective date of Commission regulations implementing this section and § 7–704.2 of this subtitle, a person may submit an application to the Commission for approval of a proposed offshore wind project.

(2) (i) On receipt of the application for approval of a qualified offshore wind project, the Commission shall:

1. open an application period when other interested persons may submit applications for approval of qualified offshore wind projects; and

2. provide notice that the Commission is accepting applications for approval of qualified offshore wind projects.

(ii) The Commission shall set the closing date for the application period to be no sooner than 90 days after the notice provided under subparagraph (i) of this paragraph.

(3) In its discretion, the Commission may provide for additional application periods.

(b) Unless extended by mutual consent of the parties, the Commission shall approve, conditionally approve, or deny an application within 180 days after the close of the application period.

(c) An application shall include:

(1) a detailed description and financial analysis of the offshore wind project;

(2) the proposed method of financing the offshore wind project, including documentation demonstrating that the applicant has applied for all current eligible State and federal grants, rebates, tax credits, loan guarantees, or other programs available to offset the cost of the project or provide tax advantages;

(3) a cost–benefit analysis that shall include at a minimum:

(i) a detailed input–output analysis of the impact of the offshore wind project on income, employment, wages, and taxes in the State with particular emphasis on in–State manufacturing employment;

(ii) detailed information concerning assumed employment impacts in the State, including the expected duration of employment opportunities, the salary of each position, and other supporting evidence of employment impacts;

(iii) an analysis of the anticipated environmental benefits, health benefits, and environmental impacts of the offshore wind project to the citizens of the State;

(iv) an analysis of any impact on residential, commercial, and industrial ratepayers over the life of the offshore wind project;

(v) an analysis of any long–term effect on energy and capacity markets as a result of the proposed offshore wind project;

(vi) an analysis of any impact on businesses in the State; and

(vii) other benefits, such as increased in–State construction, operations, maintenance, and equipment purchase;

(4) a proposed OREC pricing schedule for the offshore wind project that shall set a price for the generation attributes, including the energy, capacity, ancillary services, and environmental attributes;

(5) a decommissioning plan for the project, including provisions for decommissioning as required by the United States Department of the Interior;

(6) a commitment to:

(i) abide by the requirements set forth in subsection (e) of this section; and

(ii) deposit at least $6,000,000, in the manner required under subsection (g) of this section, into the Maryland Offshore Wind Business Development Fund established under § 9–20C–03 of the State Government Article;

(7) a description of the applicant's plan for engaging small businesses, as defined in § 14–501 of the State Finance and Procurement Article;

(8) a commitment that the applicant will:

(i) use best efforts to apply for all eligible State and federal grants, rebates, tax credits, loan guarantees, or other similar benefits as those benefits become available; and

(ii) pass along to ratepayers, without the need for any subsequent Commission approval, 80% of the value of any state or federal grants, rebates, tax credits, loan guarantees, or other similar benefits received by the project and not included in the application; and

(9) any other information the Commission requires.

(d) (1) The Commission shall use the following criteria to evaluate and compare proposed offshore wind projects:

(i) lowest cost impact on ratepayers of the price set under a proposed OREC pricing schedule;

(ii) potential reductions in transmission congestion prices within the State;

(iii) potential changes in capacity prices within the State;

(iv) potential reductions in locational marginal pricing;

(v) potential long–term changes in capacity prices within the State from the offshore wind project as it compares to conventional energy sources;

(vi) the extent to which the cost–benefit analysis submitted under subsection (c)(3) of this section demonstrates positive net economic, environmental, and health benefits to the State;

(vii) the extent to which an applicant's plan for engaging small businesses meets the goals specified in Title 14, Subtitle 5 of the State Finance and Procurement Article;

(viii) the extent to which an applicant's plan provides for the use of skilled labor, particularly with regard to the construction and manufacturing components of the project, through outreach, hiring, or referral systems that are affiliated with registered apprenticeship programs under Title 11, Subtitle 4 of the Labor and Employment Article;

(ix) the extent to which an applicant's plan provides for the use of an agreement designed to ensure the use of skilled labor and to promote the prompt, efficient, and safe completion of the project, particularly with regard to the construction, manufacturing, and maintenance of the project;

(x) the extent to which an applicant's plan provides for compensation to its employees and subcontractors consistent with wages outlined under §§ 17–201 through 17–228 of the State Finance and Procurement Article;

(xi) siting and project feasibility;

(xii) the extent to which the proposed offshore wind project would require transmission or distribution infrastructure improvements in the State;

(xiii) estimated ability to assist in meeting the renewable energy portfolio standard under § 7–703 of this subtitle; and

(xiv) any other criteria that the Commission determines to be appropriate.

(2) In evaluating and comparing an applicant's proposed offshore wind project under paragraph (1) of this subsection, the Commission shall contract for the services of independent consultants and experts.

(3) The Commission shall verify that representatives of the United States Department of Defense and the maritime industry have had the opportunity, through the federal leasing process, to express concerns regarding project siting.

(4) (i) In this paragraph, "minority" means an individual who is a member of any of the groups listed in § 14–301(k)(1)(i) of the State Finance and Procurement Article.

(ii) If an applicant is seeking investors in a proposed offshore wind project, it shall take the following steps before the Commission may approve the proposed project:

1. make serious, good–faith efforts to solicit and interview a reasonable number of minority investors;

2. as part of the application, submit a statement to the Commission that lists the names and addresses of all minority investors interviewed and whether or not any of those investors have purchased an equity share in the entity submitting an application; and

3. as a condition to the Commission's approval of the offshore wind project, sign a memorandum of understanding with the Commission that requires the applicant to again make serious, good–faith efforts to interview minority investors in any future attempts to raise venture capital or attract new investors to the offshore wind project.

(iii) The Governor's Office of Minority Affairs, in consultation with the Office of the Attorney General, shall provide assistance to all potential applicants and potential minority investors to satisfy the requirements under subparagraph (ii)1 and 3 of this paragraph.

(e) (1) The Commission may not approve an applicant's proposed offshore wind project unless:

(i) the proposed offshore wind project demonstrates positive net economic, environmental, and health benefits to the State, based on the criteria specified in subsection (c)(3) of this section;

(ii) the projected net rate impact for an average residential customer, based on annual consumption of 12,000 kilowatt–hours, combined with the projected net rate impact of other qualified offshore wind projects, does not exceed $1.50 per

month in 2012 dollars, over the duration of the proposed OREC pricing schedule;

(iii) the projected net rate impact for all nonresidential customers considered as a blended average, combined with the projected net rate impact of other qualified offshore wind projects, does not exceed 1.5% of nonresidential customers' total annual electric bills, over the duration of the proposed OREC pricing schedule; and

(iv) the price set in the proposed OREC price schedule does not exceed $190 per megawatt–hour in 2012 dollars.

(2) (i) When calculating the net benefits to the State under paragraph (1)(i) of this subsection, the Commission shall contract for the services of independent consultants and experts.

(ii) When calculating the projected net average rate impacts under paragraph (1)(ii) and (iii) of this subsection, the Commission shall apply the same net OREC cost per megawatt–hour to residential and nonresidential customers.

(f) (1) An order the Commission issues approving a proposed offshore wind project shall:

(i) specify the OREC price schedule, which may not authorize an OREC price greater than $190 per megawatt–hour in 2012 dollars;

(ii) specify the duration of the OREC pricing schedule, not to exceed 20 years;

(iii) specify the number of ORECs the offshore wind project may sell each year;

(iv) provide that:

1. a payment may not be made for an OREC until electricity supply is generated by the offshore wind project; and

2. ratepayers, purchasers of ORECs, and the State shall be held harmless for any cost overruns associated with the offshore wind project; and

(v) require that any debt instrument issued in connection with a qualified offshore wind project include language specifying that the debt instrument does not establish a debt, obligation, or liability of the State.

(2) An order approving a proposed offshore wind project vests the owner of the qualified offshore wind project with the right to receive payments for ORECs according to the terms in the order.

(g) (1) Within 60 days after the Commission approves the application of

a proposed offshore wind project, the qualified offshore wind project shall deposit $2,000,000 into the Maryland Offshore Wind Business Development Fund established under § 9–20C–03 of the State Government Article.

(2) Within 1 year after the initial deposit under paragraph (1) of this subsection, the qualified offshore wind project shall deposit an additional $2,000,000 into the Maryland Offshore Wind Business Development Fund.

(3) Within 2 years after the initial deposit under paragraph (1) of this subsection, the qualified offshore wind project shall deposit an additional $2,000,000 into the Maryland Offshore Wind Business Development Fund.

§7–704.2.

(a) (1) The Commission shall determine the offshore wind energy component of the renewable energy portfolio standard under § 7–703(b)(12) through (17) of this subtitle based on the projected annual creation of ORECs by qualified offshore wind projects.

(2) The Commission shall establish the renewable energy portfolio standard obligation for ORECs on a forward–looking basis that includes a surplus to accommodate reasonable forecasting error in estimating overall electricity sales in the State.

(3) Any positive adjustment to the renewable energy portfolio standard shall be on a forward–looking basis and sufficiently in advance to allow OREC purchasers to reflect OREC costs in retail prices offered to consumers.

(4) The Commission shall adopt regulations that establish:

(i) the offshore wind purchase obligation sufficiently in advance to allow OREC purchasers to reflect OREC costs in retail prices offered to consumers; and

(ii) a mechanism to adjust the renewable energy portfolio standard obligation in a given year to accommodate a shortfall of ORECs in one or more earlier years that is the result of the variation between the quantity of ORECs calculated from the renewable energy portfolio standard obligation and the quantity of ORECs approved in the Commission order for the same years.

(b) The Commission shall adopt regulations establishing an escrow account under Commission supervision and defining rules that facilitate and ensure the secure and transparent transfer of revenues and ORECs among the parties.

(c) (1) Each electricity supplier shall purchase from the escrow account established under this section the number of ORECs required to satisfy the offshore wind energy component of the renewable energy portfolio standard under § 7–703(b)(12) through (17) of this subtitle.

(2) (i) Subject to any escrow account reserve requirement the Commission establishes, if there are insufficient ORECs available to satisfy the suppliers' OREC obligation, the overpayment shall be distributed to electric companies to be refunded or credited to each ratepayer based on the ratepayer's consumption of electricity supply that is subject to the renewable energy portfolio standard.

(ii) Subject to any escrow account reserve requirement the Commission establishes, the calculation of an electricity supplier's OREC purchase obligation shall be based on final electricity sales data as reported by the PJM Interconnection as measured at the customer meter.

(3) For each OREC for which a qualified offshore wind project receives payment, a qualified offshore wind project shall:

(i) sell all energy, capacity, and ancillary services associated with the creation of ORECs into the markets operated by PJM Interconnection; and

(ii) distribute the proceeds received from the sales to PJM Interconnection markets, under item (i) of this paragraph to electric companies to be refunded or credited to each ratepayer based on the ratepayer's consumption of electricity supply that is subject to the renewable energy portfolio standard.

(4) Notwithstanding § 7–709 of this subtitle, the Commission shall adopt regulations regarding the transfer and expiration of ORECs created by a qualified offshore wind project in excess of the OREC pricing schedule.

(d) (1) If, within 2 years before the expiration of an OREC term, a qualified offshore wind project is anticipated to receive PJM revenues greater than the project operating costs for the 5 years immediately following the expiration of the term of the OREC pricing schedule, the Commission may extend the term of the OREC pricing schedule for an additional 5 years at an OREC price that equals one–half of the sum of:

(i) anticipated market revenues generated by the project during the additional 5–year period; and

(ii) anticipated project operating costs during the additional 5–year period.

(2) If, within 2 years before the expiration of an additional 5–year term extended under paragraph (1) of this subsection, a qualified offshore wind project is anticipated to receive PJM revenues greater than the project operating costs for the 5 years immediately following the expiration of the additional 5–year term, the Commission may extend the term of the OREC pricing schedule for an additional 5 years at an OREC price that equals one–half of the sum of:

(i) anticipated market revenues generated by the project during the additional 5–year period; and

(ii) anticipated project operating costs during the additional 5–year period.

(3) Except as provided in paragraphs (1) and (2) of this subsection, an OREC transaction that takes place during an additional 5–year term is subject to the provisions and regulations applicable to the original OREC order.

(e) A debt, obligation, or liability of a qualified offshore wind project, or an owner or operator of a qualified offshore wind project, may not be considered a debt, obligation, or liability of the State.

(f) On or before July 1, 2014, the Commission shall adopt regulations to carry out this section and § 7–704.1 of this subtitle.

§7–705. IN EFFECT

(a) Each electricity supplier shall submit a report to the Commission each year in a form and by a date specified by the Commission that:

(1) demonstrates that the electricity supplier has complied with the applicable renewable energy portfolio standard under § 7–703 of this subtitle and includes the submission of the required amount of renewable energy credits; or

(2) demonstrates the amount of electricity sales by which the electricity supplier failed to meet the applicable renewable energy portfolio standard.

(b) (1) This subsection does not apply to a shortfall from the required Tier 1 renewable sources that is to be derived from offshore wind energy.

(2) If an electricity supplier fails to comply with the renewable energy portfolio standard for the applicable year, the electricity supplier shall pay into the Maryland Strategic Energy Investment Fund established under § 9–20B–05 of the State Government Article:

(i) except as provided in item (ii) of this paragraph, a compliance fee of:

1. 4 cents for each kilowatt–hour of shortfall from required Tier 1 renewable sources other than the shortfall from the required Tier 1 renewable sources that is to be derived from solar energy;

2. the following amounts for each kilowatt–hour of shortfall from required Tier 1 renewable sources that is to be derived from solar energy:

A. 45 cents in 2008;

B. 40 cents in 2009 through 2014;

C. 35 cents in 2015 and 2016;

D. 20 cents in 2017 and 2018;

E. 15 cents in 2019 and 2020;

F. 10 cents in 2021 and 2022; and

G. 5 cents in 2023 and later; and

3. 1.5 cents for each kilowatt–hour of shortfall from required Tier 2 renewable sources; or

(ii) for industrial process load:

1. for each kilowatt–hour of shortfall from required Tier 1 renewable sources, a compliance fee of:

A. 0.8 cents in 2006, 2007, and 2008;

B. 0.5 cents in 2009 and 2010;

C. 0.4 cents in 2011 and 2012;

D. 0.3 cents in 2013 and 2014;

E. 0.25 cents in 2015 and 2016; and

F. except as provided in paragraph (3) of this subsection, 0.2 cents in 2017 and later; and

2. nothing for any shortfall from required Tier 2 renewable sources.

(3) For industrial process load, the compliance fee for each kilowatt–hour of shortfall from required Tier 1 renewable sources is:

(i) 0.1 cents in any year during which suppliers are required to purchase ORECs under § 7–704.2 of this subtitle; and

(ii) nothing for the year following any year during which, after final calculations, the net rate impact per megawatt–hour from qualified offshore wind projects exceeded $1.65 in 2012 dollars.

(c) The Commission may allow an electricity supplier to submit the report required under § 7–505(b)(4) of this title to demonstrate compliance with the renewable energy portfolio standard.

(d) An aggregator or broker who assists an electricity customer in purchasing

electricity but who does not supply the electricity or take title to or ownership of the electricity may require the electricity supplier who supplies the electricity to demonstrate compliance with this subtitle.

(e) (1) Notwithstanding the requirements of § 7–703(b) of this subtitle, if the actual or projected dollar–for–dollar cost incurred or to be incurred by an electricity supplier solely for the purchase of Tier 1 renewable energy credits derived from solar energy in any 1 year is greater than or equal to, or is anticipated to be greater than or equal to, 1% of the electricity supplier's total annual electricity sales revenues in Maryland, the electricity supplier may request that the Commission:

(i) delay by 1 year each of the scheduled percentages for solar energy under § 7–703(b) of this subtitle that would apply to the electricity supplier; and

(ii) allow the renewable energy portfolio standard for solar energy for that year to continue to apply to the electricity supplier for the following year.

(2) In making its determination under paragraph (1) of this subsection, the Commission shall consider the actual or projected dollar–for–dollar compliance costs of other electricity suppliers.

(3) If an electricity supplier makes a request under paragraph (1) of this subsection based on projected costs, the electricity supplier shall provide verifiable evidence of the projections to the Commission at the time of the request.

(4) If the Commission allows a delay under paragraph (1) of this subsection:

(i) the renewable energy portfolio standard for solar energy applicable to the electricity supplier under the delay continues for each subsequent consecutive year that the actual or projected dollar–for–dollar costs incurred, or to be incurred, by the electricity supplier solely for the purchase of solar renewable energy credits is greater than or equal to, or is anticipated to be greater than or equal to, 1% of the electricity supplier's total annual retail electricity sales revenues in Maryland; and

(ii) the renewable energy portfolio standard for solar energy applicable to the electricity supplier under the delay is increased to the next scheduled percentage increase under § 7–703(b) of this subtitle for each year in which the actual or projected dollar–for–dollar costs incurred, or to be incurred, by the electricity supplier solely for the purchase of solar renewable energy credits is less than, or is anticipated to be less than, 1% of the electricity supplier's total annual retail electricity sales revenues in Maryland.

(f) (1) Except as provided in subsection (e) of this section, and notwithstanding the requirements of § 7–703(b) of this subtitle, if the actual or projected dollar–for–dollar cost incurred or to be incurred by an electricity supplier solely for the purchase of Tier 1 renewable energy credits other than solar credits or ORECs in any 1 year is greater than or equal to, or is anticipated to be greater than

or equal to, the greater of the applicable Tier 1 percentage or 10% of the electricity supplier's total annual electricity sales revenues in Maryland, the electricity supplier may request that the Commission:

(i) delay by 1 year each of the scheduled percentages for Tier 1 credits under § 7–703(b) of this subtitle that would apply to the electricity supplier; and

(ii) allow the renewable energy portfolio standard for Tier 1 for that year to continue to apply to the electricity supplier for the following year.

(2) In making its determination under paragraph (1) of this subsection, the Commission shall consider the actual or projected dollar–for–dollar compliance costs of other electricity suppliers.

(3) If an electricity supplier makes a request under paragraph (1) of this subsection based on projected costs, the electricity supplier shall provide verifiable evidence of the projections to the Commission at the time of the request.

(4) If the Commission allows a delay under paragraph (1) of this subsection:

(i) the renewable energy portfolio standard for Tier 1 applicable to the electricity supplier under the delay continues for each subsequent consecutive year that the actual or projected dollar–for–dollar costs incurred, or to be incurred, by the electricity supplier solely for the purchase of Tier 1 credits other than solar credits or ORECs is greater than or equal to, or is anticipated to be greater than or equal to, the greater of the applicable Tier 1 percentage or 10% of the electricity supplier's total annual retail electricity sales revenues in Maryland; and

(ii) the renewable energy portfolio standard for Tier 1 applicable to the electricity supplier under the delay is increased to the next scheduled percentage increase under § 7–703(b) of this subtitle for each year in which the actual or projected dollar–for–dollar costs incurred, or to be incurred, by the electricity supplier solely for the purchase of Tier 1 credits other than solar credits or ORECs is less than, or is anticipated to be less than, the greater of the applicable Tier 1 percentage or 10% of the electricity supplier's total annual retail electricity sales revenues in Maryland.

7–705. // EFFECTIVE DECEMBER 31, 2018 PER CHAPTERS 125 AND 126 OF 2008 //

(a) Each electricity supplier shall submit a report to the Commission each year in a form and by a date specified by the Commission that:

(1) demonstrates that the electricity supplier has complied with the applicable renewable energy portfolio standard under § 7–703 of this subtitle and includes the submission of the required amount of renewable energy credits; or

(2) demonstrates the amount of electricity sales by which the electricity supplier failed to meet the applicable renewable energy portfolio standard.

(b) (1) This subsection does not apply to a shortfall from the required Tier 1 renewable sources that is to be derived from offshore wind energy.

(2) If an electricity supplier fails to comply with the renewable energy portfolio standard for the applicable year, the electricity supplier shall pay into the Maryland Strategic Energy Investment Fund established under § 9–20B–05 of the State Government Article:

(i) except as provided in item (ii) of this paragraph, a compliance fee of:

1. 4 cents for each kilowatt–hour of shortfall from required Tier 1 renewable sources other than the shortfall from the required Tier 1 renewable sources that is to be derived from solar energy;

2. the following amounts for each kilowatt–hour of shortfall from required Tier 1 renewable sources that is to be derived from solar energy:

A. 45 cents in 2008;

B. 40 cents in 2009 through 2014;

C. 35 cents in 2015 and 2016;

D. 20 cents in 2017 and 2018;

E. 15 cents in 2019 and 2020;

F. 10 cents in 2021 and 2022; and

G. 5 cents in 2023 and later; and

3. 1.5 cents for each kilowatt–hour of shortfall from required Tier 2 renewable sources; or

(ii) for industrial process load:

1. for each kilowatt–hour of shortfall from required Tier 1 renewable sources, a compliance fee of:

A. 0.8 cents in 2006, 2007, and 2008;

B. 0.5 cents in 2009 and 2010;

C. 0.4 cents in 2011 and 2012;

D. 0.3 cents in 2013 and 2014;

E. 0.25 cents in 2015 and 2016; and

F. except as provided in paragraph (3) of this subsection, 0.2 cents in 2017 and later; and

2. nothing for any shortfall from required Tier 2 renewable sources.

(3) For industrial process load, the compliance fee for each kilowatt–hour of shortfall from required Tier 1 renewable sources is:

(i) 0.1 cents in any year during which suppliers are required to purchase ORECs under § 7–704.2 of this subtitle; and

(ii) nothing for the year following any year during which, after final calculations, the net rate impact per megawatt–hour from qualified offshore wind projects exceeded $1.65 in 2012 dollars.

(c) The Commission may allow an electricity supplier to submit the report required under § 7–505(b)(4) of this title to demonstrate compliance with the renewable energy portfolio standard.

(d) An aggregator or broker who assists an electricity customer in purchasing electricity but who does not supply the electricity or take title to or ownership of the electricity may require the electricity supplier who supplies the electricity to demonstrate compliance with this subtitle.

(e) (1) Notwithstanding the requirements of § 7–703(b) of this subtitle, if the actual or projected dollar–for–dollar cost incurred or to be incurred by an electricity supplier solely for the purchase of Tier 1 renewable energy credits derived from solar energy in any 1 year is greater than or equal to, or is anticipated to be greater than or equal to, 1% of the electricity supplier's total annual electricity sales revenues in Maryland, the electricity supplier may request that the Commission:

(i) delay by 1 year each of the scheduled percentages for solar energy under § 7–703(b) of this subtitle that would apply to the electricity supplier; and

(ii) allow the renewable energy portfolio standard for solar energy for that year to continue to apply to the electricity supplier for the following year.

(2) In making its determination under paragraph (1) of this subsection, the Commission shall consider the actual or projected dollar–for–dollar compliance costs of other electricity suppliers.

(3) If an electricity supplier makes a request under paragraph (1) of this subsection based on projected costs, the electricity supplier shall provide verifiable

evidence of the projections to the Commission at the time of the request.

(4) If the Commission allows a delay under paragraph (1) of this subsection:

(i) the renewable energy portfolio standard for solar energy applicable to the electricity supplier under the delay continues for each subsequent consecutive year that the actual or projected dollar–for–dollar costs incurred, or to be incurred, by the electricity supplier solely for the purchase of solar renewable energy credits is greater than or equal to, or is anticipated to be greater than or equal to, 1% of the electricity supplier's total annual retail electricity sales revenues in Maryland; and

(ii) the renewable energy portfolio standard for solar energy applicable to the electricity supplier under the delay is increased to the next scheduled percentage increase under § 7–703(b) of this subtitle for each year in which the actual or projected dollar–for–dollar costs incurred, or to be incurred, by the electricity supplier solely for the purchase of solar renewable energy credits is less than, or is anticipated to be less than, 1% of the electricity supplier's total annual retail electricity sales revenues in Maryland.

§7–706.

(a) (1) Except as provided in paragraph (2) of this subsection, in accordance with the obligation to provide standard offer service through the bid process created under § 7–510 of this title, the Commission shall allow an electricity supplier to recover actual dollar–for–dollar costs incurred, including a compliance fee under § 7–705 of this subtitle, in complying with a State–mandated renewable energy portfolio standard.

(2) In accordance with the Phase II settlement agreement approved by the Commission in Order No. 78710 in Case No. 8908 on September 30, 2003, for any full–service agreement executed before the renewable energy standard under this subtitle applies to an electric company, the electric company and its wholesale electricity suppliers may pass through their commercially reasonable additional costs, if any, associated with complying with the standard, through the end of the year of standard offer service in which the requirement took effect.

(b) An electricity supplier may recover a compliance fee if:

(1) the payment of a compliance fee is the least–cost measure to customers as compared to the purchase of Tier 1 renewable sources to comply with a renewable energy portfolio standard;

(2) there are insufficient Tier 1 renewable sources available for the electricity supplier to comply with a renewable energy portfolio standard; or

(3) a wholesale electricity supplier defaults or otherwise fails to deliver renewable energy credits under a supply contract approved by the Commission.

(c) Any cost recovery under this section:

(1) for all electricity suppliers, may be in the form of a generation surcharge payable by all current electricity supply customers, except as otherwise provided in § 7–704(e) of this subtitle;

(2) shall be disclosed to customers in a manner to be determined by the Commission; and

(3) may not include the costs for a power purchase contract under the federal Public Utility Regulatory Policy Act contemplated in rates or restructuring proceedings.

(d) (1) In accordance with regulations adopted by the Commission in consultation with the Department of Business and Economic Development, the Commission may waive the recovery of all or part of the compliance fee assessed on the load of a particular industrial or nonretail commercial customer for a particular year, based on a demonstration by the applicant of an extreme economic hardship that significantly impairs the continued operation of the applicant.

(2) Any compliance fee recovery that is waived under this subsection may not be assessed against other customers.

(3) An electricity supplier is not liable for any compliance fee that is waived under this subsection.

§7–708.

(a) (1) The Commission shall establish and maintain a market-based renewable electricity trading system to facilitate the creation and transfer of renewable energy credits.

(2) To the extent practicable, the trading system shall be consistent with and operate in conjunction with the trading system developed by PJM Interconnection, Inc., if available.

(3) The Commission may contract with a for-profit or a nonprofit entity to assist in the administration of the electricity trading system required under paragraph (1) of this subsection.

(b) (1) The system shall include a registry of pertinent information regarding all:

(i) available renewable energy credits; and

(ii) renewable energy credit transactions among electricity suppliers in the State, including:

1. the creation and application of renewable energy credits;

2. the number of renewable energy credits sold or transferred; and

3. the price paid for the sale or transfer of renewable energy credits.

(2) (i) The registry shall provide current information to electricity suppliers and the public on the status of renewable energy credits created, sold, or transferred in the State.

(ii) Registry information shall be available by computer network access through the Internet.

§7–709.

(a) An electricity supplier may use accumulated renewable energy credits to meet the renewable energy portfolio standard, including credits created by a renewable on–site generator.

(b) A renewable energy credit may be sold or otherwise transferred.

(c) (1) (i) If an electricity supplier purchases solar renewable energy credits directly from a renewable on–site generator with a capacity that exceeds 10 kilowatts to meet the solar component of the Tier 1 renewable energy portfolio standard, the duration of the contract term for the solar renewable energy credits may not be less than 15 years.

(ii) The minimum required term under subparagraph (i) of this paragraph does not affect the ability of the parties to negotiate a price for a solar renewable energy credit that varies over time in any manner.

(2) (i) An electricity supplier that purchases solar renewable energy credits from a renewable on–site generator with a capacity not exceeding 10 kilowatts shall purchase the credits with a single initial payment representing the full estimated production of the system for the life of the contract.

(ii) The Commission shall:

1. develop a method for estimating annual production from the type of system described in subparagraph (i) of this paragraph and allocating the credits to the electricity supplier in a manner that is consistent with the duration of the contract; and

2. determine the rate for a payment made to a renewable on–site generator under subparagraph (i) of this paragraph.

(d) (1) Except as authorized under paragraph (2) of this subsection, a renewable energy credit shall exist for 3 years from the date created.

(2) A renewable energy credit may be diminished or extinguished before the expiration of 3 years by:

(i) the electricity supplier that received the credit;

(ii) a nonaffiliated entity of the electricity supplier:

1. that purchased the credit from the electricity supplier receiving the credit; or

2. to whom the electricity supplier otherwise transferred the credit; or

(iii) demonstrated noncompliance by the generating facility with the requirements of § 7–704(f) of this subtitle.

(e) Notwithstanding subsection (d)(2)(iii) of this section, and only if the demonstrated noncompliance does not result in environmental degradation, an electricity supplier that reasonably includes in its annual report under § 7–705 of this subtitle a renewable energy credit that is extinguished for noncompliance with § 7–704(f)(1) or (2) of this subtitle:

(1) may continue to rely on that credit for that year; but

(2) for later years must:

(i) demonstrate a return to compliance of the generating facility under § 7–704(f) of this subtitle; or

(ii) replace the credit with a renewable energy credit from another source.

(f) The Commission by regulation shall establish requirements for documentation and verification of renewable energy credits by licensed electricity suppliers and other generators that create and receive credits for compliance with the standards for Tier 1 renewable sources and Tier 2 renewable sources.

§7–710.

The Commission may impose an administrative fee on a renewable energy credit transaction, but the amount of the fee may not exceed the Commission's actual direct cost of processing the transaction.

§7–711.

(a) The Commission has the same power and authority with respect to an

electricity supplier under this subtitle that the Commission has with respect to any public service company under this division for the purposes of investigating and examining the electricity supplier to determine compliance with this subtitle and with other applicable law.

(b) (1) Beginning January 1, 2008, the Commission shall designate an individual to be responsible for the oversight of compliance with the requirements of Tier 1 renewable sources that are to be derived from solar energy.

(2) The individual designated under paragraph (1) of this subsection shall:

(i) develop the program for the requirements for Tier 1 renewable sources derived from solar energy;

(ii) provide education and outreach to promote the use of solar energy; and

(iii) make policy recommendations to the Commission regarding improving the State's use of solar energy, including the development of clear, simple, and straightforward forms, requirements, and procedures to facilitate participation by homeowners and small businesses in deployment of solar generation in the State.

§7–712.

Subject to § 2-1246 of the State Government Article, on or before February 1 of each year the Commission shall report to the General Assembly on the status of implementation of this subtitle, including the availability of Tier 1 renewable sources, projects supported by the Fund, and other pertinent information.

§7–713.

The Commission shall adopt regulations to implement the provisions of this subtitle.

§8–101.

(a) This subtitle applies to:

(1) a telegraph company; or

(2) a telephone company that owned lines and provided local exchange or interexchange service in the State as of October 1, 1993, with the approval of the Commission.

(b) Except as otherwise provided by law, the provisions of this subtitle are not subject to the jurisdiction of the Commission.

§8–102.

Corporations may be formed as provided in the Corporations and Associations Article to own, lease, construct, or operate telegraph or telephone lines as provided in § 8-103 of this subtitle.

§8–103.

(a) (1) A telegraph or telephone company or a corporation authorized under § 5-410(a)(3) of this article may construct lines:

(i) through the State;

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

(iii) on the boundaries of the State;

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

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

(2) The company may erect fixtures, including poles, piers, or abutments necessary to sustain the lines.

(3) This section does not authorize a company to construct a bridge across any of the navigable waters of the State.

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

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

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

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

§8–104.

Notwithstanding the provisions of § 8-103(b) of this subtitle, a telegraph or telephone company or a corporation authorized under § 5-410(a)(3) of this article is responsible for damage a person may sustain through the erection, continuance, or use of telegraph, telephone, or electric facilities.

§8–105.

(a) If, within a reasonable time after due notice, a telegraph or telephone company or a corporation authorized under § 5-410(a)(3) of this article fails or refuses to remove telegraph, telephone, or electric facilities causing damage, the owner or

possessor of land or a political subdivision may sue for damages.

(b) (1) If the person filing suit for damages under this section prevails, the company may elect to pay damages for allowing the company to maintain the facilities permanently.

(2) If the damages paid include damages for allowing the company to maintain the facilities permanently, the right of the company to maintain the facilities permanently shall be confirmed as if the right were granted by the parties to the suit.

§8–106.

(a) To obtain an easement, the president and directors of a telegraph or telephone company or a corporation authorized under § 5-410(a)(3) of this article may apply to the circuit court of the county containing the land or bridge where the telegraph, telephone, or electric facilities will be placed to empanel a jury to appraise the loss or damage that will be sustained by the owner or possessor of the land or bridge.

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

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

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

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

(3) Except as provided in paragraph (4) of this subsection, the court shall confirm the inquisition of the jury and the clerk shall record the inquisition at the expense of the company.

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

(c) (1) When the value of the loss or damage is paid or tendered to the owner of the land or the legal representative of the owner of the land, the company is entitled to the easement as if the owner of the land conveyed the easement to the company.

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

§8–107.

(a) Except as provided in subsection (b) of this section, the owner of timber

growing along a telegraph or telephone line is not subject to an action for damages if:

(1) the telegraph or telephone line prevents the owner of the timber from cutting and felling the timber; and

(2) in cutting or felling the timber, the owner damages the telegraph or telephone line.

(b) An owner of timber is subject to an action for damages if, in cutting and felling the timber, the owner willfully and intentionally injures the telegraph or telephone line.

§8–108.

(a) A telegraph company doing business in this State shall:

(1) receive telegrams from and for other telegraph companies and from or for any individual; and

(2) except as provided in subsection (b) of this section, transmit telegrams received:

(i) in the manner established by the rules and regulations of the telegraph company;

(ii) in the order received; and

(iii) with impartiality and good faith.

(b) Subsection (a) of this section does not apply to a telegraph company that makes an arrangement with newspapers for the transmission of information of general and public interest out of the order received for the purpose of publication.

(c) A telegraph company that violates subsection (a) of this section is liable to the person sending or desiring to send the telegram for:

(1) $100 for each instance of neglect or refusal to receive or transmit a telegram; and

(2) the costs of the suit.

§8–201.

(a) (1) In this section the following words have the meanings indicated.

(2) "Eligible subscriber" means an individual who is certified to a local telephone company by the Department of Human Resources as receiving:

(i) assistance under Title 5, Subtitle 3 of the Human Services Article;

(ii) assistance from the electric universal service program under § 7–512.1 of this article;

(iii) assistance from the Maryland Energy Assistance Program under Title 5, Subtitle 5A of the Human Services Article;

(iv) State–funded public assistance benefits; or

(v) Supplemental Security Income under Title XVI of the federal Social Security Act.

(3) "Telephone lifeline service" means local telephone services provided to eligible subscribers at a discount in accordance with this section.

(b) At the direction of the Commission, a local telephone company with more than 10,000 subscribers shall offer telephone lifeline service to eligible subscribers subject to the following conditions:

(1) no other local voice telephone service may be provided to the dwelling unit of the eligible subscriber applying for telephone lifeline service; and

(2) an inside wiring maintenance plan is not provided to the eligible subscriber.

(c) (1) An eligible subscriber may select a telephone lifeline service under either paragraph (2) or (3) of this subsection.

(2) An eligible subscriber who selects telephone lifeline service under this paragraph:

(i) shall receive:

1. an individual residential local exchange access line; and

2. the first 30 residential local untimed messages each billing month at no additional charge;

(ii) shall be charged:

1. 50% of the lowest applicable and approved federal and State tariff rates for the access line and included residential local untimed messages, minus any applicable waiver of federal tariff provisions for eligible subscribers, plus all applicable federal, State, and local taxes;

2. the full applicable tariff rates for all other residential local untimed messages; and

3. except as otherwise provided in subsection (d) of this section, the full applicable tariff rates for all other services; and

(iii) may not be provided any premium services, including foreign zone or foreign exchange service.

(3) An eligible subscriber who selects telephone lifeline service under this paragraph:

(i) shall receive an individual residential local exchange access line with unlimited residential local untimed messages for a monthly charge of $10; and

(ii) may purchase up to two value–added services at the full applicable tariff rates.

(d) The telephone company shall charge to an eligible subscriber 50% of the applicable filed tariff for:

(1) repairs to inside wiring; and

(2) installation and connection of residential dial access service to one termination in the dwelling unit of the eligible subscriber.

(e) The telephone company shall charge to the eligible subscriber all applicable federal, State, and local taxes and fees.

(f) (1) A telephone company may not require payment of an order processing charge or line change charge to change an eligible subscriber to telephone lifeline service from any other class of residential telephone service.

(2) A telephone lifeline service subscriber who no longer qualifies as an eligible subscriber may not be charged a fee to change from telephone lifeline service to any other class of residential telephone service.

(g) (1) A telephone company may not request a deposit to secure payment in connection with the initial installation or connection of telephone lifeline service.

(2) An eligible subscriber applying for service may be denied service if the eligible subscriber:

(i) has an outstanding unpaid net telephone debt of $100 or more for prior telephone service; and

(ii) has not established a reasonable payment plan to satisfy the debt.

(3) An eligible subscriber may not be denied service if the eligible subscriber has an outstanding unpaid net telephone debt of less than $100 for prior telephone service.

(h) (1) To the extent allowed by federal law, the Department of Human Resources shall provide to local telephone companies that offer telephone lifeline service monthly electronic access to a file containing a list of all individuals who receive assistance from any of the programs listed in subsection (a)(2) of this section.

(2) To obtain access to the file, a local telephone company must enter into a memorandum of understanding with the Department of Human Resources that governs access to use, confidentiality, and retention of the file.

(3) The grant of access to the file satisfies the certification requirement of subsection (a)(2) of this section.

§8–202.

(a) (1) The Commission may not authorize telephone company charges to be levied for directory assistance calls made by residential customers on the first two calls made to directory assistance from each residential service per monthly billing cycle.

(2) Subject to subsection (b) of this section, the Commission shall authorize charges on other directory assistance calls.

(b) The Commission may not authorize telephone company charges to be levied for directory assistance on an individual who suffers from a physical or visual disability that precludes the use of a telephone directory.

§8–203.

(a) (1) The Commission may not authorize mandatory telephone company charges based on a measured time period unit rate for local messages.

(2) The Commission may study or evaluate mandatory telephone company charges.

(b) If the Commission authorizes a telephone company to offer to residential customers the option of telephone charges based on a measured time period unit rate for local messages, the Commission also shall require the telephone company to offer to residential customers:

(1) the option of an unlimited number and duration of local calls; and

(2) the option of a specific charge per local call, regardless of the duration of the local call.

(c) A telephone company may not require the payment of an order processing charge or line change charge for a residential customer's first change from local telephone service based on charges for measured time period unit rates, if the change occurs within 18 months after the date that the consumer elects this telephone service.

(d) The Commission may not authorize a telephone company to charge for the distance of a call within a local calling area.

§8–204.

(a) This section does not apply to:

(1) a unit of federal, State, or local government that uses an automated dialing prerecorded message machine for emergency purposes; or

(2) a person who has a preexisting business relationship with, or the consent of, the person called.

(b) A person may not use an automated dialing, push-button, or tone-activated address signaling system with a prerecorded message to:

(1) solicit persons to purchase, lease, or rent goods or services;

(2) offer a gift or prize;

(3) conduct a poll; or

(4) request survey information if the results will be used directly to solicit persons to purchase, lease, or rent goods or services.

(c) The sender of an automated dialing, push-button, or tone-activated address signaling call shall disconnect the prerecorded message machine from the recipient's telephone line within 5 seconds after the termination of the call by either the person calling or the person called.

(d) A person who violates a provision of subsection (b) or (c) of this section is guilty of a misdemeanor and on conviction is subject to a fine:

(1) not exceeding $1,000 for the first offense; and

(2) not exceeding $5,000 for each subsequent offense.

§8–205.

(a) (1) In this section, "telephone solicitation" means an organized activity, program, or campaign to communicate by telephone with residents of Maryland in order to:

(i) sell, lease, or rent goods or services;

(ii) attempt to sell, lease, or rent goods or services;

(iii) offer or attempt to offer a gift or prize;

(iv) conduct or attempt to conduct a poll; or

(v) request or attempt to request survey information, if the results of the survey will be used directly to solicit persons to purchase, lease, or rent goods or services.

(2) "Telephone solicitation" includes the act of managing, directing, or supervising an individual engaged in telephone solicitation under paragraph (1) of this subsection.

(b) This section does not apply to a unit of federal, State, or local government.

(c) If the telephone service or equipment of a person engaged in telephone solicitation allows that person to choose to restrict or display the transmission of the person's telephone number to the recipient of a telephone solicitation, the person may not:

(1) intentionally use any device or method to block the transmission of the person's telephone number to a recipient; or

(2) take any other action to prevent or control the transmission of the person's telephone number to a recipient.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

(1) for a first offense, a fine not exceeding $1,000; and

(2) for each subsequent offense, a fine not exceeding $5,000.

§8–206.

(a) This section applies to telephone directories distributed by, or on behalf of, a telephone company other than advertisement–based business directories.

(b) A telephone company may not be required to distribute a telephone directory to an address in the State unless the property owner or an occupant requests the telephone directory.

(c) (1) If a telephone company elects not to distribute a print telephone directory to a customer at an address in the State, the telephone company shall provide notice as to how the customer may request a print telephone directory.

(2) The notice required under paragraph (1) of this subsection shall:

(i) include a toll–free telephone number a customer may call to request a print telephone directory; and

(ii) be included:

1. in each customer's bill at least once each year;

2. on the telephone company's Web site; and

3. in bold red print, on the front cover and the table of contents page of any print advertisement–based business directory distributed on behalf of the telephone company through September 30, 2016.

(3) If a customer requests a print telephone directory, the telephone company shall deliver the print telephone directory to the customer at no cost to the customer.

§8–301.

Except as otherwise provided by law, the provisions of this subtitle are not subject to the jurisdiction of the Commission.

§8–302.

(a) A telephone company doing business in the State that has coin pay telephones located on outdoor sites shall provide a method to place calls to the operator without requiring the insertion of coins into the telephone.

(b) The cost of providing the method of placing calls required in subsection (a) of this section is a reasonable and necessary cost of providing telephone service.

§8–303.

(a) A telegraph company engaged in the business of transmitting communications by telegraph in the State and charging tolls for providing this service shall show conspicuously on each telegram delivered:

(1) under the caption "time filed", the time the telegram was filed at the place of origin for transmission; and

(2) under the caption "time received", the time the telegram was received at the office from which it is to be delivered.

(b) A telegraph company is liable for a fine of not less than $10 and not more than $200 for each telegram it delivers in violation of subsection (a) of this section.

§8–401.

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

(b) "Hold order" or "freeze" means a directive to retain:

(1) the telephone company or reseller selected by a customer until the customer provides express authorization for a change to another telephone company

or reseller;

(2) for telecommunications service options for which the telephone company or reseller imposes a charge, the telecommunications service options selected by a customer until the customer provides express authorization for a change of telecommunications service options; or

(3) the person who bills the customer or the customer's billing arrangement until the customer provides express authorization for a change of the person who bills the customer or the customer's billing arrangement.

(c) "Reseller" means a person who:

(1) provides telecommunications services to end-use customers by using the transmission facilities of another person, including wire, cable, optical fiber, or satellite or terrestrial radio signals, regardless of whether the reseller possesses its own switching facilities; or

(2) bills an end-use customer or causes the customer to be billed for telecommunications service.

(d) "Telecommunications service" means any service or product provided by a telephone company or reseller that is under the jurisdiction of the Commission.

§8–402.

(a) This subtitle applies to a telephone company or reseller that provides intrastate interLATA, intraLATA, or local exchange carrier telecommunications service.

(b) An act of a person or company that is acting as an agent or representative of a telephone company or reseller is deemed to be an act of the telephone company or reseller under this subtitle.

§8–403.

Each reseller that provides telecommunications service shall obtain authorization from the Commission in a manner determined by the Commission to provide those services in the State.

§8–404.

Unless the telephone company or reseller complies with authorization and confirmation procedures adopted by the Commission and by federal law and regulation, a telephone company or reseller may not, on behalf of a customer:

(1) change, or direct another telephone company or reseller to change, the customer's telephone company or reseller;

(2) select a telecommunications service option for which the telephone company or reseller imposes a charge; or

(3) change the person who bills the customer or the customer's billing arrangement.

§8–405.

(a) This section applies to a telephone company or reseller that initiates an unauthorized change in violation of this subtitle in:

(1) a customer's telephone company;

(2) a customer's reseller;

(3) a customer's telecommunications service options; or

(4) the person who bills the customer or the customer's billing arrangement.

(b) A telephone company or reseller that is subject to this section is liable:

(1) to the customer, the customer's previously selected telephone company or reseller, or both, as determined by the Commission, for all intrastate long distance charges, interstate long distance charges, local exchange service charges, provider switching fees, the value of any premiums to which the customer would have been entitled, and other relevant charges incurred by the customer in the first 30 days of the unauthorized change; and

(2) to the customer's local exchange provider for the change fees for the unauthorized change and reinstating the customer to the original telephone company or reseller.

§8–406.

(a) When a customer, or a telephone company or reseller providing a new telecommunications service on behalf of the customer, makes a change in the customer's telephone company or reseller, the telephone company or reseller providing the new telecommunications service shall provide a conspicuous notice to the customer, informing the customer that the change was made.

(b) When a customer, or a telephone company or reseller on behalf of the customer, makes a change in the customer's selection of a telecommunications service option for which the telephone company or reseller imposes a charge, the telephone company or reseller providing the new telecommunications service option shall provide a conspicuous notice to the customer, informing the customer that the change was made.

(c) When a customer, or a telephone company or reseller on behalf of a customer, makes a change in the person who bills the customer or the customer's billing arrangement, the telephone company or reseller providing the new billing service or arrangement shall provide a conspicuous notice to the customer, informing the customer that the change was made.

(d) A telephone company or reseller that is required to provide notice under this section shall provide the notice by:

(1) inserting the notice on or with the customer's first bill for which the change is effective; or

(2) sending a separate notice to the customer within 30 days after the change takes effect.

(e) A telephone company or reseller may not, on behalf of a customer, fail to make any change in a customer's telephone company, reseller, or telecommunications service options, or in the person who bills the customer or the customer's billing arrangement when the change order has been received in a manner that complies with federal and State rules and regulations. All such change orders shall be properly processed to assure that the order is completed and service will be provided by the new telephone company or reseller of choice within 15 business days of receipt of the compliant change order or as otherwise negotiated with the customer.

§8–407.

(a) If the Commission determines that a hold order or freeze is necessary, the Commission may require a telephone company or reseller that operates the network facilities that control routing, selection, or billing functions necessary to implement the hold order or freeze to offer the hold order or freeze to the telephone company's end-use customers or to the reseller's end-use customers as a method of reducing incidents of unauthorized changes in a customer's telephone company, reseller, or telecommunications service options, or in the person who bills the customer or the customer's billing arrangement.

(b) A telephone company or reseller that is required to offer a hold order or freeze shall implement the hold order or freeze in a nondiscriminatory and competitively neutral manner that does not give the telephone company or reseller an advantage over its competitors in the telecommunications market.

(c) All regulations regarding the implementation of a hold order or freeze shall be consistent with the rules and regulations of the Federal Communications Commission.

§8–408.

(a) To implement this subtitle the Commission may adopt regulations necessary to carry out the provisions of this subtitle that are consistent with federal law.

(b) The regulations may include:

(1) procedures for a customer to confirm a change in the customer's telephone company or reseller made by another telephone company or reseller on behalf of the customer;

(2) procedures for a customer to confirm a change in telecommunications service options;

(3) procedures for a customer to confirm a change in the person who bills the customer or the customer's billing arrangement;

(4) provisions for the disclosure to the customer of the terms of the services offered by a telephone company or reseller;

(5) methods of enforcement; and

(6) other provisions, not inconsistent with federal law, that the Commission considers necessary to implement this subtitle.

§8–409.

(a) A telephone company or reseller may not fail or neglect to comply with this subtitle or with a regulation adopted under this subtitle.

(b) For the purpose of enforcing the provisions of this subtitle, the Commission may:

(1) exercise any of the powers conferred under this division against a telephone company or reseller; and

(2) in the case of a complaint filed against a telephone company or reseller, order the telephone company or reseller to make reparations to the complaining party in accordance with § 8–405 of this subtitle.

(c) In addition to any other available penalty, the Commission may assess directly, after an opportunity for hearing, an administrative penalty on a telephone company or reseller that violates the provisions of this subtitle, or a regulation adopted under this subtitle, or federal law or regulation on unauthorized changes to a customer's telephone company, reseller, or telecommunications service options, or to the person who bills the customer or the customer's billing arrangement.

(d) The administrative penalty assessed under this section may not exceed $1,000 for each violation associated with a specific access line in the State.

(e) In assessing an administrative penalty under this section, the Commission shall consider:

(1) the nature, circumstances, extent, gravity, and number of violations;

(2) the degree of culpability of the violator;

(3) prior offenses and repeated violations of the violator; and

(4) any other matter that the Commission considers appropriate and relevant.

(f) An administrative penalty collected under this section shall be paid into the General Fund of the State.

§8–501.

(a) The Commission may, after notice and public hearing, adopt policies and regulations governing the development of competition in the telecommunications services market.

(b) Policies and regulations adopted by the Commission under this section shall be consistent with federal law, policies and regulations of the Federal Communications Commission, Title 4 of this article, and any other applicable provisions of Maryland law.

§8–601.

In this subtitle:

(1) "voice over Internet protocol service" or "VoIP service" means any service that:

(i) enables real–time two–way voice communications that originate from or terminate to the subscriber end user's location requiring Internet protocol or any successor protocol to Internet protocol; and

(ii) requires a broadband connection from the user's location; and

(2) "voice over Internet protocol service" or "VoIP service" includes any such service that permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

§8–602.

(a) The Commission does not have jurisdiction over the regulation of VoIP service, including the imposition of regulatory fees, certification requirements, and the filing or approval of tariffs.

(b) Nothing in this subtitle may be construed to:

(1) require or prohibit the assessment of 9–1–1 fees in accordance with § 1–310 of the Public Safety Article on VoIP;

(2) require or prohibit the assessment of fees for telecommunications relay service under Title 3, Subtitle 8 of the State Finance and Procurement Article;

(3) require or prohibit the payment of any switched network access rates or other intercarrier compensation rates that may be determined to apply;

(4) relieve a company that is otherwise subject to § 8–201 of this title of its obligation to provide telephone lifeline service over local exchange access lines that are subject to the Commission's jurisdiction;

(5) exempt VoIP service from generally applicable State and federal laws relating to public safety, consumer protection, and unfair and deceptive trade practices, or to exempt VoIP service from the authority of the Division of Consumer Protection in the Office of the Attorney General; or

(6) remove the Commission's jurisdiction over circuit switched local exchange access service.

(c) A company that moves a customer from a Commission–approved tariff service to VoIP service shall notify the customer that the Commission does not have jurisdiction over the regulation of VoIP service and that complaints about VoIP service may be filed with the Division of Consumer Protection in the Office of the Attorney General.

§9–101.

(a) Each common carrier shall provide reasonable, proper, and equal facilities for the prompt interchange and transfer of passengers between its lines and the lines of every other common carrier.

(b) A common carrier may not discriminate against other common carriers in transferring, receiving, or forwarding passengers to or from other common carriers.

(c) A common carrier is not required to allow any other common carrier to use its tracks or terminal facilities.

§9–102.

Unless the Commission orders otherwise, a common carrier may not charge or receive an equal or greater compensation in the aggregate to transport passengers under substantially similar circumstances for a shorter distance than for a longer distance over the same line and in the same direction.

§9–103.

(a) The Commission shall prescribe a form of tariff schedules for common carriers that is as nearly as practicable the same as that required by the Surface Transportation Board for the particular kind of carrier.

(b) In addition to other information that the Commission requires, the tariff schedules of each common carrier shall show:

(1) all of the current rates, fares, and charges, including those specified in § 4-503 of this article, for the transportation of passengers within the State between:

(i) each point on the common carrier's route and all other points on the other routes it owns; and

(ii) each point on the common carrier's route and all points on the route of each other common carrier that is shown in the schedule whenever a through route or joint rate is established between those points;

(2) the points between which passengers will be carried;

(3) the classification of passengers;

(4) the privileges or facilities granted; and

(5) all rules and regulations that may change, affect, or determine any part of the aggregate of the rates, fares, or charges or the value of the service rendered.

(c) Each common carrier that is a party to a joint rate shown in the tariff schedule of another common carrier shall file with the Commission evidence of acceptance of the joint rate, as required by the Commission.

§9–201.

(a) Except as provided in subsection (b) of this section, a motor carrier permit is required for a passenger motor vehicle used in the transportation of persons for hire.

(b) A motor carrier permit is not required for:

(1) a motor vehicle used exclusively for the transportation of pupils to and from public or private schools;

(2) a motor vehicle operated for a period of not more than 3 months in any registration year in the transportation of persons employed at a cannery located in a county;

(3) taxicabs;

(4) public transportation for hire authorized to operate on the boardwalk

in Ocean City;

(5) a vanpool operation as defined in § 11–175.1 of the Transportation Article;

(6) a local public transportation system established under a law enacted by the local governing body of a county or municipal corporation;

(7) subject to subsection (c) of this section, a motor vehicle used by a privately owned transportation company exclusively to provide transportation system services under a contract with the governing body of a county or municipal corporation or with a unit of State government; or

(8) shuttle bus service operated by the University of Maryland, College Park for students enrolled at the University of Maryland, College Park and, in exchange for payment by a municipal corporation in which the University of Maryland, College Park operates shuttle bus service, transportation service on the shuttle bus to residents of the municipal corporation.

(c) A privately owned transportation company that provides transportation system services under a contract with the governing body of a county or municipal corporation or with a unit of State government shall obtain a motor carrier permit for motor vehicles that the company does not use exclusively to provide transportation system services under a contract with the governing body of a county or municipal corporation or with a unit of State government.

(d) The public duties of a common carrier may not be imposed on a person with respect to a vehicle for which a motor carrier permit is required under this section, if the vehicle is not actually engaged in public transportation.

§9–202.

A motor carrier permit may not be issued unless the Commission, after considering the number of vehicles the applicant will use, the rate the applicant will charge, the potential demand, the qualifications of the applicant, and any other factors that the Commission considers relevant, determines that the issuance of a motor carrier permit will be best for the public welfare and convenience.

§9–203.

(a) Subject to subsections (b) and (c) of this section, the Commission may subject a motor carrier permit to terms and conditions that the Commission considers appropriate.

(b) The duration of a motor carrier permit may not exceed 20 years.

(c) The Commission may authorize seasonal motor carrier permits for a part of the year.

§9–204.

The Commission may suspend, revoke, or subsequently deny a motor carrier permit if the holder violates a provision of this division.

§9–205.

(a) (1) A route or schedule of a motor vehicle for which a motor carrier permit is granted may not be changed or abandoned without written permission from the Commission.

(2) The Commission may only grant permission under paragraph (1) of this subsection if the Commission finds that the public welfare and convenience are not prejudiced by the change.

(3) Notwithstanding paragraph (1) of this subsection, the holder of a motor carrier permit may temporarily operate substitute or reserve vehicles, when necessary in an emergency, to maintain the required schedules over the holder's route.

(b) This subtitle does not limit the power of a municipal corporation to adopt reasonable traffic regulations, including the power to:

(1) designate streets; and

(2) prohibit the use of certain streets or the parking of vehicles on those streets if the use or parking may threaten public safety or unduly congest traffic.

§9–206.

(a) The owner and operator of an intrastate motor bus carrier shall prohibit the smoking of tobacco products while the bus is in public service.

(b) A person may not smoke tobacco products on a bus of an intrastate motor bus carrier.

(c) The Commission may adopt regulations to carry out the provisions of this section.

(d) A person who violates a provision of this section is subject to a civil penalty not exceeding $25.

§9–207.

(a) This section applies to a motor carrier providing transportation for hire by or through contract with a public authority, or a federal, State, district, or municipal transportation agency.

(b) A motor carrier subject to this section:

(1) is also subject to §§ 5–101 and 5–304 of this article; and

(2) except as provided in § 9–201(b)(7) of this subtitle, shall obtain a motor carrier permit under § 9–201 of this subtitle.

(c) A motor carrier permit issued to a motor carrier subject to this section may be:

(1) subject to conditions under § 9–203 of this subtitle; and

(2) suspended, revoked, or subsequently denied under § 9–204 of this subtitle.

(d) Except as provided in this section, the provisions of this division do not apply to a motor carrier subject to this section.

§9–208.

(a) This section does not apply to a motor coach that is licensed by the Commission to provide transportation of persons for hire.

(b) A not-for-profit entity that owns and operates a motor coach with a capacity of at least 30 passengers and gross vehicle weight rating of at least 32,000 pounds shall obtain a license for the motor coach from the Commission.

(c) The not-for-profit entity shall have the motor coach inspected for safety every 12 months by an authorized Maryland inspection station.

(d) A motor coach that is licensed under this section and only provides service for or on behalf of a not–for–profit entity is not subject to tariffs or rate making under this division.

§9–301.

In this subtitle, "Maryland railroad company" means a railroad company organized under the laws of this State.

§9–302.

Except as otherwise provided by law, the provisions of this subtitle are not subject to the jurisdiction of the Commission.

§9–303.

(a) (1) Except as provided in paragraph (2) of this subsection, a Maryland railroad company may locate, construct, maintain, and operate a railroad in the State if the railroad is not more than 100 feet wide at the graded surface.

(2) A railroad may be wider than 100 feet if the Maryland railroad

company determines that it is necessary for:

(i) cuts and fills for a slope or embankment;

(ii) multiple sets of tracks; or

(iii) sidetracks, turnouts, depots, buildings, and other works connected with the operation of the railroad.

(b) (1) A Maryland railroad company may acquire land and other property that it determines is convenient or necessary for the site of the railroad or for additions to the railroad by:

(i) purchase, either in fee simple or any lesser estate, in accordance with law; or

(ii) condemnation under Title 5, Subtitle 4 of this article and Title 12 of the Real Property Article.

(2) A Maryland railroad company may acquire by purchase or gift lands near the railroad that it determines are necessary to secure the right-of-way or aid in the construction of the railroad.

(c) (1) Land that a Maryland railroad company acquires may be held or conveyed as determined by the board of directors of the Maryland railroad company.

(2) Deeds and conveyances made by a Maryland railroad company shall be signed by the president of the company under its corporate seal.

(d) This section does not authorize a Maryland railroad company to condemn, use, or occupy any part of a highway, including the space under or over a highway, without the consent of the proper authorities of the municipal corporation or county where the highway is located.

§9–304.

(a) (1) A Maryland railroad company may cross or divert an unnavigable stream whenever it is necessary to construct a railroad.

(2) A Maryland railroad company that diverts a stream is liable for damage caused by the diversion.

(b) A Maryland railroad company may cross a canal or a navigable stream if the company:

(1) submits to the Board of Public Works a plan for the canal or stream crossing that includes the location and building plans of the bridge and other necessary fixtures; and

(2) receives written approval from the Board of Public Works.

(c) (1) If the Board of Public Works disapproves a plan submitted by a Maryland railroad company or fails to approve the plan within 20 days after filing, the Maryland railroad company may apply to the circuit court of the county where the canal or stream crossing is planned or to another court of competent jurisdiction.

(2) The court shall:

(i) provide reasonable notice to the Board of Public Works;

(ii) for good cause shown, appoint a disinterested and competent engineer, who does not reside in a county through which the Maryland railroad company's railroad passes and who, within 20 days of being appointed:

1. shall examine the canal or stream crossing; and

2. shall establish a plan and any conditions necessary to cross the canal or stream in a way that will not impede navigation; and

(iii) examine the engineer's plan and conditions for the canal or stream crossing, and unless good cause is shown, approve the plan and conditions.

(3) An order by the court approving the plan and conditions for the canal or stream crossing shall be sufficient authority for the Maryland railroad company to elect, use, and occupy the bridge.

§9–305.

(a) (1) Whenever necessary in the construction of a railroad, a Maryland railroad company may cross the tracks of another railroad company.

(2) Crossings may be made at, over, or under grade.

(b) If a Maryland railroad company is unable to agree on the terms for a crossing with the railroad company whose track is to be crossed, then the Maryland railroad company may condemn the easement of the crossing under § 5-405 of this article.

(c) (1) A Maryland railroad company that constructs a crossing at grade shall:

(i) at its own expense, erect a proper signal station at the crossing and keep a watchman there; and

(ii) give precedence to the trains of the railroad company whose tracks are crossed.

(2) A Maryland railroad company that constructs an undergrade or overgrade crossing shall construct the crossing so as not to interfere with the passage of the trains of the railroad company whose tracks are being crossed.

§9–306.

(a) (1) A Maryland railroad company may:

(i) cross or divert a highway whenever necessary for the construction of a railroad;

(ii) at its own cost and expense, carry a highway over its track by an overgrade crossing, or under its track by an undergrade crossing if the Maryland railroad company considers that the highway crossing is dangerous; and

(iii) exercise the powers of condemnation, under Title 5, Subtitle 4 of this article and Title 12 of the Real Property Article, to acquire additional property and rights necessary to construct an overgrade or undergrade crossing.

(2) Whenever a Maryland railroad company crosses or diverts a highway, it shall, without necessary delay, return the highway to its former usefulness.

(b) (1) Overgrade and undergrade crossings shall be at least 20 feet wide, and the grades approaching the crossings may not be greater than a rise of 6 feet in one hundred.

(2) The height of an undergrade crossing from the surface of the roadway shall be at least 14 feet.

(3) When constructing the approaches to an overgrade or undergrade crossing, the Maryland railroad company may change the grade of the road or highway to be carried on the new crossing.

(4) If the grade is changed under paragraph (3) of this subsection:

(i) the grade change of the road shall be at the expense of the Maryland railroad company; and

(ii) the Maryland railroad company has the same rights and liabilities that county officials have in changing the grades of public highways.

(c) (1) Except as provided in paragraph (2) of this subsection, whenever a Maryland railroad company constructs an overgrade or undergrade crossing, all grade crossings within 600 yards of the new crossing may be closed by the Maryland railroad company and another crossing may not be opened within 600 yards of the new crossing.

(2) The prohibition against the maintenance and opening of a grade crossing within 600 yards of a newly constructed overgrade or undergrade crossing does not apply:

(i) in a municipal corporation, without the consent of the mayor and council; and

(ii) in an unincorporated area of a county with a population of 2,000 or more people, without the consent of the local governing body.

§9–307.

If the right-of-way or location of any part of an unfinished railroad remains unused for railroad purposes for 10 years or longer, the right-of-way or location is deemed abandoned and may be purchased or condemned by a railroad company under Title 5, Subtitle 4 of this article and Title 12 of the Real Property Article.

§9–308.

(a) Subject to § 6-101(c) of this article, a Maryland railroad company may acquire, own, hold, pledge, sell, dispose of, endorse, guarantee, or assume the stocks, bonds, and other securities of:

(1) a Maryland railroad company;

(2) a railroad company of any other state; and

(3) an inland, coast, or ocean transportation company.

(b) A Maryland railroad company may own and operate a line of steamships or steamboats if they can be used wholly or partly, in connection with the business of the Maryland railroad company.

§9–309.

(a) The presumption of negligence established in this section does not apply if:

(1) the damages or injuries were caused by a fire that occurred in or about a railroad terminal that receives, delivers, or tranships freight; and

(2) the fire may have resulted from the negligence of an individual who works in or about the terminal but is not employed by or under the control of the railroad company.

(b) Unless a railroad company proves that damages or injuries were not the result of any negligence on the part of the company, a railroad company is liable in a civil action for:

(1) injuries to livestock that occur on the company's tracks; and

(2) damages that result from a fire that originated from the company's engines or cars.

§9–310.

(a) A railroad that crosses or connects with another railroad may use the track

or roadway of the other railroad, for up to 5 miles, to move locomotives, cars, and tonnage.

(b) The rate of tolls that a railroad charges under this section for locomotives, cars, and tonnage may not exceed the rate per ton per mile, or proportionate part of a mile used, that the railroad charges for through freight per ton per mile.

(c) A railroad company that violates this section is liable to an aggrieved party in a civil action for an amount not less than $500 and not exceeding $1,000 for each day of noncompliance.

§9–311.

(a) (1) At least 30 days before making a determination, the local governing body of a county shall notify a railroad company that the county will consider the need to protect a railroad crossing over a public highway if:

(i) the crossing is in the county but outside of a municipal corporation;

(ii) the crossing is at grade; and

(iii) the highway is believed to be of a character as to render dangerous the passage of locomotives and trains on it.

(2) A county shall give the notice by serving written notice on the superintendent or other agent of the railroad company in the county.

(3) After the 30-day period, the local governing body of a county may determine that protection is necessary at the crossing.

(4) The county shall notify the railroad company through its superintendent or ticket agent in the county that, within 60 days, the railroad company shall:

(i) place a flagman or a system of electric alarm bells at the crossing to give timely notice to all persons using the crossing of the approach of trains;

(ii) erect safety gates at the crossing that shall be closed not less than one-half minute before the passage and during the passage of a train; or

(iii) change the crossing at grade to an undergrade or overgrade crossing.

(b) If a railroad company does not comply with the requirements of a county under subsection (a)(4) of this section, the railroad company is subject to a fine of $25 per day for each day that the company is not in compliance.

(c) (1) As other fines are collected, the local governing body of a county shall enforce the payment of fines imposed by subsection (b) of this section in the circuit court for the county.

(2) The State's Attorney of the county shall prosecute under this subsection when the local governing body of the county so directs.

§9–312.

(a) Each safety gate at a grade crossing in the State shall have reflectors of sufficient size to ensure visibility at night.

(b) The Secretary of Transportation shall adopt regulations to carry out this section.

(c) A railroad company that does not comply with an order of the Secretary of Transportation to provide or maintain reflectors under this section is subject to a fine of $100 per day for each day that the company is not in compliance.

§9–313.

(a) At each place where its tracks cross a public highway, a Maryland railroad company shall erect signs high enough to allow all vehicles to pass and with large and distinct letters that warn of the proximity of the railroad crossing and of the necessity to look for trains.

(b) A Maryland railroad company that neglects or refuses to comply with the requirements of this section is liable for any resulting injuries to individuals or damages to property.

§9–401.

(a) Unless the Commission orders otherwise, a railroad company shall have sufficient cars and motive power to meet all requirements that reasonably may be anticipated to transport passengers, property, and freight.

(b) (1) If a railroad company does not have sufficient cars to meet the demand to transport freight in carload lots, the railroad company shall distribute available cars to shippers that apply.

(2) Except for giving priority to transporting livestock or perishable property, a railroad company may not discriminate in any way, including preferences as to shippers, localities, or competitive or noncompetitive points, when supplying cars under this section.

§9–402.

(a) This section does not affect the duties of a railroad company or the powers

of the Commission regarding joint rates.

(b) A railroad company shall receive freight cars of proper standard from other railroad companies at connecting points and haul the cars:

(1) to their destination; or

(2) by the route billed, to the connecting point with the next connecting carrier.

(c) Except on terms and conditions that the Commission establishes, railroad companies may not be required to interchange cars.

§9–403.

(a) If safe to install, reasonably practicable, and justified by the volume of business, a railroad company, on the application of a shipper, shall construct, maintain, and operate on reasonable terms:

(1) a switch connection or a connection with a lateral line of railroad or private sidetrack owned by the shipper; or

(2) a sidetrack and switch connection for the shipper on property owned by the railroad company.

(b) The Commission shall regulate installation, maintenance, and compensation under this section.

(c) A railroad company may terminate connections that it provides under this section if the Commission determines that the required conditions are no longer satisfied.

§10–101.

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

(b) "Central Repository" has the meaning stated in § 10-201 of the Criminal Procedure Article.

(c) "Criminal Justice Information System" has the meaning stated in § 10-201 of the Criminal Procedure Article.

(d) "For-hire driver's license" includes:

(1) a passenger-for-hire license; and

(2) a taxicab driver's license.

(e) (1) "Limousine service" means operating a motor vehicle for hire using

a motor vehicle classified as a Class Q (limousine) vehicle under § 13–939 of the Transportation Article.

(2) "Limousine service" does not include providing taxicab services, sedan services, or transportation network services.

(f) (1) "Operate a motor vehicle for hire" means to transport or offer to transport a person in a motor vehicle in exchange for remuneration.

(2) "Operate a motor vehicle for hire" includes:

(i) providing passenger-for-hire services; and

(ii) providing taxicab services.

(g) "Provide passenger–for–hire services" includes:

(1) providing limousine services;

(2) providing sedan services; and

(3) providing transportation network services.

(h) "Provide taxicab services" means to operate a motor vehicle for hire that, in addition to other services:

(1) is advertised or held out to the public as a taxicab or as providing taxicab services;

(2) regardless of how or when engaged, provides for-hire service between points chosen by the passenger and for a fare that is based on the distance traveled, the time elapsed, or both; or

(3) is engaged by the passenger for service between points chosen by the passenger that is provided through:

(i) hail from the street or other location; or

(ii) request made at a taxi stand or other location where the motor vehicle is standing and waiting for a request for service.

(i) "Remuneration" includes:

(1) a fare;

(2) a fee;

(3) a toll;

(4) a gratuity; and

(5) personal services.

(j) (1) "Sedan service" means operating a motor vehicle for hire using a motor vehicle designed to carry 15 or fewer individuals, including the driver.

(2) "Sedan service" does not include providing taxicab services, limousine services, or transportation network services.

(k) "Taxicab driver's license" means a license issued by the Commission to an individual that provides taxicab services.

(l) "Transportation network company" means a company that has been issued a permit by the Commission and operates in the State using a digital network to connect passengers to transportation network operators or transportation network partners for transportation network services.

(m) "Transportation network operator", "transportation network partner", or "transportation network driver" means an individual who:

(1) has been issued a transportation network operator's license, or is otherwise authorized, by the Commission to provide transportation network services;

(2) receives, through a transportation network company's digital network application, a connection to a potential passenger to transport the passenger between points chosen by the passenger in exchange for the payment of a fee to the transportation network company; and

(3) uses a motor vehicle that is owned, leased, or otherwise authorized for use by the individual and is approved for use in providing transportation network services by the Commission.

(n) (1) "Transportation network services" means the activities of an operator during:

(i) transportation network coverage period one, during which the operator is logged onto and ready to accept a prearranged ride request made through a transportation network company's digital network application;

(ii) transportation network coverage period two, during which the operator accepts a ride request from a passenger that is prearranged through a transportation network company's digital network application, and is traveling to a predetermined location to pick up the passenger; and

(iii) transportation network coverage period three, during which the operator transports the passenger and continuing until the passenger departs the motor vehicle.

(2) "Transportation network services" does not include providing taxicab services, sedan services, or limousine services.

§10–102.

(a) This subtitle supplements other law relating to the operation and licensing of motor vehicles.

(b) This title applies to any motor vehicle used in the transportation of persons in exchange for remuneration except:

(1) motor vehicles designed to transport more than 15 persons; and

(2) transportation solely provided by or on behalf of a unit of federal, State, or local government, or a not-for-profit organization as identified in § 501(c)(3) and (4) of the Internal Revenue Code, that requires a criminal history records check and driving record check for its drivers, for clients of services including:

(i) aging support;

(ii) developmental and other disabilities;

(iii) kidney dialysis;

(iv) Medical Assistance Program;

(v) Head Start;

(vi) Welfare-to-Work;

(vii) mental health; and

(viii) job training.

(c) Subsection (b)(2) of this section may not be construed to limit the application of this title or Title 9 of this article to a for-hire driver or other person who operates a motor vehicle for hire or provides transportation of persons for hire in addition to providing transportation services to clients of services listed in subsection (b)(2) of this section.

(d) Notwithstanding subsection (b)(2) of this section:

(1) a not-for-profit organization that provides transportation for remuneration to clients of services listed in subsection (b)(2) of this section may be required to obtain a motor carrier permit under Title 9 of this article; but

(2) a driver employed by the not-for-profit organization may not be required to obtain a for-hire driver's license or other authorization from the Commission to perform transportation services solely under subsection (b)(2) of this

section.

(e) (1) A driver employed or offered employment by a governmental unit or not-for-profit organization under subsection (b)(2) of this section shall apply to the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services for a State criminal history records check on or before the first day of the driver's actual employment.

(2) As part of the application for a State criminal history records check, the driver employed or offered employment by the governmental unit or not-for-profit organization shall submit to the Central Repository:

(i) one complete set of the driver's legible fingerprints taken on a form approved by the Secretary of Public Safety and Correctional Services; and

(ii) the fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to State criminal history records.

(3) (i) In accordance with Title 10, Subtitle 2 of the Criminal Procedure Article, the Central Repository shall provide a printed statement listing the driver's criminal convictions to:

1. the governmental unit or not-for-profit organization; and

2. the driver.

(ii) If criminal history record information is reported to the Central Repository after the date of the initial criminal history records check, the Central Repository shall provide a revised printed statement listing the driver's criminal convictions to:

1. the governmental unit or not-for-profit organization; and

2. the driver.

(4) In accordance with regulations adopted by the Department of Public Safety and Correctional Services, the governmental unit or not-for-profit organization shall verify periodically a list of its drivers.

(5) Information the governmental unit or not-for-profit organization obtains from the Central Repository under this subsection shall be:

(i) confidential and may not be redisseminated; and

(ii) used only for the employment purpose authorized by this section.

(6) In accordance with § 10-223 of the Criminal Procedure Article, a driver employed by a governmental unit or not-for-profit organization may challenge

the contents of a printed statement or revised printed statement issued by the Central Repository.

(f) This subtitle does not limit the power of a political subdivision of the State to adopt reasonable traffic regulations such as:

(1) the designation of taxicab stands; and

(2) the restriction or prohibition of cruising along a public street when the cruising would menace the public safety or unduly congest traffic.

§10–103.

(a) Except as provided in subsections (b) and (c) of this section, a person may not operate a motor vehicle for hire in the State under a permit or authorization to transport passengers issued by the Commission or the appropriate local authority unless the person holds a for–hire driver's license or a transportation network operator's license issued by the Commission.

(b) (1) A county or municipal corporation may license taxicab drivers who drive taxicabs that are based in that county or municipal corporation if, at a minimum, the county or municipal corporation conducts a criminal record check and driving record check of each applicant for a license.

(2) A taxicab driver licensed by a county or municipal corporation is not required to be licensed by the Commission.

(c) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Washington Metropolitan Area Transit District" means the transit district created under § 10–204 of the Transportation Article and includes, for the State, Montgomery and Prince George's counties and the political subdivisions located within those counties.

(iii) "WMATC" means the Washington Metropolitan Area Transit Commission created under § 10–204 of the Transportation Article.

(2) A person providing transportation network services in the portion of the Washington Metropolitan Area Transit District located within the State must hold a transportation network operator's license issued by the Commission unless the person is providing a trip for which WMATC requires a certificate of authority.

§10–104.

(a) (1) An applicant for a for-hire driver's license shall:

(i) submit to the Commission a completed application on the form

that the Commission provides;

(ii) state on the form that the applicant is applying for a passenger-for-hire driver's license or a taxicab driver's license;

(iii) pay to the Commission an application fee set by the Commission;

(iv) file with the application two recent photographs, of a size that may be easily attached to the license; and

(v) apply to the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services for a State criminal history records check as provided in subsection (b) of this section.

(2) The Commission shall:

(i) require a driving record check of the applicant;

(ii) attach one of the photographs to the for-hire driver's license when issued; and

(iii) file the other photograph with the for-hire driver's license application in the Commission's office.

(b) (1) As part of the application for a criminal history records check, the applicant shall submit to the Central Repository:

(i) one complete set of the applicant's legible fingerprints taken on forms approved by the Director of the Central Repository; and

(ii) the fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records.

(2) (i) In response to an application for an initial criminal history records check, the Central Repository shall provide to the Commission and the applicant a printed statement of the applicant's State criminal record.

(ii) If criminal history record information is reported to the Central Repository after the date of the initial criminal history records check, the Central Repository shall provide to the Commission and the applicant or licensee a revised printed statement of the applicant's or licensee's State criminal record.

(3) In accordance with regulations adopted by the Department of Public Safety and Correctional Services, the Commission shall verify periodically a list of licensed for-hire drivers.

(4) Information the Commission obtains from the Central Repository under this subsection shall be:

(i) confidential and may not be redisseminated; and

(ii) used only for the licensing purposes described in this title.

(5) (i) As provided by this paragraph, an applicant for a for-hire driver's license or a licensee may contest the contents of a printed statement or a revised printed statement issued by the Central Repository.

(ii) To contest the contents of a printed statement or a revised printed statement, an applicant or a licensee shall contact the office of the Secretary of Public Safety and Correctional Services, or the Secretary's designee.

(iii) The Secretary of Public Safety and Correctional Services, or the Secretary's designee, shall:

1. convene a hearing within 20 workdays, unless subsequently waived by the applicant or the licensee; and

2. render a decision within 5 workdays after the hearing.

(iv) For the purposes of this paragraph, the record of a court disposition or a copy of the record certified by the clerk of the court or by a judge of the court in which the disposition occurred shall be conclusive evidence of the disposition.

(v) In a case where a pending charge is recorded, documentation provided by a court to the Secretary of Public Safety and Correctional Services, or the Secretary's designee, that a pending charge for a crime which has not been finally adjudicated shall be conclusive evidence of the pending charge.

(vi) Failure of the applicant or a licensee to appear at the scheduled hearing shall be considered grounds for dismissal of the contest.

(6) (i) In addition to a State criminal history records check under this subsection, and subject to Title 10, Subtitle 2 of the Criminal Procedure Article, the Commission may require an applicant to obtain a criminal history records check from the Federal Bureau of Investigation, through the Department of Public Safety and Correctional Services.

(ii) An applicant who is required by the Commission to obtain a criminal history records check from the Federal Bureau of Investigation under subparagraph (i) of this paragraph shall:

1. apply to the Central Repository of the Department of Public Safety and Correctional Services for a national criminal history records check;

2. submit to the Central Repository one complete set of the applicant's legible fingerprints taken on forms approved by the Director of the Federal Bureau of Investigation; and

3. submit to the Central Repository the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(7) The Commission may use a private agency to provide a background check on an applicant or licensee under this section, as determined by the Commission.

(c) (1) After the initial printed statement has been received from the Central Repository, the Commission shall issue a passenger-for-hire driver's license or a taxicab driver's license, as appropriate, to each applicant that meets the requirements of this title.

(2) The passenger-for-hire driver's license and the taxicab driver's license shall be in the form that the Commission provides.

(d) (1) This subsection applies only in Baltimore City.

(2) On or after July 1, 2002, an individual applying for a taxicab license or renewal of a taxicab license shall submit proof of having successfully completed a course approved by the Commission that includes in the curriculum:

(i) courteous treatment of passengers;

(ii) geography and map reading for the jurisdiction in which the taxicab services will be provided; and

(iii) tourist information for the jurisdiction in which taxicab services will be provided.

(e) The Commission may deny an applicant a license or suspend or revoke the license of a licensee if the applicant or licensee has been convicted of a crime that bears a direct relationship to the applicant's or licensee's fitness to serve the public as a for-hire driver.

§10–104.1.

(a) An applicant for a for–hire driver's license may not provide sedan services, limousine services, or taxicab services unless the Commission has authorized the applicant to operate on a provisional basis or has issued a valid temporary or permanent driver's license to provide sedan services, limousine services, or taxicab services.

(b) The Commission may approve an applicant and issue a temporary driver's license to the applicant if:

(1) the applicant provides all information that the Commission requires for the application, including the information specified in item (2) of this subsection; and

(2) the Commission is satisfied with the successful submission of the applicant's:

(i) national criminal history records check:

1. conducted by the National Association of Professional Background Screeners or a comparable entity approved by the Commission; and

2. that includes:

A. a Multi–State Multi–Jurisdiction Criminal Records Database Search or a search of a similar nationwide database with validation;

B. a search of the Sex Offender and Crimes Against Minors Registry; and

C. a search of the U.S. Department of Justice's National Sex Offender Public Web site; and

(ii) driving record check that includes a driving history research report.

(c) (1) Subject to subsection (d) of this section, the Commission may issue a permanent for–hire driver's license to an applicant on the submission of a satisfactory supplemental criminal background check as set forth under § 10–104(b) of this subtitle.

(2) For taxicab services, the applicant must submit, within 30 days of the issuance of a temporary license, a satisfactory supplemental criminal background check as set forth under § 10–104(b) of this subtitle.

(d) Before April 1, 2016, the Commission may not require an applicant for a for–hire driver's license to comply with subsection (c) of this section if a sedan company or limousine company for which the applicant will provide services, at the time it applies for a permit, provides to the Commission details of the process the sedan company or limousine company uses to collect, review, and submit the information specified in subsection (b)(2) of this section.

(e) (1) A sedan company or limousine company may request that the Commission waive the requirement to comply with subsection (c) of this section and instead comply with subsection (b)(2) of this section for applicants and drivers of the sedan company or limousine company.

(2) On receipt of a request under paragraph (1) of this subsection, the Commission shall:

(i) determine whether the sedan company's or limousine company's process for complying with subsection (b)(2) of this section can be shown to be as comprehensive and accurate as complying with the supplemental criminal background

check as set forth under § 10–104(b) of this subtitle; and

(ii) within 3 months of receiving the request, determine whether to:

1. grant the waiver;

2. deny the waiver; or

3. approve an alternative process.

(f) A sedan company, limousine company, or taxicab company may submit the information under subsection (b) of this section on behalf of an applicant.

(g) The Commission shall adopt regulations that provide a process that is as expeditious as possible and uses electronic means for:

(1) the submission of the information under subsection (b) of this section;

(2) the issuance of a temporary or permanent driver's license and alternative authority to operate on a provisional basis; and

(3) the renewal of a driver's license.

(h) (1) Records provided to the Commission by a sedan company, limousine company, or taxicab company under this section are not subject to release under the Maryland Public Information Act or any other law.

(2) The Commission may not disclose records or information provided to the Commission under this section to any person unless the disclosure is required by subpoena or court order.

(3) If a subpoena or court order requires the Commission to disclose information provided to the Commission under this section, the Commission shall promptly notify the sedan company, limousine company, or taxicab company before disclosing the information.

§10–105.

(a) After an administrative review, the Commission shall deny an application for a license if the public convenience and necessity requires the denial because of:

(1) the physical or mental condition of the applicant; or

(2) the criminal record of the applicant.

(b) (1) If an applicant's application for a license is denied under subsection (a) of this section, the applicant may request a hearing by the Commission.

(2) The Commission may have the license hearing officer conduct the

hearing in accordance with § 10-110 of this subtitle.

(c) If the Commission refuses to issue a license, the applicant may seek judicial review of the refusal under Title 3, Subtitle 2 of this article.

§10–106.

(a) The term of a for-hire driver's license is not less than 1 year and not more than 3 years, as the Commission sets.

(b) (1) An applicant for a renewal of a for-hire driver's license shall submit to the Commission an application on the form that the Commission provides.

(2) The Commission may renew the for-hire driver's license by appropriate endorsement on the license.

(c) The Commission shall keep on file with the original application of a driver a complete record of:

(1) each for-hire driver's license issued to the driver; and

(2) any renewal, suspension, and revocation of a for-hire driver's license issued to the driver.

§10–107.

The Commission may issue a temporary license and, if applicable, a badge to an applicant for a period not exceeding 30 days.

§10–108.

(a) A for-hire driver shall have the for-hire driver's license in the driver's possession whenever operating a motor vehicle for hire.

(b) (1) A for-hire driver may not deface, remove, or obliterate an official entry made on the for-hire driver's license.

(2) A violation of this subsection shall be punished by suspension or revocation of the for-hire driver's license as provided under § 10-110 of this subtitle.

§10–109.

If a passenger elects to use a route where a highway or bridge toll charge occurs, the for-hire driver shall assess the passenger the cost of the highway or bridge toll charge.

§10–110.

(a) (1) There is a position of license hearing officer.

(2) The license hearing officer shall be appointed by the Commission.

(3) The license hearing officer serves at the pleasure of the Commission.

(4) The license hearing officer is entitled to compensation in accordance with the State budget.

(b) The license hearing officer may hold a hearing involving a violation of this division or the Commission's regulations:

(1) by a for–hire driver licensed by the Commission; and

(2) except for a violation relating to rates, by a holder of a taxicab permit issued by the Commission.

(c) The license hearing officer shall file with the Commission, and simultaneously serve on all parties, a proposed order and findings of fact.

(d) The proposed order shall become final unless appealed as provided in § 3-113(d) of this article.

(e) Whenever a for-hire driver's license or taxicab permit is suspended or revoked, or a civil penalty is imposed on the for-hire driver or taxicab permit holder, the for-hire driver or taxicab permit holder:

(1) may request a rehearing in accordance with § 3-114 of this article; and

(2) may seek judicial review under Title 3, Subtitle 2 of this article.

(f) The Commission shall furnish to the permit holder a copy of the charges against a for-hire driver and the related decision of the license hearing officer and the Commission.

§10–111.

Notwithstanding § 2-110 of this article, the Commission may seek adequate funding in the State budget and employ adequate staffing in order to implement the responsibilities set forth in this title and Title 9, Subtitle 2 of this article.

§10–112.

(a) There is a For–Hire Driving Services Enforcement Fund.

(b) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(c) The purpose of the Fund is to provide adequate resources for the Commission to enforce the requirements of this title concerning for–hire driving services.

(d) (1) The Fund consists of assessments made on permits for vehicles regulated by the Commission to provide for–hire driving services in the State.

(2) The Commission shall establish an assessment not exceeding $40 to be paid annually with respect to each vehicle permit to provide for–hire driving services, except for a vehicle permit to be used exclusively for employee van transportation to or from a designated work site.

(e) The Fund is to be used solely for statewide enforcement activities of the Commission relating to taxicab services, limousine services, and sedan services.

§10–201.

This subtitle applies to a person providing taxicab services under a taxicab permit or taxicab driver's license issued by the Commission.

§10–202.

(a) A person must have a permit issued by the Commission whenever the person operates as a taxicab business in or from a point in Baltimore City, Baltimore County, the City of Cumberland, or the City of Hagerstown.

(b) The provisions of this division relating to taxicabs or of any public local law relating to taxicabs do not limit the jurisdiction of the Commission over a taxicab business as a common carrier even if the taxicab business operates in a jurisdiction other than Baltimore City, Baltimore County, the City of Cumberland, or the City of Hagerstown.

§10–203.

(a) (1) An applicant for a permit to operate a taxicab business shall submit to the Commission an application on the form that the Commission provides.

(2) The Commission shall issue a permit if, after investigation, the Commission determines that issuing the permit would be best for the public welfare and convenience.

(b) In determining whether to issue a permit, the Commission shall consider all relevant factors including:

(1) the number of taxicabs to be used;

(2) the taxicab and other transportation services already available in the locality; and

(3) the rate to be charged.

(c) If it appears that a taxicab company is making an effort to mislead the

public by imitating the name, design, or distinctive combination of colors of any taxicab already approved by the Commission, the Commission shall:

(1) reject the taxicab company's application for a permit; or

(2) revoke or suspend the taxicab company's existing permit.

§10–204.

(a) Each permit applies only to the particular taxicab designated in the permit.

(b) (1) Each permit is subject to the terms and conditions that the Commission establishes.

(2) The Commission shall set a term of at least 1 year for each permit.

(3) The Commission may renew a permit in accordance with the standards set forth in § 10-203 of this subtitle.

(c) If sufficient cause is shown, the Commission may amend, suspend, or revoke a permit.

§10–205.

(a) A permit may not be assigned or transferred unless, after investigation, the Commission approves the assignment or transfer as best for the public welfare and convenience.

(b) An applicant for an assignment or transfer of a permit shall submit to the Commission a written application that sets forth the purpose, terms, and conditions of the proposed assignment or transfer.

§10–206.

(a) Each taxicab for which a permit is required shall have:

(1) the name of the taxicab permit holder of the taxicab permanently painted or affixed on one door on each side of the taxicab, in letters at least 2.5 inches high; and

(2) the word "taxicab" appear conspicuously on the taxicab.

(b) (1) The Commission shall:

(i) determine the form and style of a badge; and

(ii) issue to each licensed taxicab driver a badge with the taxicab driver's license number on the badge.

(2) A licensed taxicab driver shall display the badge conspicuously in the interior of a taxicab whenever operating the taxicab.

§10–207.

(a) A taxicab for which a permit is required may not be operated unless the permit holder:

(1) obtains from an insurer authorized to transact business in the State, a liability insurance policy that:

(i) is approved by the Commission in all respects, including policy provisions, form, and amounts; and

(ii) insures the permit holder and taxicab driver against liability to a passenger or member of the public for property damage, personal injury, or death resulting from an accident in which the taxicab is involved; or

(2) deposits with the Commission a bond with a casualty or surety company authorized to do business in the State that:

(i) is approved by the Commission in all respects, including provisions, form, surety, and amounts; and

(ii) is made out to the State as obligee for the use and benefit of passengers and members of the public, and undertakes to indemnify passengers and members of the public against property damage, personal injury, or death resulting from an accident in which the taxicab is involved.

(b) (1) (i) Except as provided in subparagraph (ii) of this paragraph, a cancellation or revocation of an insurance policy or bond that is required under subsection (a) of this section may not take effect until 45 days after the date the Commission receives written notice from the revoking party.

(ii) Cancellation or revocation of an insurance policy or bond issued by the Maryland Automobile Insurance Fund may not take effect until 30 days after the date the Commission receives written notice from the Maryland Automobile Insurance Fund.

(2) At any time, if the Commission determines that the existing bond or insurance protection is inadequate, the Commission may require new or additional bond or insurance as a condition of operation.

§10–208.

(a) In addition to other duties specifically imposed by this subtitle, while driving a taxicab, a taxicab driver:

(1) shall accept as passenger and convey where directed any orderly person, on request, unless previously engaged or unable or forbidden to do so by this section, other valid law, or regulation;

(2) except when transferring a vehicle to or from repair facilities, have in the taxicab driver's possession a manifest that contains:

(i) the time and date issued, the expiration time, the taxicab driver's name and badge number, and the taxicab number;

(ii) space for meter readings and the calculation of driver income; and

(iii) any other information considered necessary by the Commission;

(3) shall report each change of residence within 72 hours to the Commission;

(4) shall answer promptly all communications and summonses received from the Commission;

(5) shall deliver all fares and all other legal charges received to the permit holder if working on a commission basis;

(6) may not operate a taxicab while the taxicab driver's operator license or taxicab driver's license is suspended;

(7) may not allow any other person to use the taxicab driver's badge or identification card;

(8) may not allow any other person to drive the taxicab and return the taxicab to the permit holder's garage on completion of the shift to which the taxicab driver was assigned;

(9) shall proceed with passengers to destination by the shortest practicable route;

(10) shall give a receipt for fares on request on an authorized form;

(11) may not operate a taxicab for more than 12 hours of any continuous 24-hour period;

(12) shall display in the interior of the taxicab at all times, while on duty, the identification card with photograph attached in the frame provided for the card and photograph; and

(13) shall charge only the rate of fare or charge established by law.

(b) (1) When assigned to a taxicab, the taxicab driver is responsible for ascertaining that the taxicab is in good working order.

(2) A taxicab driver may not tamper with rate cards, the meter, meter light, cable, speedometer cable, or any other equipment that is required to be in the taxicab by law or that registers fares and charges.

§10–209.

(a) A taxicab driver shall make maximum use of service communications with the driver's switchboard operator or dispatcher in order to keep the driver's taxicab available for response to calls.

(b) (1) A taxicab driver may not solicit the patronage of a person who is at the terminal of another common carrier or at an intermediate point along an established route of that carrier to use that common carrier's service.

(2) Paragraph (1) of this subsection does not prohibit or interfere with a response to a call for a taxicab whether the call is made by telephone or by signal from a pedestrian.

(3) Taxicabs being operated in Baltimore City:

(i) may transport a passenger from Baltimore City into Baltimore County and return to Baltimore County for the same passenger; but

(ii) may not solicit a passenger within Baltimore County at any time.

(4) This subtitle may not impede the operation of taxicabs between Baltimore City and Baltimore-Washington International Thurgood Marshall Airport in the manner allowed by law.

(c) (1) A taxicab may not carry more than the number of passengers designated on the rate card.

(2) A child in a passenger's arms is not counted as a passenger.

(3) Only one person may occupy the front seat with the driver.

(d) (1) A taxicab may be used from a railroad station or other public place of special assembly to serve jointly not more than four passengers who are bound for the same, or approximately the same, location.

(2) A passenger who has engaged a taxicab may not be compelled to share the taxicab with another person.

(3) A taxicab driver may not refuse service in order to group passengers more profitably.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, if a taxicab is occupied by several passengers bound for different destinations, each

passenger or party shall be charged the fare recorded on the meter at the time of arrival at the passenger's or party's destination.

(ii) A party or individual passenger may not be charged more than the fare applicable at the established rate for transportation over the shortest and most direct route.

(5) A taxicab driver may not solicit another passenger while en route to the destination of passengers or parties initially occupying the cab.

(e) A driver of a taxicab may not operate the taxicab:

(1) recklessly;

(2) in an unsafe manner; or

(3) in disregard of the public general or local laws or municipal ordinances governing the operation of motor vehicles.

§10–210.

(a) (1) A taxicab permit holder shall post in each of its taxicabs a schedule of its fares on a rate card.

(2) The rate card shall be printed and arranged in a way that allows a passenger to determine readily the exact fare payable by the passenger.

(3) A person may not collect a fare other than a fare appearing on or determinable from the rate card posted in the taxicab.

(b) (1) This subsection does not apply to a taxicab operating in the City of Hagerstown.

(2) (i) Except as provided in subsection (c) of this section, while in service, each taxicab for which a permit is required shall be equipped with an accurate taximeter that is properly installed and connected.

(ii) The taximeter shall be the exclusive means of measuring the charges for service and is subject to inspection and testing by the Commission.

(c) (1) A fixed charge may be made for any trip by taxicab between:

(i) a point within the political subdivision in which the taxicab is normally operated and a point outside of the political subdivision;

(ii) the Maryland Port Administration's cruise terminal facilities and:

1. Fort McHenry;

2. the World Trade Center Institute in Baltimore; or

3. Penn Station in Baltimore; or

(iii) points within Baltimore City, as approved by the Commission.

(2) A fixed charge shall be calculated on a mileage basis that the Commission approves.

§10–301.

If a taxicab for which a permit is not required charges on the basis of a fixed charge made by zone, the extent of the zone shall be conspicuously expressed in mileage in the schedule required under § 10-210 of this title.

§10–401.

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

(b) "Insurance Commissioner" means the Insurance Commissioner of the Maryland Insurance Administration.

(c) "Operator" means a transportation network operator, transportation network partner, or transportation network driver.

§10–402.

(a) This subtitle applies to transportation network companies, operators, and transportation network services.

(b) To the extent not otherwise covered in this subtitle, transportation network companies, operators, and transportation network services shall be subject to:

(1) any applicable provisions of Titles 9 and 10 of this article; and

(2) regulations adopted by the Commission for the regulation of transportation network services.

§10–403.

(a) The Commission shall adopt regulations to ensure that transportation network companies and operators are making reasonable efforts to make transportation network services accessible to all people, including individuals with disabilities.

(b) The regulations adopted by the Commission under subsection (a) of this section shall provide for:

(1) the transportation of passengers with service animals;

(2) the accessibility of Web sites and mobile applications used to provide transportation network services;

(3) the reasonable accommodations necessary to serve individuals with disabilities; and

(4) the provision of information to an operator by a transportation network company related to the requirements of federal and State laws related to antidiscrimination.

§10–404.

(a) An operator may not provide transportation network services unless the Commission has authorized the operator to operate on a provisional basis or has issued a valid temporary or permanent transportation network operator's license to provide transportation network services.

(b) The Commission may approve an applicant to be an operator and issue a temporary transportation network operator's license to the applicant if:

(1) the applicant provides all information that the Commission requires for the application, including the information specified in item (2) of this subsection; and

(2) the Commission is satisfied with the successful submission of the applicant's:

(i) national criminal history records check:

1. conducted by the National Association of Professional Background Screeners or a comparable entity approved by the Commission; and

2. that includes:

A. a Multi–State Multi–Jurisdiction Criminal Records Database Search or a search of a similar nationwide database with validation;

B. a search of the Sex Offender and Crimes Against Minors Registry; and

C. a search of the U.S. Department of Justice's National Sex Offender Public Web site; and

(ii) driving record check that includes a driving history research report.

(c) Subject to subsection (d) of this section, the Commission may issue a permanent transportation network operator's license to an applicant upon the

submission of a satisfactory supplemental criminal background check as set forth under § 10–104(b) of this title.

(d) Before April 1, 2016, the Commission may not require an applicant for a permanent transportation network operator's license to comply with subsection (c) of this section if a transportation network company for which the applicant will provide services, at the time it applies for a permit, provides to the Commission details of the process the transportation network company uses to collect, review, and submit the information specified in subsection (b)(2) of this section.

(e) (1) A transportation network company may request that the Commission waive the requirement to comply with subsection (c) of this section and instead require compliance with subsection (b)(2) of this section for applicants and operators of the transportation network company.

(2) On receipt of a request under paragraph (1) of this subsection, the Commission shall:

(i) determine whether the transportation network company's process for complying with subsection (b)(2) of this section can be shown to be as comprehensive and accurate as complying with the supplemental criminal background check as set forth under § 10–104(b) of this title; and

(ii) within 3 months of receiving the request, determine whether to:

1. grant the waiver;

2. deny the waiver; or

3. approve an alternative process.

(f) A transportation network company may submit the information under subsection (b) of this section on behalf of an operator.

(g) The Commission shall adopt regulations that provide a process that is as expeditious as possible and uses electronic means for:

(1) the submission of the information under subsection (b) of this section;

(2) the issuance of a temporary or permanent transportation network operator's license and alternative authority to operate on a provisional basis; and

(3) the renewal of a transportation network operator's license.

(h) (1) Records provided to the Commission by a transportation network company under this section are not subject to release under the Maryland Public Information Act or any other law.

(2) The Commission may not disclose records or information provided to the Commission under this section to any person unless the disclosure is required by subpoena or court order.

(3) If a subpoena or court order requires the Commission to disclose information provided to the Commission under this section, the Commission shall promptly notify the transportation network company before disclosing the information.

§10–405.

(a) (1) An operator, a transportation network company on behalf of the operator, or a combination of both shall maintain primary motor vehicle insurance that:

(i) recognizes that the operator is a transportation network operator or otherwise uses a motor vehicle to transport passengers for hire; and

(ii) covers the operator while the operator is providing transportation network services.

(2) (i) The following motor vehicle insurance requirements shall apply while an operator is providing transportation network services:

1. security of at least:

A. for the payment of claims for bodily injury or death arising from an accident, up to $50,000 for any one person and up to $100,000 for any two or more persons, in addition to interest and costs; and

B. for the payment of claims for property of others damaged or destroyed in an accident, up to $25,000, in addition to interest and costs;

2. uninsured motorist insurance coverage required under § 19–509 of the Insurance Article; and

3. personal injury protection coverage required under § 19–505 of the Insurance Article; and

(ii) The coverage requirements under this paragraph may be satisfied by motor vehicle insurance maintained by:

1. an operator;

2. a transportation network company; or

3. both an operator and a transportation network company.

(b) If insurance is provided by both the transportation network company and the operator under subsection (a) of this section, the insurance maintained by the

transportation network operator is primary.

(c) The insurance maintained by a transportation network company shall provide the coverage required under subsection (a) of this section from the first dollar of a claim and provide for the duty to defend the claim in the event the insurance maintained by an operator under subsection (a) of this section has coverage that has been canceled or has lapsed or is otherwise not in force.

(d) (1) A transportation network company shall:

(i) verify that the coverage required under subsection (a) of this section is maintained at all times; and

(ii) provide to the Commission and the Insurance Commissioner, annually upon each renewal:

1. a valid certificate of insurance coverage that meets the requirements of subsection (a) of this section and that:

A. is prepared by the insurer;

B. is signed by an officer of the insurer;

C. is in a form acceptable to the Commission;

D. states the name and home office address of the insurer providing coverage to the transportation network company;

E. states the effective dates of the coverage;

F. states a general description of the coverage; and

G. includes a certification of a policy provision that will notify the Commission and the Insurance Commissioner of any termination of coverage at least 60 days in advance of the effective date of the termination; and

2. the underlying policy for the coverage required under subsection (a) of this section.

(2) (i) The Commission may consult with the Insurance Commissioner concerning the provisions of the underlying policy provided to the Commission and the Insurance Commissioner under paragraph (1)(ii)2 of this subsection.

(ii) 1. Records provided to the Commission by a transportation network company under this section are not subject to release under the Maryland Public Information Act or any other law.

2. The Commission and the Insurance Commissioner may not disclose records or information provided to the Commission and the Insurance

Commissioner under this section to any person unless the disclosure is required by subpoena or court order.

3. If a subpoena or court order requires the Commission or the Insurance Commissioner to disclose information provided to the Commission or the Insurance Commissioner under this section, the Commission or the Insurance Commissioner, as appropriate, promptly shall notify the transportation network company before disclosing the information.

(e) Insurance required under subsection (a) of this section shall be issued by:

(1) an insurer authorized to do business in the State; or

(2) solely with respect to insurance maintained by a transportation network company, an eligible surplus lines insurer:

(i) in accordance with the requirements of Title 3, Subtitle 3 of the Insurance Article; and

(ii) having an A.M. Best financial strength rating of A– or better.

(f) Before an operator may accept a request for a ride made through the transportation network company's digital network, the transportation network company shall disclose to the operator, in writing, the following:

(1) the insurance coverage, including the types of coverage and the limits for each coverage, that the transportation network company provides while the operator is providing transportation network services;

(2) that the operator should contact the operator's personal motor vehicle insurer or agent to:

(i) advise the insurer or agent that the operator will be providing transportation network services; and

(ii) to determine the coverage, if any, that may be available from the operator's personal motor vehicle policy; and

(3) that, if the motor vehicle that the operator uses to provide transportation network services has a lien against it, using the motor vehicle for transportation network services without physical damage coverage may violate the terms of the contract with the lienholder.

(g) (1) If an accident occurs that involves a motor vehicle that is being used to provide transportation network services, the operator, on request of directly interested parties, including a motor vehicle insurer or an investigative law enforcement officer, shall:

(i) provide proof of insurance satisfying the requirements of this section; and

(ii) disclose whether the accident occurred while the operator was providing transportation network services.

(2) In a claim coverage investigation following a vehicular accident, a transportation network company and any insurer potentially providing coverage under this section shall cooperate to facilitate the exchange of information with directly involved parties and any insurer of an operator, if applicable, including:

(i) the precise times that an operator was logged onto the transportation network company's digital network:

1. in the 12–hour period immediately preceding the accident; and

2. in the 12–hour period immediately following the accident; and

(ii) a clear description of the coverage, exclusions, and limits provided under any motor vehicle insurance maintained under this section.

§10–406.

(a) (1) In this section the following words have the meaning indicated.

(2) "Assessment" means a charge imposed by a local jurisdiction on each transportation network service that includes a passenger trip during transportation network coverage period three as described in § 10–101(n)(1)(iii) of this title.

(3) "Exempt jurisdiction" means a county or municipality that imposed a tax, fee, or charge on for–hire transportation services provided on a per ride or per passenger basis in that county or municipality on or before January 1, 2015.

(b) This section does not limit the authority of an exempt jurisdiction to impose an assessment, a tax, a fee, or a charge on for–hire transportation services, including transportation network services.

(c) (1) In accordance with subsections (d) and (e) of this section, a county or municipality may impose an assessment under this section.

(2) Except in an exempt jurisdiction, an assessment authorized by this section may not exceed 25 cents per trip.

(3) Except as provided in subsection (e)(2) of this section and subject to the limitation in paragraph (2) of this subsection, an assessment may not be imposed on a transportation network service by both a county and a municipality.

(4) The revenue generated from an assessment authorized under this section shall be used for transportation purposes.

(d) A county or municipality that licensed or regulated taxicab services on or before January 1, 2015, either directly or through the Commission as provided in § 10–202 of this title, may impose an assessment on trips that originate within the county or municipality.

(e) (1) This subsection applies to a county that:

(i) is not authorized to impose an assessment under subsection (d) of this section; and

(ii) has not imposed an assessment by July 1, 2016.

(2) Before the county may impose an assessment in a municipality, the county shall:

(i) notify the municipality of the county's intent to impose an assessment on transportation network services that originate in the municipality; and

(ii) provide the municipality reasonable time to pass an ordinance authorizing the imposition of an assessment.

(3) Before a municipality may impose an assessment, the municipality shall:

(i) notify the county of the municipality's intent to impose an assessment; and

(ii) if the county imposes an assessment, provide the county reasonable time to notify the Comptroller before the municipality's assessment becomes effective.

(4) Notwithstanding paragraphs (2) and (3) of this subsection, a county and municipality may enter into an agreement to share revenues and allocate them in any manner.

(f) A county or municipality that imposes an assessment shall notify the Comptroller of:

(1) the amount of the assessment; and

(2) any change in the assessment amount at least 120 days before the new amount takes effect.

(g) (1) This subsection governs the collection, remittance, accounting, and use of revenues from assessments imposed by a county or municipality under this section.

(2) A transportation network company shall:

(i) collect assessments on behalf of an operator who accepts a request for a ride made through the transportation network company's digital network;

(ii) collect any assessment, fee, charge, or tax imposed by an exempt jurisdiction on a transportation network service; and

(iii) submit to the Comptroller no later than 30 days after the end of a calendar quarter, or as otherwise specified by the Comptroller in regulations:

1. the assessments and other revenues collected by the transportation network company on behalf of the transportation network operators;

2. the allocation of the assessments and other revenues attributable to each county or municipality that has imposed an assessment based on where the trip originated; and

3. under oath, a certification that it has submitted the correct amount of assessments and revenues.

(3) (i) Subject to subparagraph (ii) of this paragraph, from the assessments and revenues imposed by counties and municipalities, the Comptroller shall distribute each quarter the amount necessary to administer the assessments to an administrative cost account.

(ii) The amount distributed to the administrative cost account may not exceed 5% of the revenue from the assessments and other revenue.

(4) After making the distribution required by paragraph (2) of this subsection, within 45 days of the end of each calendar quarter, the Comptroller shall distribute the remaining revenue to the county or municipality that is the source of the revenue.

(5) (i) The Comptroller may inspect, at a transportation network company's place of business or a mutually agreed location, no more than annually, records necessary to ensure that the transportation network company has remitted to the Comptroller the correct revenues and allocations.

(ii) Records provided to the Comptroller by a transportation network company under this subsection are not subject to release under the Maryland Public Information Act or any other law.

(iii) Subject to subparagraph (iv) of this paragraph, the Comptroller may not disclose records or information provided by a transportation network company unless the disclosure is required by a subpoena or court order.

(iv) If a subpoena or court order requires the Comptroller to disclose

information provided by a transportation network company, the Comptroller shall promptly notify the transportation network company before disclosing the information.

(6) The Comptroller may adopt regulations or other requirements or procedures to carry out the provisions of this section, including requirements and procedures regarding the administration, collection, and enforcement of the assessment.

§10–407.

(a) There is a Transportation Network Assessment Fund.

(b) The Fund consists of assessment revenues submitted to the Comptroller from transportation network companies under § 10–406(g) of this subtitle.

(c) The purpose of the Fund is to:

(1) receive assessment revenues submitted from transportation network companies; and

(2) disburse assessment revenues to the appropriate counties and municipalities in accordance with this subsection.

(d) (1) The Comptroller shall:

(i) deposit in the Fund assessment revenues received from transportation network companies; and

(ii) disburse trip assessment revenues to the appropriate counties and municipalities.

(2) The Treasurer is the custodian of the Fund.

(e) (1) The Fund is a continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article, and may not be deemed a part of the General Fund of the State.

(2) No part of the Fund may revert or be credited to:

(i) the General Fund of the State; or

(ii) a special fund of the State.

§10–501.

(a) A person may not transport, solicit for transport, or agree to transport any person or baggage in a motor vehicle for hire unless the operator of the motor vehicle is licensed by the Commission.

(b) A person who owns or is in charge of a motor vehicle may not allow the motor vehicle to be used in violation of this section, § 10–109, or § 10–209 of this title.

§10–502.

(a) A person may not operate a vehicle that provides passenger–for–hire services in the State:

(1) unless the person is licensed as a passenger–for–hire driver by the Commission; or

(2) in violation of this title or Title 9, Subtitle 2 of this article.

(b) A person may not operate a vehicle that provides taxicab services in the State:

(1) unless the person is licensed as a taxicab driver by the Commission or a county or municipal corporation; or

(2) that is under the jurisdiction of the Commission, in violation of this title.

(c) Subject to the hearing provisions of § 3–102(c) of this article, the Commission may impose on a person who violates this section a civil penalty not exceeding $500 for each violation.

§11–101.

(a) (1) In this section the following words have the meanings indicated.

(2) "Liquefied natural gas" means natural gas cooled to form a liquid at approximately atmospheric pressure.

(3) "Liquefied natural gas facility" means any facility used to produce, store, or regasify liquefied natural gas.

(b) The Commission shall adopt regulations to ensure to the greatest extent practicable the operational safety of liquefied natural gas facilities.

(c) (1) The Commission shall inspect periodically each liquefied natural gas facility to ensure compliance with the regulations adopted under subsection (b) of this section.

(2) Inspections shall be conducted at intervals the Commission determines necessary.

(d) The Commission may enforce these regulations by any method provided in § 2-117(a), § 13-201, or § 13-205 of this article.

(e) The Commission may enter into agreements with federal units as necessary to carry out this section.

(f) This section does not expand the definition of "public service company" in § 1-101 of this article.

(g) A person who violates a regulation that the Commission adopts under this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $10,000 for each day the violation continues, and imprisonment not exceeding 1 year.

§11–102.

(a) The Commission shall adopt and enforce safety standards for gas service installations at locations where service is provided to:

(1) 10 or more customers by pipes from a liquefied petroleum gas storage tank; or

(2) at least 2 but fewer than 10 customers, by underground pipes from a liquefied petroleum gas storage tank, if a portion of the system is located in a public place.

(b) (1) The owner of a facility at a location subject to subsection (a) of this section or the owner of the liquefied petroleum gas furnished shall comply with the safety standards of service.

(2) Except as provided in paragraph (3) of this subsection, other sections of this division do not apply to an owner subject to this section.

(3) The Commission may apply Title 12, Subtitle 1 and §§ 2–117(a), 5–304, 7–301, 7–302, and 13–203 of this article to an owner subject to this section.

(c) When service begins, a person who furnishes gas service by pipes from a liquefied petroleum gas storage tank under subsection (a) of this section shall notify the Commission in writing about:

(1) the location of each installation;

(2) the number of customers or dwelling units furnished service at each location; and

(3) the name and address of the office responsible for the service.

§11–201.

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

(b) (1) "Hazardous liquid" means any:

(i) petroleum or petroleum product;

(ii) anhydrous ammonia;

(iii) carbon dioxide; and

(iv) any substance or material that:

1. is in a liquid state when transported by a pipeline facility; and

2. may pose an unreasonable risk to life or property when transported by a pipeline facility, as determined by the United States Secretary of Transportation.

(2) "Hazardous liquid" does not include liquefied natural gas.

(c) "Interstate pipeline" means a pipeline, or part of a pipeline, regulated under 49 U.S.C. Chapter 601 that is used in the transportation of hazardous liquids or carbon dioxide in interstate or foreign commerce.

(d) "Intrastate pipeline" means a pipeline, or part of a pipeline, regulated under 49 U.S.C. Chapter 601 that:

(1) is used in the transportation of hazardous liquids or carbon dioxide; and

(2) is not an interstate pipeline.

(e) "Pipeline facility" means new and existing pipe, rights–of–way, and any equipment, facility, or building used in the transportation of hazardous liquids or carbon dioxide.

(f) "Pipeline operator" means a person who owns or operates a pipeline facility.

§11–202.

(a) The Commission may act for the United States Secretary of Transportation to implement 49 U.S.C. Chapter 601 with respect to intrastate pipelines located within the State to the extent authorized by certification or agreement with the United States Secretary of Transportation under 49 U.S.C. Chapter 601.

(b) The Commission shall:

(1) make periodic certifications and reports to the federal Department of Transportation as may be required under 49 U.S.C. Chapter 601; and

(2) take any other actions necessary to carry out its responsibilities under a certification or agreement with the United States Secretary of Transportation under

this subtitle.

(c) The authority of the Commission extends only to pipeline safety and enforcement and does not extend to hazardous liquid spill cleanup and remediation.

§11–203.

(a) (1) The Commission may adopt regulations that establish safety standards and practices applicable to the design, construction, operation, and maintenance of intrastate pipeline facilities.

(2) For any intrastate pipeline regulatory program that the Commission establishes under this subtitle, the Commission shall adopt as minimum standards the federal safety standards in Title 49, C.F.R. Parts 195 and 199, as periodically amended.

(3) (i) In collaboration with the American Society of Mechanical Engineers, the Commission shall:

1. establish and adopt by regulation methods and best practices for intrastate pipeline facilities; and

2. require introduction of these methods and best practices as soon as may be practicable.

(ii) The methods shall include quantitative criteria, based on engineering evaluations, to determine whether a wrinkle or other deformity may remain in a pipeline or should be remedied.

(b) (1) The Commission may enter, inspect, and examine, at reasonable times and in a reasonable manner, the records and property of an intrastate pipeline operator to determine whether the pipeline operator is acting in compliance with this subtitle and regulations adopted by the Commission under this subtitle.

(2) The Commission shall inspect each intrastate pipeline at least once each year.

(c) The Commission shall require an intrastate pipeline operator to prepare, maintain, and carry out a written plan for the operation and maintenance of each pipeline facility owned or operated by the intrastate pipeline operator.

§11–204.

(a) An intrastate pipeline operator shall immediately notify the Commission and the National Response Center of any significant:

(1) error in information that the pipeline operator has previously submitted to either unit; or

(2) new information that relates to reporting criteria or other information that the pipeline operator is required to submit under this subtitle.

(b) The Commission shall notify the National Response Center of any error or new information that the Commission or an agent of the Commission discovers while:

(1) providing training for pipeline facilities;

(2) developing methods and best practices under § 11-203(a)(3) of this subtitle; or

(3) inspecting an intrastate pipeline.

§11–205.

(a) Each year an intrastate pipeline operator shall submit an annual report on the state of its pipeline facility to the Commission and to each owner of real property:

(1) on which the pipeline facility is located; or

(2) adjacent to or contiguous to real property on which the pipeline facility is located.

(b) The annual report shall include:

(1) a summary description of the system that includes the pipeline facility;

(2) a description of the product transported in the pipeline facility and system;

(3) State and local emergency response liaison information;

(4) a description of the leak detection system in use for the pipeline facility;

(5) a description of periodic testing methods used on the pipeline facility and a summary of results of the testing; and

(6) any other information that the Commission requires.

(c) The Commission shall make annual reports available to the public, including publication using the Internet.

(d) At least once every 5 years, an intrastate pipeline operator shall:

(1) identify each owner of real property on which the pipeline facility is located;

(2) notify each property owner of the presence of the pipeline facility on the owner's property;

(3) verify that each property owner has received the notice; and

(4) provide to the Commission a current list of all property owners.

§11–206.

(a) The Commission may assess and collect from an intrastate pipeline operator an inspection fee that may be used by the Commission for administering the regulatory program established by the Commission under this subtitle.

(b) The fee may not:

(1) exceed the expenses attributable to the inspection and examination of the facility; and

(2) include expenses that will be reimbursed by the federal government.

§11–207.

The Commission may bring an action for injunctive relief in a circuit court to:

(1) enjoin a violation of this subtitle;

(2) enjoin the transportation of a hazardous liquid by pipeline or the operation of a pipeline facility; or

(3) enforce a standard established by the Commission under this subtitle.

§11–208.

(a) The Commission may impose on a person who violates this subtitle or a regulation adopted in accordance with this subtitle a civil penalty that does not exceed the maximum penalties provided in 49 U.S.C. Chapter 601 (Hazardous Liquid Pipeline Safety Act).

(b) Each day a violation continues is a separate violation under this section.

(c) To determine the amount of a penalty imposed under this section, the Commission shall consider:

(1) the nature, circumstances, and gravity of the violation;

(2) with respect to the violator:

(i) the degree of culpability;

(ii) any history of prior violations;

(iii) the ability to pay;

(iv) any effect on the ability to continue doing business; and

(v) good faith in attempting to comply; and

(3) other matters that justice requires.

§12–101.

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

(b) "Authority" means the Maryland Underground Facilities Damage Prevention Authority.

(c) "Business day" means a calendar day other than a Saturday, Sunday, or legal holiday.

(d) "Demolition" means an operation in which a structure or mass of material is wrecked, razed, rended, moved, or removed using any tool, equipment, or explosive.

(e) "Designer" means a licensed architect, professional engineer, professional land surveyor, or licensed landscape architect, as those terms are defined in the Business Occupations and Professions Article, who prepares a drawing for a project that may require excavation or demolition.

(f) (1) "Excavation" means an operation in which earth, rock, or other material in or on the ground is moved, removed, or otherwise displaced by using any tool, equipment, or explosive.

(2) "Excavation" includes grading, trenching, digging, ditching, dredging, drilling, boring, augering, tunnelling, scraping, cable or pipe plowing and driving a mass of material.

(g) "Fund" means the Maryland Underground Facilities Damage Prevention Education and Outreach Fund.

(h) "Legal holiday" means:

(1) the day on which a legal holiday, as defined in § 1–111 of the General Provisions Article, is observed; or

(2) a federal legal holiday.

(i) "One–call system" means a communications system in the State that:

(1) allows a person to notify owner–members of planned excavation or demolition by:

(i) calling a toll–free number or abbreviated dialing code; or

(ii) initiating an interactive Internet ticket request; and

(2) maintains an underground facilities information exchange system.

(j) (1) "Owner" means a person that:

(i) owns or operates an underground facility; and

(ii) has the right to bury an underground facility.

(2) "Owner" includes:

(i) a public utility;

(ii) a telecommunications corporation;

(iii) a cable television corporation;

(iv) a political subdivision;

(v) a municipal corporation;

(vi) a steam heating company;

(vii) an authority; and

(viii) a unit of the State.

(k) "Owner–member" means an owner that participates as a member in a one–call system.

(l) (1) "Person" has the meaning stated in § 1–101 of this article.

(2) "Person" includes:

(i) a municipal corporation;

(ii) the State;

(iii) a political subdivision of the State; and

(iv) any governmental unit, department, or agency.

(m) "Ticket" means a numbered document issued by a one–call system to notify owner–members that:

(1) a person intends to perform an excavation or demolition; or

(2) a designer has requested information on the location of underground facilities under § 12–131 of this subtitle.

(n) "Underground facilities information exchange system" means an automated voice response unit or interactive Internet access system that is maintained as part of a one–call system.

(o) (1) "Underground facility" means personal property that is buried or submerged for:

(i) use in connection with the storage or conveyance of water, sewage, oil, gas, or other substances; or

(ii) transmission or conveyance of electronic, telephonic, or telegraphic communications or electricity.

(2) "Underground facility" includes pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those portions of poles below ground.

(3) "Underground facility" does not include a stormwater drain.

§12–102.

It is the intent of the General Assembly to protect underground facilities of owners from destruction, damage, or dislocation to prevent:

(1) death or injury to individuals;

(2) property damage to private and public property; and

(3) the loss of services provided to the general public.

§12–103.

This subtitle does not apply to an excavation or demolition performed or to be performed by an owner or lessee of a private residence when the excavation or demolition is performed or to be performed:

(1) entirely on the land on which the private residence of the owner or lessee is located; and

(2) without the use of machinery.

§12–106.

(a) There is a Maryland Underground Facilities Damage Prevention Authority.

(b) It is the intent of the General Assembly that the Authority not be funded by appropriations from the State budget.

§12–107.

(a) The Authority consists of nine members appointed by the Governor.

(b) The nine members shall be appointed as follows:

(1) one member from a list submitted to the Governor by the Associated Utility Contractors of Maryland;

(2) one member from a list submitted to the Governor by the Public Works Contractors Association of Maryland;

(3) two underground facility owners that are members of a one–call system from a list submitted to the Governor by the Maryland members of the Maryland/DC Subscribers Committee;

(4) one member from a list submitted to the Governor by the one–call centers operating in the State;

(5) one member who represents the State's underground utility locator community from a list submitted to the Governor by the Maryland members of the Maryland/DC Damage Prevention Committee;

(6) one member who has experience in the field of underground utilities from a list submitted to the Governor by the Maryland Association of Counties;

(7) one member who has experience in the field of underground utilities from a list submitted to the Governor by the Maryland Municipal League; and

(8) one member of the general public from a list submitted to the Governor by the other appointed and qualified members of the Authority.

(c) To the extent practicable, members appointed to the Authority shall reasonably reflect the geographic, racial, and gender diversity of the State.

(d) (1) The term of a member is 2 years.

(2) The terms of members are staggered as required by the terms provided for members of the Authority on October 1, 2010.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

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

(5) A member may not be appointed for more than two consecutive full terms.

(6) To the extent practicable, the Governor shall fill any vacancy in the membership of the Authority within 60 days after the vacancy.

(e) On the recommendation of the Authority, the Governor may remove a member for incompetence or misconduct.

§12–108.

(a) From among its members, each year the Authority shall select a chair.

(b) Subject to subsection (c) of this section, the manner of selection of the chair and the chair's term of office shall be as the Authority determines.

(c) A member may not serve more than 2 consecutive years as chair of the Authority.

§12–109.

(a) Five members of the Authority are a quorum.

(b) The Authority shall meet at least once every 3 months at the times and places it determines.

(c) A member of the Authority:

(1) may not receive compensation as a member of the Authority; and

(2) is not entitled to reimbursement for expenses.

§12–110.

(a) The Authority may:

(1) adopt bylaws for the conduct of its business;

(2) adopt a seal;

(3) maintain an office at a place it designates;

(4) maintain facilities for the purpose of holding hearings under this subtitle;

(5) employ a staff;

(6) accept a grant, a loan, or any other assistance in any form from any public or private source, subject to the provisions of this subtitle;

(7) enter into contracts and execute the instruments necessary or convenient to carry out this subtitle to accomplish its purposes; and

(8) do all things necessary or convenient to carry out the powers expressly granted by this subtitle.

(b) The Authority shall adopt a code of conduct for its members.

§12–111.

(a) The Authority may obtain funding for its operational expenses from:

(1) a federal or State grant;

(2) filing fees and administrative fees for complaints heard by the Authority as authorized under § 12–112(b)(1) of this subtitle; and

(3) any other source.

(b) Except as provided in subsection (a)(2) of this section, the Authority may not impose a charge or assessment against any person, directly or indirectly, to obtain funding for its operational expenses.

§12–112.

(a) To enforce this subtitle, the Authority may:

(1) hear complaints for violations of this subtitle;

(2) after a hearing, assess a civil penalty under § 12–135 of this subtitle; and

(3) reach a settlement instead of assessing a civil penalty.

(b) (1) The Authority may:

(i) establish reasonable complaint filing fees and administrative fees for complaints heard by the Authority; and

(ii) use the services of a third party to collect civil penalties.

(2) If the Authority determines that an individual cannot afford to pay a fee established under paragraph (1)(i) of this subsection, the Authority may exempt the individual wholly or partly from the fee.

(c) The Authority may not assess a civil penalty against a person unless the person:

(1) receives reasonable prior notice of the complaint; and

(2) has an opportunity to be heard under § 12–113 of this subtitle.

§12–113.

(a) In a hearing before the Authority for an alleged violation of this subtitle:

(1) all testimony shall be given under oath; and

(2) the proceedings shall be recorded.

(b) The chair or a member of the Authority may administer the oath.

(c) The Authority may compel the attendance of a witness by subpoena.

(d) (1) The Authority shall issue its decision in writing, stating the reason for its decision.

(2) A copy of the decision shall be delivered or mailed to all parties to the complaint proceedings.

(e) (1) A person aggrieved by a decision of the Authority may, within 30 days after receiving the decision, request judicial review of the decision by the circuit court.

(2) In accordance with the judicial review and appeals process under the Administrative Procedure Act, the circuit court shall hear and determine all matters connected with the decision of the Authority for which judicial review is requested.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, the costs of the judicial review, including the costs of preparing a record and transcript, shall be paid by the party filing the request for judicial review.

(ii) If the party filing the request for judicial review prevails, the circuit court may require that the costs of the judicial review, including the costs of preparing a record and transcript, be paid by the Authority.

(4) If the request for judicial review is dismissed, the circuit court shall award attorney's fees to the Authority unless the Authority waives the award of attorney's fees.

(f) (1) The record of a hearing conducted under this section, including any record of testimony or evidence offered at the hearing, is not admissible in any administrative or civil proceeding involving the same subject matter or the same parties.

(2) Paragraph (1) of this subsection does not apply to judicial review of the Authority's decision.

§12–114.

Beginning January 1, 2012, the Authority shall report each year to the Governor and, in accordance with § 2–1246 of the State Government Article, the General

Assembly on the activities of the Authority and any recommendations of the Authority.

§12–117.

(a) There is a Maryland Underground Facilities Damage Prevention Education and Outreach Fund.

(b) The purpose of the Fund is to cover the costs of:

(1) public education and outreach programs; and

(2) the development of safety procedures to prevent damage to underground facilities.

(c) The Authority shall hold and administer the Fund.

(d) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(e) The Fund consists of:

(1) civil penalties paid into the Fund under § 12–135 of this subtitle;

(2) investment earnings of the Fund; and

(3) any other money from any other source accepted for the benefit of the Fund.

(f) (1) The Fund may be used only for:

(i) public education and outreach programs for the prevention of damage to underground facilities; and

(ii) the development of safety procedures for excavation and demolition projects conducted in the area of underground facilities.

(2) The Authority may make grants to local governments or private entities consistent with the purposes of the Fund.

§12–120.

(a) Except as provided in subsections (b) and (c) of this section, a person that obtains the information required under this subtitle is not excused from:

(1) performing an excavation or demolition in a careful and prudent manner; and

(2) liability for damages or injury that results from the excavation or demolition.

(b) If an underground facility is damaged by a person that fails to comply with this subtitle, the person is deemed negligent and is liable to the owner for the total cost of repair of the underground facility, unless the owner has failed to become an owner–member in accordance with § 12–123 of this subtitle.

(c) If an underground facility is damaged by a person who is in compliance with this subtitle and the owner has failed to become an owner–member in accordance with § 12–123 of this subtitle:

(1) the person is not liable to the owner for the cost of repair of the underground facility; and

(2) the owner is liable for any repairs or restoration of property damaged by the excavation or demolition.

(d) Subsection (c) of this section may not be construed to interfere with the right of:

(1) a third party to recover damages arising out of the excavation or demolition from the person or from the owner; or

(2) the person to seek contribution from an owner for damages sought by a third party under paragraph (1) of this subsection.

§12–121.

(a) Subject to § 12–120(b) of this subtitle, if all reasonable precautions have been taken to protect underground facilities, § 12–120(a) of this subtitle and §§ 12–122 through 12–135 of this subtitle do not apply to an emergency excavation or demolition being performed to prevent danger to life, health, or property.

(b) A person performing an emergency excavation or demolition to prevent danger to life, health, or property shall:

(1) take all reasonable precautions to protect underground facilities in and near the excavation or demolition area; and

(2) immediately notify the one–call system serving the geographic area where the emergency excavation or demolition is performed to inform the appropriate owner–members of the excavation or demolition area.

(c) A person that abuses the emergency excavation and demolition procedure set forth in this section is subject to penalties under § 12–135 of this subtitle.

§12–122.

(a) Except as provided in subsection (b) of this section, a person that operates a one–call system in the State shall register with and obtain certification to operate from

the Commission.

(b) A person operating a one–call system on or before July 1, 1990, is automatically registered with and certified by the Commission to continue to operate.

(c) (1) The operator of a one–call system shall install and make available an underground facilities information exchange system in its one–call center in the State.

(2) The underground facilities information exchange system shall be available to any caller at all times.

(d) The Commission may grant, amend, or revoke the certification of a person operating a one–call system.

§12–123.

(a) (1) An owner shall be a member of a one–call system.

(2) Except as provided in paragraph (3) of this subsection, an owner becomes a member of a one–call system by registering with the one–call system.

(3) The Department of Transportation, its administrations, and the Maryland Transportation Authority shall become members of the one–call system through a separate agreement and using the information collected under § 12–124(b)(2) of this subtitle.

(b) (1) An owner–member of a one–call system shall submit to the one–call system, in writing, the telephone number of the person to which calls concerning proposed excavations or demolitions shall be directed.

(2) An owner–member shall ensure that all contact information provided to the one–call system remains current.

§12–124.

(a) A person that intends to perform an excavation or demolition in the State shall initiate a ticket request by notifying the one–call system serving the geographic area where the excavation or demolition is to be performed of the person's intent to perform the excavation or demolition.

(b) Notice provided to a one–call system under subsection (a) of this section shall indicate:

(1) the location of the proposed excavation or demolition;

(2) whether the proposed excavation or demolition is within rights–of–way owned or controlled by the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority and, if so,

the entity and the permit number or authorization number obtained from that entity; and

(3) the type of work to be performed in connection with the proposed excavation or demolition.

(c) (1) Except as provided in paragraph (2) of this subsection, on receiving notice, the one–call system shall promptly transmit a copy of the ticket to all owner–members in the geographic area indicated for that ticket.

(2) Based on information collected under § 12–124(b)(2) of this subtitle, the one–call system shall promptly transmit a copy of the ticket to the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority, as applicable.

(3) A ticket is valid for 12 business days after the day on which the ticket is transmitted by the one–call system to an owner–member.

§12–125.

(a) A person shall repeat the notification required under § 12–124 of this subtitle if the person:

(1) has not completed or will not complete the excavation or demolition within the time period authorized by the ticket; or

(2) intends to expand the excavation or demolition beyond the location indicated in the notice under § 12–124(b) of this subtitle.

(b) A person shall repeat the notification regardless of:

(1) any delays by an owner–member in marking its underground facilities; or

(2) an agreement between the person and an owner–member regarding the time for marking underground facilities.

§12–126.

(a) An owner–member shall mark its underground facility if the owner–member has determined that a proposed excavation or demolition:

(1) is within 5 feet of the horizontal plane of the underground facility; or

(2) because of planned blasting, is so near to the underground facility that the underground facility may be damaged or disturbed.

(b) (1) An owner–member shall mark the location of its underground facility by marking on the ground within 18 inches on a horizontal plane on either side of the

underground facility.

(2) (i) When marking the location of an underground facility, an owner–member shall use the current color codes established by the American Public Works Association for marking underground facilities.

(ii) If two or more owner–members share the same color code, each owner–member shall include information with the marking that indicates the owner–member of the marked underground facility.

(c) Except as provided in subsection (d) of this section, within 2 business days after the day on which a ticket is transferred to an owner–member, the owner–member shall:

(1) mark the location of the owner–member's underground facility and report to the underground facilities information exchange system that the underground facility has been marked; or

(2) report to the underground facilities information exchange system that the owner–member has no underground facilities in the vicinity of the planned excavation or demolition.

(d) (1) If an owner–member is unable to mark the location of the owner–member's underground facility within the time period prescribed in subsection (c) of this section because of the scope of the proposed excavation or demolition, the owner–member shall:

(i) promptly notify the underground facilities information exchange system and the person that intends to perform the excavation or demolition; and

(ii) work with the person that intends to perform the excavation or demolition to develop a mutually agreeable schedule for marking the underground facility.

(2) If the owner–member and person that intends to perform the excavation or demolition cannot reach a mutually agreeable schedule for marking under paragraph (1) of this subsection, the owner–member shall mark that portion of the site where excavation or demolition will first occur, and the owner–member shall mark the remainder of the site within a reasonable time.

(3) If, due to circumstances beyond an owner–member's control and for reasons other than those specified in paragraph (1) of this subsection, an owner–member is unable to mark the location of the owner–member's underground facility within the time period prescribed in subsection (c) of this section, the owner–member shall report to the underground facilities information exchange system that an extension is required.

(4) In connection with extensive or contiguous excavation or demolition

projects, the person performing the excavation or demolition and the owner–member may establish a working agreement regarding the time periods for marking the underground facility.

§12–127.

(a) A person may begin excavation or demolition only after the person receives notification from the underground facilities information exchange system of the one–call system confirming that all applicable owner–members have:

(1) marked their underground facilities in accordance with § 12–126(c) of this subtitle;

(2) marked the applicable portion of their underground facilities in accordance with § 12–126(d) of this subtitle; or

(3) reported that they have no underground facilities in the vicinity of the excavation or demolition.

(b) (1) After an owner–member has marked the location of an underground facility in accordance with § 12–126 of this subtitle, the person performing the excavation or demolition is responsible for the maintenance of the designated marker.

(2) If the marker is obliterated, destroyed, or removed, the person shall repeat the notification required under § 12–124 of this subtitle.

(c) (1) A person performing an excavation or demolition shall exercise due care to avoid interference with or damage to an underground facility that an owner–member has marked in accordance with § 12–126 of this subtitle.

(2) Before using mechanized equipment for excavation or demolition within 18 inches of an underground facility marking, a person shall expose the underground facility to its outermost surfaces by hand or other nondestructive techniques.

(3) A person may not use mechanized equipment to excavate within 18 inches of the outermost surface of an exposed underground facility.

(d) (1) The person performing an excavation or demolition immediately shall notify the owner–member of the facility if the person discovers or causes any damage to or dislocation or disturbance of an underground facility in connection with the excavation or demolition.

(2) If the damage, dislocation, or disturbance results in the escape of a flammable, toxic, or corrosive gas or liquid, the person performing the excavation or demolition immediately shall report the damage to the 9–1–1 emergency system.

(e) (1) If a person knows or has reason to know that an underground facility in

the area of a planned or ongoing excavation or demolition is not marked as required by this subtitle, the person may not begin or continue the excavation or demolition unless the person:

(i) has repeated the notification required under § 12–124 of this subtitle; and

(ii) receives notification from the underground facilities information exchange system of the one–call system confirming that all applicable owner–members that have underground facilities in the vicinity of the excavation or demolition have marked:

1. the underground facilities in accordance with § 12–126(c) of this subtitle; or

2. the applicable portion of the underground facilities in accordance with 12–126(d) of this subtitle.

(2) If the underground facility is not marked as required by this subtitle after the person receives notification from the underground facilities information exchange system under paragraph (1) of this subsection, the person may proceed with the excavation or demolition.

§12–128.

(a) A political subdivision, municipal corporation, the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority may charge, assess, or collect from a person a one–time initial marking fee not exceeding $35 for reimbursement of expenses that the political subdivision, municipal corporation, the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority incurs to comply with this subtitle.

(b) If re–marking is requested, or is required after renotification under § 12–108(b) of this subtitle, a political subdivision, municipal corporation, or any of the transportation entities specified in subsection (a) of this section may charge, assess, or collect from a person a re–marking fee not exceeding $15 for reimbursement of expenses that the political subdivision, municipal corporation, or any of the transportation entities specified in subsection (a) of this section incurs to comply with this subtitle.

§12–129.

(a) Subject to subsection (c) of this section, any new or replacement piping that is buried or installed for the purpose of connecting a building to a water supply system or a sewerage system shall be buried or installed with a wire that makes the piping detectable.

(b) The wire required under subsection (a) of this section shall:

(1) be an insulated copper tracer wire that is suitable for direct burial and has an American wire gauge (AWG) of at least 10, or an equivalent product;

(2) be installed:

(i) in the same trench as the piping that connects the building to the water supply system or the sewerage system;

(ii) within 12 inches of the piping that connects the building to the water supply system or the sewerage system; and

(iii) with at least one end of the wire terminating above grade in a location that is accessible and resistant to physical damage, such as in a cleanout or next to an external wall of the building; and

(3) run from within 5 feet of an external wall of the building to:

(i) the point where the piping intersects with the water supply system or the sewerage system; or

(ii) the point where the sewerage system disposes of or processes the sewage.

(c) The requirement of subsection (a) of this section with regard to replacement piping connecting a building to a water supply system or a sewerage system:

(1) applies only to a complete replacement of the piping; and

(2) does not apply to a repair or a partial replacement of the piping.

§12–131.

(a) In connection with a project that may require excavation or demolition, a designer may initiate a ticket request by notifying the one–call system serving the geographic area covering the planned project.

(b) A designer initiating a ticket request under this section:

(1) may initiate only one ticket request for a single project; and

(2) shall, in connection with a ticket request:

(i) indicate that the request is for design purposes only and may not be used for the purpose of excavation or demolition;

(ii) notify the one–call system of any owner–members from which the designer does not require underground facilities information; and

(iii) on the request of an owner–member, provide the owner–member with a preliminary drawing that indicates the scope of the project.

(c) (1) Within 15 business days after receiving notice from a one–call system that a designer has made a request under this section, an owner–member of an underground facility in the area of the project shall notify the designer of the type and approximate location of the underground facility.

(2) An owner–member may provide notice of the approximate location of an underground facility through the use of:

(i) field locates;

(ii) maps;

(iii) surveys;

(iv) installation records; or

(v) other similar means.

(d) (1) Information provided to a designer under this section is for informational purposes only.

(2) An owner–member or agent of an owner–member may not be held liable for any inaccurate information provided to a designer under this section.

§12–134.

(a) To stop or prevent a negligent or unsafe excavation or demolition, an owner or the Attorney General may file an action for a writ of mandamus or injunction in a court of competent jurisdiction in Baltimore City or the county in which the excavation or demolition is being performed or is to be performed or in which the person resides or has its principal place of business, if the person:

(1) is performing an excavation or demolition in a negligent or unsafe manner that has resulted in or is likely to result in damage to an underground facility; or

(2) is intending to use procedures to carry out the excavation or demolition that are likely to result in damage to an underground facility.

(b) (1) To make its judgment or processes effective, the court may join as parties any persons necessary or proper.

(2) If appropriate, the court shall issue a final order granting the injunction or writ of mandamus.

§12–135.

(a) (1) A person that performs an excavation or demolition without first providing the notice required under § 12–124(a) of this subtitle and damages, dislocates, or disturbs an underground facility is deemed negligent and is subject to a civil penalty assessed by the Authority not exceeding:

(i) $2,000 for the first offense; and

(ii) subject to subsection (c) of this section, $4,000 for each subsequent offense.

(2) Instead of or in addition to a civil penalty assessed under this subsection, the Authority may:

(i) require that a person:

1. participate in damage prevention training; or

2. implement procedures to mitigate the likelihood of damage to underground facilities; or

(ii) impose other similar measures.

(3) A person that violates any provision of Part IV of this subtitle is subject to a civil penalty assessed by the Authority not exceeding $2,000.

(b) (1) This subsection applies if a proceeding has not been initiated before the Authority.

(2) A court of competent jurisdiction may assess a civil penalty of up to 10 times the cost of repairs to the underground facility caused by the damage, dislocation, or disturbance against a person that has committed a subsequent offense under subsection (a)(1) of this section.

(3) An action to recover a civil penalty under this subsection shall be brought by an owner of a damaged, dislocated, or disturbed underground facility or the Attorney General in a court of competent jurisdiction in Baltimore City or the county in which the damage, dislocation, or disturbance occurred.

(4) The party bringing an action under this subsection may recover reasonable attorney's fees.

(c) The Authority may not assess a civil penalty under subsection (a)(1)(ii) of this section if an action to recover a civil penalty has been brought under subsection (b) of this section.

(d) All civil penalties recovered under this section shall be paid into the Fund.

§12–301.

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

(b) (1) "Communication service" means the transmission of intelligence by electrical means.

(2) "Communication service" includes the transmission of intelligence by telephone lines, telegraph lines, messenger–call, police, fire alarm, and traffic control circuits and circuits used to transmit standard television or radio signals.

(c) "Conversion" means to convert an overhead electric or communication facility.

(d) "Convert" means to remove all or part of an existing overhead electric or communication facility and to replace it at the same or another location with an underground electric or communication facility.

(e) (1) "Electric or communication facility" means a works or improvement used or useful in providing electric service or communication service.

(2) "Electric or communication facility" includes poles, supports, tunnels, manholes, vaults, conduits, ducts, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, capacitors, meters, communication circuits, appliances, attachments, and appurtenances.

(3) "Electric or communication facility" does not include a facility that:

(i) uses or is intended to be used to transmit electricity at nominal voltages in excess of 35,000 volts; or

(ii) is owned, used by, or provided for a railroad or pipeline and located on or above the right–of–way of the railroad or pipeline.

(f) "Electric service" means the distribution of electricity for heat, light, or power.

(g) (1) "Public agency" means a county, municipal corporation, special district, or public corporation that provides electric service or communication service to the public by means of an electric or communication facility.

(2) "Public agency" does not include a county, municipal corporation, special district, or public corporation that conducts a proceeding for a conversion under this subtitle.

(h) "Public utility" means a person that provides electric or communication facilities.

§12–302.

(a) The General Assembly finds that, in many areas of the State, landowners, cities, counties, municipal corporations, public agencies, and public utilities desire to convert existing overhead electric or communication facilities to underground locations through proceedings under this subtitle.

(b) The General Assembly declares that:

(1) a public purpose will be served by providing a procedure to convert existing overhead electric or communication facilities to underground locations; and

(2) it is in the public interest to provide for a conversion through proceedings established under this subtitle.

§12–303.

This subtitle does not apply in Baltimore County.

§12–304.

(a) This subtitle does not limit the authority of the Commission under this article, the Maryland Constitution, or any other law whether by statute or court decision.

(b) This subtitle does not limit the authority of the Commission to determine whether, in what manner, and by whom costs are to be assessed, paid, recovered, or absorbed when an underground electric or communication facility is converted, constructed, operated, maintained, repaired, replaced, or enlarged.

§12–305.

A county or municipal corporation shall adopt rules and regulations to carry out this subtitle.

§12–306.

Proceedings under this subtitle may be used to:

(1) convert an existing electric or communication facility; and

(2) construct, reconstruct, or relocate any other related electric or communication facility.

§12–307.

(a) Proceedings for a conversion must be initiated by petition filed under § 12-308 of this subtitle.

(b) The petition shall:

(1) define generally the proposed conversion;

(2) request that proceedings for the proposed conversion be initiated under this subtitle; and

(3) describe the proposed conversion district by:

(i) specifying its exterior boundaries;

(ii) providing a description of the proposed conversion district according to an official or recorded map; or

(iii) referring to a plat or map filed with the petition that indicates the proposed conversion district by boundary line.

(c) (1) A petition for proceedings for a conversion must be signed by not less than 20 landowners within the proposed conversion district whose property constitutes more than 80% of the assessed value of property within the proposed conversion district.

(2) For purposes of this subsection, the assessed value of the property shall be determined by the last assessment roll used by the county or municipal corporation.

§12–308.

(a) The petition shall be filed with the clerk of the legislative body of the county or municipal corporation in which the proposed conversion district is located.

(b) After a petition is filed under subsection (a) of this section, the clerk shall review the petition.

(c) If the petition is signed by the number of qualified landowners required under § 12-307 of this subtitle, the clerk shall execute a certificate of sufficiency and present the petition and certificate to the legislative body.

§12–309.

(a) On presentation of the petition and the certificate of sufficiency from the clerk under § 12-308 of this subtitle, the legislative body of the county or municipal corporation may adopt a resolution that declares its intent to:

(1) order the conversion described in the petition; and

(2) enter into an agreement with a public agency or public utility that provides for plans and specifications, contributions of labor, materials, or money, and payment for any work, improvement, or service proposed under the petition.

(b) In addition to a general description of the proposed conversion and the

proposed conversion district, the resolution of intent shall contain a notice that states the date, hour, and place at which a person with an objection to the proposed conversion may appear at a public hearing before the legislative body, or its designated committee, and show cause why the proposed conversion should not be carried out in accordance with the resolution of intent and why a resolution ordering the conversion should not be adopted.

(c) The public hearing required by subsection (b) of this section shall be held not less than 15 days and not more than 60 days after the date the resolution of intent is adopted.

(d) (1) A legislative body, or its designated committee, need not provide notice and a public hearing under this section if, when considering the adoption of a resolution of intent, the legislative body finds and determines by four-fifths vote that, on or before the fifth day before the day that the resolution of intent will be considered for adoption, all of the landowners, or their agents, within the proposed conversion district to be assessed have signed and filed a petition with the clerk of the legislative body waiving their right to a public hearing.

(2) A petition filed under paragraph (1) of this subsection shall include:

(i) a statement that, to the extent of the proposed conversion district to be assessed, the landowners do not object to the proposed conversion, or to an agreement proposed to be made under § 12-311 of this subtitle, and do not have any other objection; and

(ii) a request that the legislative body, or its designated committee, not hold a public hearing.

(e) (1) During the 15 days after the public hearing, if held, landowners within the proposed conversion district may certify the withdrawal of their names from the petition for conversion.

(2) A petition for conversion shall be considered withdrawn if the number of landowners certifying their withdrawal is such that the remaining signatures of landowners on the petition constitute less than 50% of the total assessed value within the proposed conversion district.

§12–310.

(a) After receipt of a petition under § 12-308 of this subtitle, the legislative body of the county or municipal corporation shall order an investigation and a report on the petition.

(b) (1) The report shall include:

(i) the nature of the conversion;

(ii) the estimated cost of the conversion and the proceedings for the conversion;

(iii) funds available from other sources to pay the costs of conversion;

(iv) existing assessments;

(v) the estimated conversion costs on each parcel; and

(vi) the maturity date and probable interest rate of any bonds to be issued.

(2) Engineering details and cost estimates included in the report may not be in any greater detail than necessary for the formulation of a judgment on the feasibility and expense of the proposed conversion.

(c) The report shall be available to the public:

(1) when the notice required under § 12-309 of this subtitle is published; and

(2) at the public hearing, if held, established in the notice.

§12–311.

(a) In a proceeding for a conversion, the county or municipal corporation and any public agency or public utility supplying electric service or communication service with the county or municipal corporation shall provide by agreement that:

(1) at the start or on completion of the conversion, the public agency or public utility has legal title to the electric or communication facilities; and

(2) the electric or communication facilities are:

(i) a part of the system of the public agency or public utility; and

(ii) to be used, operated, maintained, and managed by the public agency or public utility as part of its system.

(b) Subject to any rules, regulations, or tariffs applicable to the public agency or public utility, the agreement also shall provide for the following:

(1) the supplying of or approval by the public agency or public utility of plans and specifications related to the conversion and labor or materials to be used in the conversion; and

(2) the performance by the public agency or public utility of all or part of the conversion or improvements and payment to the public agency or public utility for the conversion or improvements.

(c) An agreement made under this section must be made before the legislative body of the county or municipal corporation adopts a resolution ordering the conversion.

(d) (1) If the proceeding for a conversion is discontinued:

(i) any agreement made under this section is void;

(ii) the petitioners shall reimburse the public agency or public utility for engineering and other preliminary expenses incurred that exceed $2,500; and

(iii) the petitioners or the county or municipal corporation may not reimburse the public agency or public utility for engineering and other preliminary expenses incurred that are $2,500 or less.

(2) If the proposed conversion is completed, any engineering and other preliminary expenses incurred by the public agency or public utility shall be included as part of the cost of the conversion.

(e) Before an agreement made under this section takes effect, the Commission may conduct proceedings and shall:

(1) determine that the agreement is in the public interest; and

(2) issue an order to approve the agreement, disapprove the agreement, or approve the agreement subject to specified conditions.

§12–312.

(a) After approval by the Commission of an agreement under § 12-311 of this subtitle and, if required, a public hearing in accordance with § 12-309 of this subtitle, the legislative body of the county or municipal corporation may adopt a resolution ordering the conversion to be completed in accordance with the resolution.

(b) The resolution shall include:

(1) a description of the proposed conversion district;

(2) the method of financing the conversion costs, including:

(i) the issuance of bonds or other evidence of indebtedness;

(ii) an advance from the general fund of the county or municipal corporation; or

(iii) direct payment by the landowners in the conversion district of their respective shares of the conversion costs; and

(3) the amount and duration of property taxes to be levied in the conversion district each year for repayment of any bonds, evidence of indebtedness, or

any advances from the general fund of the county or municipal corporation.

§12–313.

(a) Subject to applicable rules, regulations, tariffs, or ordinances, the landowner is responsible for the costs of construction, reconstruction, relocation, or conversion of all electric or communication facilities of a public agency or public utility from the point of attachment of the electric or communication facility to any improvements located on the landowner's property within a conversion district.

(b) (1) The contractor, public agency, public utility, county, or municipal corporation performing the conversion is responsible for the conversion of all electric or communication facilities to the point of attachment to any improvements located on property within the conversion district.

(2) The conversion costs incurred under paragraph (1) of this subsection shall be included in the total conversion costs that are to be assessed against the property.

§12–314.

(a) (1) At least 15 days before the date of commencement of construction, the clerk of the legislative body of the county or municipal corporation shall mail a notice to each landowner within the conversion district that informs the landowner of the provisions of § 12-313 of this subtitle.

(2) The clerk shall use the names and addresses from the most recent property assessment roll of the county or municipal corporation, or as otherwise known by the clerk.

(b) The notice mailed under subsection (a) of this section shall include a statement that, unless the landowner complies with the requirements of § 12-313 of this subtitle, all buildings, structures, and other improvements located on the property may be disconnected from the overhead electric or communication facilities that provide electric service or communication service to the buildings, structures, or other improvements.

§12–315.

(a) If a landowner fails to comply with § 12-313 of this subtitle, all overhead electric or communication facilities providing electric service or communication service to any building, structure, or other improvement on the property shall be disconnected and removed.

(b) At least 5 days before the disconnection, the landowner shall be provided written notice of the disconnection by leaving a copy of the notice at the principal building, structure, or other improvement located on the property.

§12–316.

(a) This section does not authorize a county or municipal corporation to avoid compliance with any competitive bidding requirements for a conversion or improvement to be performed by a private contractor.

(b) Provisions in State, county, or municipal law that require competitive bidding do not apply to a conversion or improvement performed by:

(1) a county, municipal corporation, public agency, or public utility; or

(2) a department, agency, commission, or office of a county or municipal corporation.

§12–317.

(a) In accordance with its charter or a public general law or public local law, a county or municipal corporation may issue bonds or other evidence of indebtedness to carry out this subtitle.

(b) To pay the principal and interest on bonds or other evidence of indebtedness or an advance from its general fund, a county or municipal corporation may levy property taxes on the assessed value of all real property and classes of assessable personal property within the conversion district.

§13–101.

(a) This section does not apply to a violation of the following provisions of this article:

(1) Title 5, Subtitle 4;

(2) Title 7, Subtitle 1;

(3) Title 8, Subtitles 1 and 3; and

(4) Title 9, Subtitle 3.

(b) A person may not fail, neglect, or refuse to comply with any provision of this division or any effective and outstanding direction, ruling, order, rule, regulation, or decision of the Commission.

(c) An individual who knowingly violates or knowingly aids or abets a public service company in the violation of subsection (b) of this section or any provision of this division:

(1) is guilty of a misdemeanor; and

(2) unless a different punishment is specifically provided by law, on

conviction is subject to a fine not exceeding $1,000 for a first offense and not exceeding $5,000 for each additional or subsequent offense.

§13–201.

(a) This section does not apply to a violation of the following provisions of this article:

(1) Title 5, Subtitle 4;

(2) Title 7, Subtitle 1;

(3) § 7–213 as it applies to electric cooperatives;

(4) Title 8, Subtitles 1 and 3;

(5) Title 9, Subtitle 3; and

(6) Title 8, Subtitle 4.

(b) (1) Except as provided in paragraph (2) of this subsection, the Commission may impose a civil penalty not exceeding $25,000 against a person who violates a provision of this division, or an effective and outstanding direction, ruling, order, rule, or regulation of the Commission.

(2) The civil penalty that the Commission may impose on a common carrier for each violation may not exceed $2,500.

(c) (1) A civil penalty may be imposed in addition to any other penalty authorized by this division.

(2) Each violation is a separate offense.

(3) Each day or part of a day the violation continues is a separate offense.

(d) The Commission shall determine the amount of any civil penalty after considering:

(1) the number of previous violations of any provision of this article;

(2) the gravity of the current violation;

(3) the good faith efforts of the violator in attempting to achieve compliance after notification of the violation; and

(4) any other matter that the Commission considers appropriate and relevant.

(e) (1) Except as provided in paragraph (2) of this subsection, a civil penalty

collected under this section shall be paid into the General Fund of the State.

(2) A civil penalty assessed for a violation of a service quality and reliability standard under § 7–213 of this article shall be paid into the Electric Reliability Remediation Fund under § 7–213(j) of this article.

§13–202.

(a) In this section, "safety violation" means a condition or activity likely to cause injury or harm to an individual or property.

(b) This section does not apply to a safety violation by a gas company that is subject to § 13–203 of this subtitle.

(c) (1) Subject to paragraph (2) of this subsection, a public service company that violates a provision of this division that relates to safety is subject to a civil penalty not exceeding $25,000 for each violation for each day that the violation persists.

(2) For a common carrier, the maximum civil penalty may not exceed $500 for each violation or related series of violations stemming from a single safety inspection.

(d) In determining the amount of a civil penalty imposed under this section, the Commission shall consider the:

(1) appropriateness of the penalty to the size of the public service company;

(2) number of previous violations of this article by the public service company;

(3) gravity of the current violation; and

(4) good faith of the public service company in attempting to achieve compliance after notification of the violation.

(e) The public service company involved may request reconsideration of a penalty imposed under this section within 30 days after the date of notification of the determination.

§13–203.

(a) A gas company or gas master meter operator that violates any of the Commission's standards of safe service or other regulation related to safety adopted under § 5-101 of this article is subject to a civil penalty determined by the Commission that does not exceed the maximum penalties provided in Title 49, Chapter 601 of the U.S. Code (Federal Natural Gas Pipeline Safety Act):

(1) for each violation for each day or part of a day that the violation continues; and

(2) for a related series of violations.

(b) Within 30 days after the date of notification of the determination, the gas company or gas master meter operator involved may request reconsideration to obtain a compromise.

(c) In determining the amount of a civil penalty or compromise, the Commission shall consider the:

(1) appropriateness of the penalty to the size of the gas company or gas master meter operator;

(2) gravity of the current violation; and

(3) good faith of the gas company or gas master meter operator in attempting to achieve compliance after notification of the violation.

(d) The amount of the penalty, when finally determined or agreed on in compromise, may be:

(1) deducted from any amount that the State owes to the gas company or gas master meter operator; or

(2) recovered in a civil action in State court.

§13–204.

Personnel of the Commission or Office of People's Counsel who are convicted of violating Title 2, Subtitle 3 of this article shall, in addition to any other penalties, be removed or discharged from office.

§13–205.

A public service company is subject to a fine of $100 for each day beyond 30 days after the deadline set by the Commission that the public service company fails to:

(1) file its annual report with the Commission in accordance with Title 6, Subtitle 2 of this article;

(2) make a report or furnish information that the Commission requests or requires; or

(3) fails to give a full, specific, and responsive answer to any question reasonably directed to it by the Commission.

§13–206.

An individual who violates a provision of this division concerning for–hire driving services is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $50 for a first offense and not exceeding $100 for each additional or subsequent offense.

§13–207.

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

§13–208.

(a) In addition to any otherwise available remedy, the Commission may summarily order a person who is subject to the jurisdiction of the Commission to cease and desist from an act or practice if the Commission determines from specific facts shown by affidavit or other statement made under oath that:

(1) the person has engaged in an act or practice that constitutes a violation of any provision of this division or any order or regulation adopted under this division that directly concerns consumer protection or public safety;

(2) immediate, substantial, and irreparable harm will result before the affected person could have an opportunity to respond to the facts alleged;

(3) the need for the immediate issuance of a summary cease and desist order outweighs the affected person's right to receive notice and be heard before issuance of the order; and

(4) issuance of the summary cease and desist order is in the public interest.

(b) A summary cease and desist order issued by the Commission under subsection (a) of this section shall:

(1) be personally and promptly served on the affected person or the person's legal representative;

(2) be effective only after it is served under item (1) of this subsection;

(3) identify the date and hour of issuance;

(4) define the harm that the Commission finds will result if the summary cease and desist order is not issued;

(5) state the basis for the Commission's finding that the harm will be immediate, substantial, and irreparable;

(6) state that any person affected by the summary cease and desist order may immediately apply to have the order modified or vacated by the Commission;

(7) state that the Commission may modify or vacate the summary cease and desist order as requested or may set the matter for hearing under subsection (c) of this section; and

(8) provide notice of the opportunity for an evidentiary hearing to determine whether the summary cease and desist order should be modified, vacated, or entered as final.

(c) (1) Within 15 calendar days after the date and hour of successful service of the summary cease and desist order, the affected person may file a request for an evidentiary hearing with the Commission on the propriety of a final order.

(2) If the Commission receives a request for an evidentiary hearing on the propriety of a final order from the affected person within the time limit in paragraph (1) of this subsection, the Commission shall complete the evidentiary hearing within 15 calendar days after the date and hour when the request is received.

(3) Within 48 hours after completing the evidentiary hearing requested under paragraph (1) of this subsection, the Commission shall issue a final order in which it shall determine whether the affected person has engaged in an act or practice that is in violation of any provision of this division or any order or regulation adopted under this division that directly concerns consumer protection or public safety.

(4) If the Commission does not receive a request for an evidentiary hearing on the propriety of a final order from the affected person within the time limit in paragraph (1) of this subsection, the summary cease and desist order shall become final.

(d) If the Commission fails to comply with subsection (c)(2) or (3) of this section, the summary cease and desist order is void from the time of issuance.

(e) The Commission may not impose a penalty for a violation of a summary cease and desist order that is void under subsection (d) of this section.

§16–101.

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

(b) "Commission" means the Washington Suburban Sanitary Commission.

(c) "Commissioner" means a member of the Washington Suburban Sanitary Commission.

(d) "County" means a county of the State or Baltimore City.

(e) "Hookup" means a connection between the plumbing on the owner's property and the Commission service connection.

(f) "Municipality" means a municipal corporation that is organized under Article XI–E of the Maryland Constitution.

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

(h) "Public roadway" means any State, county, or municipal street, road, alley, or highway.

(i) (1) "Sanitary district" means the Washington Suburban Sanitary District, as described in Chapter 805 of the Acts of the General Assembly of 1981.

(2) "Sanitary district" does not include any special exemption provided for by law.

(j) "Service connection" means a lateral service line that is constructed by the Commission from a Commission water or sewer main to a property line.

(k) (1) Except as provided in paragraph (2) of this subsection, "state" means:

(i) a state, possession, territory, or commonwealth of the United States; or

(ii) the District of Columbia.

(2) When capitalized, "State" means Maryland.

§17–101.

(a) There is a Washington Suburban Sanitary Commission.

(b) The Commission has jurisdiction over the sanitary district.

§17–102.

(a) The Commission consists of:

(1) three commissioners from Prince George's County, appointed by the County Executive subject to the confirmation of the County Council; and

(2) three commissioners from Montgomery County, appointed by the County Executive subject to the confirmation of the County Council.

(b) (1) Each commissioner shall be a resident of the sanitary district.

(2) (i) Each commissioner from Montgomery County shall be a registered voter of Montgomery County.

(ii) Each commissioner from Prince George's County shall be a registered voter of Prince George's County.

(c) (1) An individual may not be appointed or continue in office as a commissioner if the individual holds any other position of profit or trust under the Constitution or laws of the State or any political subdivision of the State.

(2) Not more than two commissioners from Montgomery County may be of the same political party.

(d) (1) The term of a commissioner is 4 years and begins on June 1 of the year of appointment.

(2) The terms of commissioners are staggered as required by the terms provided for commissioners on July 1, 1982.

(3) At the end of a term, a commissioner continues to serve until a successor is appointed and takes the oath of office.

(4) A commissioner who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and takes the oath of office.

(5) A vacancy on the Commission does not impair the right of the remaining commissioners to exercise all the powers of the Commission.

§17–103.

(a) (1) The County Executive shall make an appointment from a list of applicants.

(2) The list shall be:

(i) completed at least 3 weeks before the date the appointment is made; and

(ii) open to the public for inspection from the time the list is prepared until the appointment is made.

(3) (i) If an individual is not appointed from the names on the list, the County Executive shall prepare additional lists and follow the procedure under paragraph (2) of this subsection.

(ii) The 3–week period before the date the appointment is made begins with the closing of each list.

(b) (1) Subject to paragraph (2) of this subsection, the County Executive or a designee of the County Executive may interview in private each applicant for appointment or reappointment to the Commission regarding possible or potential

conflicts of interest.

(2) Before appointment, the County Executive or a designee of the County Executive shall interview in private an applicant who is selected for appointment to the Commission regarding possible or potential conflicts of interest.

(3) Before appointment, the County Executive of Prince George's County or a designee of the County Executive shall inform the Prince George's County Council of possible or potential conflicts of interest of an applicant who is selected for appointment to the Commission.

(c) (1) A written transcript of an interview under subsection (b) of this section:

(i) shall be made;

(ii) may be reviewed by the applicant, unless the right to review is waived by the applicant;

(iii) may be altered for the applicant by the transcribing officer, if the transcript is accompanied by a statement of the reason given by the applicant for the alteration; and

(iv) shall be signed by the applicant.

(2) The transcribing officer shall certify on the transcript that:

(i) the applicant was sworn by the officer; and

(ii) the transcript is a true record of the testimony given by the applicant.

(3) The County Executive of Montgomery County or a designee of the County Executive shall:

(i) publicly disclose the complete transcribed testimony of an appointee to the Commission 3 weeks after the appointment; and

(ii) destroy immediately the complete transcript of any other applicant without disclosure of any information contained in the transcript.

(d) (1) In Montgomery County, if the County Executive or a designee of the County Executive conducts an interview under subsection (b) of this section, the applicant shall be interviewed:

(i) in a question and answer fashion;

(ii) under oath; and

(iii) about all sources of income, property holdings, business

interests, and financial interests of the applicant and the applicant's spouse, father, mother, brother, sister, and child.

(2) The County Executive of Montgomery County or a designee of the County Executive may require the applicant to produce documents.

§17–104.

(a) A commissioner may be removed before the completion of the commissioner's term:

(1) in Montgomery County:

(i) by the County Executive with the approval of a majority of the members of the County Council; or

(ii) unless the County Executive disapproves the resolution in writing within 30 days after its adoption, by resolution of a majority of the members of the County Council; and

(2) in Prince George's County, by the County Executive with the approval of a majority of the members of the County Council.

(b) (1) Unless a hearing is waived in writing by the commissioner designated for removal, before any removal under this section, a public hearing shall be held:

(i) in Montgomery County, by the body initiating the removal proceeding; or

(ii) in Prince George's County, by the County Council.

(2) The commissioner shall be given an opportunity at the hearing to present a defense.

§17–105.

(a) From among its members, the Commission shall elect a chair and a vice chair.

(b) (1) The election of the chair and vice chair shall be at the first meeting of the Commission in June of each year, or as soon after the meeting as possible.

(2) Of the chair and vice chair:

(i) one shall be from Montgomery County and the other shall be from Prince George's County; and

(ii) each office shall alternate annually between Montgomery County and Prince George's County.

(3) (i) By unanimous vote the Commission may waive the provisions of paragraph (2)(ii) of this subsection for 1 year.

(ii) The Commission may not waive the provisions of paragraph (2)(ii) of this subsection for 2 successive years.

(4) Each officer shall serve for 1 year or until a successor is elected.

(c) Each officer shall perform the duties designated by the Commission.

(d) (1) If a vacancy exists in the position of chair or vice chair, the Commission promptly shall elect a new chair or vice chair for the remaining portion of the 1–year term of office.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, if the vacancy in the position of chair or vice chair results from resignation or removal from the Commission, the election to fill the unexpired portion of the officer's term shall be held only after the Commission vacancy has been filled.

(ii) The Commission may elect an acting chair or vice chair to serve until the vacancy has been filled.

§17–106.

(a) The Commission shall determine the times and places of its meetings.

(b) The Commission shall keep minutes in the usual corporate form.

(c) (1) The votes of the commissioners shall be:

(i) taken and recorded for any action that:

1. authorizes, modifies, or rescinds a water or sanitary sewer extension; or

2. adopts or amends a water or sewer program of extensions;

(ii) taken separately; and

(iii) recorded as yeas, nays, or abstentions.

(2) The Commission shall record in the minutes:

(i) the name of a commissioner who votes or abstains;

(ii) the reason for an abstention;

(iii) a brief summary of the matters on which a vote is taken; and

(iv) any disclosure made under § 19–103 of this article.

(d) The minutes shall be open to public inspection at the principal office of the Commission during business hours.

§17–107.

(a) (1) The members of the Commission are entitled to the following annual salaries:

(i) chair $13,500;

(ii) vice chair..... $13,000; and

(iii) commissioners ..... $13,000.

(2) The salary shall be paid every 2 weeks.

(b) While in office, commissioners may participate in any Commission program of group health, life, and disability insurance to the same extent and under the same terms as Commission staff.

(c) The Commission may employ a staff in accordance with the Commission's budget.

§17–201.

(a) (1) The Commission is a body corporate.

(2) The Commission may:

(i) use a common seal;

(ii) sue and be sued; and

(iii) do any other corporate act for the purpose of carrying out this division.

(b) (1) The Commission shall certify to the county councils of Montgomery County and Prince George's County a tax rate that will, when imposed and collected in accordance with § 22–106 of this article, produce an amount sufficient to satisfy:

(i) a judgment against the Commission, including related costs and attorney's fees; or

(ii) a settlement agreement to resolve threatened or pending litigation, including related costs and attorney's fees.

(2) The Commission shall certify the tax rate under paragraph (1) of this

subsection at the beginning of the taxable year for property taxes of the county councils of Montgomery County and Prince George's County immediately following the date of the judgment or settlement agreement described in paragraph (1) of this subsection.

(3) The tax rate described in this subsection is in addition to any tax required under this division for interest, serial bonds, or sinking fund requirements.

(c) All acts, orders, and regulations previously passed by the Commission while sitting in the District of Columbia are ratified and shall be given the same force and effect as if passed in the State.

§17–202.

(a) The Commission:

(1) before January 15 of each year, shall prepare capital and operating budgets for the next fiscal year that shall include projects and contracts authorized under §§ 17–204 and 17–205 of this subtitle;

(2) shall make available to the public, on request, copies of the budgets described in item (1) of this subsection;

(3) before February 15 of each year, shall hold a public hearing on the proposed capital and operating budgets after giving at least 21 days' notice of the hearing by publication in at least two newspapers of general circulation in Montgomery County and two newspapers of general circulation in Prince George's County;

(4) on or before March 1 of each year, shall submit to the county executives of Montgomery County and Prince George's County the proposed capital and operating budgets for the next fiscal year, including the record of any public hearing on the proposed capital or operating budget held by the Commission;

(5) shall identify the sources of revenue allocable to each proposed expenditure;

(6) shall propose a complete schedule of rates for water service charges, sewer usage charges, and ad valorem taxes that the Commission considers necessary to finance the capital and operating budgets;

(7) shall certify the amount necessary to be raised for the next fiscal year for debt service payments on all outstanding bonds and notes of the Commission; and

(8) between March 1 and April 1 of each year, may submit to the county executives of Montgomery County and Prince George's County amendments to the proposed capital or operating budget, including a declaration of need identifying the sources of revenue allocable to the proposed amendments.

(b) The county executives of Montgomery County and Prince George's County

shall submit to the respective county council:

(1) on or before March 15 of each year, the proposed capital and operating budgets, including:

(i) recommendations on the proposed capital and operating budgets; and

(ii) the record of any public hearing on the capital or operating budget held by the Commission; and

(2) any amendments to the proposed capital and operating budgets with the county executive's recommendations within 10 days after receipt of the amendments.

(c) (1) The county councils of Montgomery County and Prince George's County:

(i) after giving public notice, may hold public hearings on the proposed capital and operating budgets not earlier than 21 calendar days after receipt of the capital and operating budgets from the respective county executive;

(ii) may add to, delete from, increase, or decrease an item of the capital or operating budget;

(iii) on or before May 15 of each year, shall submit any proposed changes to the capital or operating budgets to the other county council for review and concurrence; and

(iv) on or before June 1 of each year, shall approve the capital and operating budgets and submit them to the Commission.

(2) (i) If the county councils fail to concur in a change with respect to any item in the capital or operating budget on or before June 1 of each year, the failure to concur constitutes approval of the item as submitted by the Commission.

(ii) If the county councils fail to approve the capital and operating budgets on or before June 1 of each year, the proposed capital and operating budgets of the Commission are deemed approved.

(d) (1) The Commission may submit detailed proposed supplements to the approved capital and operating budgets to the county executives of Montgomery County and Prince George's County.

(2) Within 10 days after receipt of a proposed budget supplement, each county executive shall submit the proposed budget supplement, including recommendations, to the respective county council.

(3) Each county council:

(i) may hold public hearings on the proposed budget supplement; and

(ii) may add to, delete from, increase, or decrease the proposed budget supplement.

(4) The failure of the county councils to jointly approve or amend the proposed budget supplement within 90 days after the date that the Commission submits the proposed budget supplement to the county executives constitutes disapproval of the supplement as submitted by the Commission.

(e) (1) On submission of the approved capital and operating budgets the county councils of Montgomery County and Prince George's County may jointly recommend to the Commission rates for:

(i) water service charges;

(ii) sewer usage charges; and

(iii) ad valorem taxes.

(2) (i) On receipt of the capital and operating budgets and recommendations from the county councils, the Commission shall approve a rate schedule.

(ii) In approving a rate schedule the Commission shall consider the proposed rate changes jointly recommended by the county councils.

(3) Subject to § 25–101 of this article, the rates for water service charges and sewer usage charges shall be uniform throughout the sanitary district.

§17–203.

Approval by the governing bodies of Montgomery County and Prince George's County is required before the construction of any new Commission administration building or any substantial addition to an existing Commission administration building.

§17–204.

(a) (1) Subject to paragraph (2) of this subsection, the Commission may enter into a contract or agreement concerning the construction, maintenance, and operation of the water supply, sewer, or drainage systems under its control or under the control or ownership of the District of Columbia or any other agency, authority, or commission specified in this section.

(2) The Commission may enter into a contract or agreement under paragraph (1) of this subsection with:

(i) the District of Columbia;

(ii) any federal, state, county, or municipal authority in the State or any other state; or

(iii) any public water, sewer, or drainage commission in the State or any other state.

(b) The Commission may contract with, as a primary party or as a subcontractor, or invest in any person for the ownership, joint–venturing, management, operation, supervision, assistance, participation, or any other activity relating to the design, construction, operation, maintenance, or management of water or wastewater systems, including systems, services, expertise, intellectual property, and techniques developed in connection with, or usable or marketable with respect to, water or wastewater systems.

(c) (1) Any contract or agreement entered into under this section has the full effect of a contract between the District of Columbia and the State or between the other agencies, authorities, or persons described in the section and this State.

(2) The authority granted in this section is in addition to, and is not limited by, the authority granted by any other Act of the General Assembly.

§17–205.

(a) In this section, "product" or "technology" does not include water or sewer service provided as part of the primary mission of the Commission in the sanitary district or through systems connected directly to and operated as part of the water and sewer system in the sanitary district.

(b) Subject to subsection (d) of this section, the Commission may sell, lease, or license to the public, or enter into a contract concerning:

(1) any product or technology that is produced or developed by the Commission in the normal course of operations, including patents, trademarks, and copyrights;

(2) any service directly related to a product or technology described in item (1) of this subsection; or

(3) any system, service, expertise, intellectual property, or technique developed, owned, or controlled by or under the jurisdiction of the Commission.

(c) The Commission may adopt a price structure for an item described in subsection (b) of this section based on any factors that the Commission considers

relevant, including:

(1) the costs of creating, developing, reproducing, and delivering the product or technology;

(2) overhead and labor costs; and

(3) the fair market value of the product or technology.

(d) (1) The Commission shall account for expenditures and revenues resulting from sales under this section by establishing a separate set of accounts.

(2) The accounts established under paragraph (1) of this subsection shall be itemized and included in the Commission's annual budget.

(e) The Commission shall use any net revenues earned from projects and contracts entered into under this section to stabilize or reduce rates and to reduce debt.

§17–206.

(a) The Commission may finance initial program development costs and other project costs for a project subject to this subtitle from Commission funding sources other than revenue bond proceeds only if those costs are reimbursed from project revenues.

(b) In any fiscal year, funding of initial program development costs and other project costs under subsection (a) of this section may not exceed an amount equal to 3% of the gross revenues of the Commission from water service charges and sewer usage charges for the immediately preceding fiscal year.

(c) Any project, contract, or transaction entered into under this subtitle that uses revenue bonds issued under Title 22, Subtitle 2 of this article shall be entered into by the Commission through the use of:

(1) a limited liability company;

(2) a limited liability partnership;

(3) a limited partnership; or

(4) another comparable limited liability entity or arrangement.

§17–301.

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

(b) "Proper invoice" means an invoice that:

(1) contains the contractor's federal employer's identification number or Social Security number;

(2) contains the contract or purchase order number or other description of the contract; and

(3) contains or is accompanied by the substantiating information and documentation required by regulation or contract.

(c) "Receipt date" means the date that a proper invoice is received by the Commission.

§17–302.

It is the policy of the Commission that the Commission shall make a payment in accordance with any authorized, written procurement contract to the contractor within 30 calendar days after the receipt date of a proper invoice.

§17–303.

Any amount due and payable under law and an authorized, written procurement contract that remains unpaid for more than 45 calendar days after the receipt date shall accrue interest, at the rate specified in § 11–107(a) of the Courts Article, for the period that begins 31 calendar days after the receipt date.

§17–304.

The Commission is not liable for the payment of interest under this subtitle:

(1) if a proper invoice for accrued interest is not submitted within 30 calendar days after the date of the Commission's check for payment of the amount on which the interest accrued;

(2) for more than 1 year following the 31st calendar day after the receipt date;

(3) on amounts representing unpaid interest; or

(4) if there is a dispute, as determined by the Commission, as to any material factor in the contract or purchase order.

§17–401.

(a) The Commission shall:

(1) publish annually in at least one newspaper in Montgomery County and one newspaper in Prince George's County a copy of the current financial statement of the Commission;

(2) employ a certified public accountant licensed to practice in the State to audit the books and accounts of the Commission;

(3) keep available for public inspection during business hours at its principal office the annual audit and current financial statement; and

(4) file annually with the county executives and county councils of Montgomery County and Prince George's County, and the Montgomery County and Prince George's County Senate and House delegations to the Maryland General Assembly a certified copy of the annual audit and current financial statement.

(b) (1) Subject to paragraph (2) of this subsection, the county council or county executive of Montgomery County or Prince George's County may, in person or by a duly authorized agent, audit and examine the books and records of the Commission.

(2) The Commission may not be required to pay the cost of the audit or examination under paragraph (1) of this subsection.

§17–402.

The Commission may not discriminate against a person on the basis of sex, race, creed, color, age, mental or physical disability, sexual orientation, or national origin.

§17–403.

(a) (1) Except as otherwise provided by this division, the Commission may adopt regulations to carry out the provisions of this division and any other laws the administration and enforcement of which are vested in the Commission.

(2) The Commission may:

(i) limit or regulate the use and supply of water service and sanitary sewer service on a temporary basis in any area or to any premises served by the Commission's facilities, as the needs of the occasion and the protection of the Commission's systems require;

(ii) adopt regulations that the Commission considers necessary for the public safety, health, comfort, or convenience in the construction, operation, maintenance, expansion, relocation, replacement, renovation, and repair of the Commission's water system and sanitary sewer system; and

(iii) establish the forms of permits and specify the nature, type, and amount of information, detail, and engineering data that a person must submit to the Commission for any permit authorized or required by this division.

(b) Except for the immediate preservation of the public health and safety or for emergency provisions required to protect the Commission's systems, the Commission shall publish a notice of any new regulation that is authorized by this section at least 30 days before its effective date in at least one newspaper of general circulation in each county of the sanitary district.

(c) A regulation adopted by the Commission under this section has the force and authority of law.

§17–404.

(a) The Commission may:

(1) adopt regulations for the installation of fuel gas piping, appliances, appurtenances, and connections from the point of service supplying any premises in the sanitary district; and

(2) require a permit and charge a fee for the installation of fuel gas piping, appliances, appurtenances, and connections.

(b) The Commission shall publish a notice of any new regulation that is authorized by this section at least 30 days before its effective date in at least two newspapers of general circulation in each county of the sanitary district.

(c) A person may not violate a regulation adopted under this section.

§17–405.

(a) Under the authority granted to the Commission under § 17–403 of this subtitle, the Commission may adopt regulations governing all publicly owned watershed property acquired by or under the jurisdiction of the Commission.

(b) (1) The Commission shall post the watershed regulations at each public recreation site in the watershed areas.

(2) The Commission shall publish the watershed regulations at least 30 days before their adoption in at least one newspaper of general circulation in each county of the sanitary district.

(3) (i) The posting and publication of the watershed regulations is sufficient notice.

(ii) The sworn certificate of a commissioner as to the posting and publication of the watershed regulations is prima facie evidence of posting and publication.

§17–406.

(a) The Commission may adopt regulations governing:

(1) erosion and sediment control for utility construction under authority of § 17–403 of this subtitle and § 4–105 of the Environment Article, after review and approval of the proposed regulations by the soil conservation districts of Montgomery County and Prince George's County and the Department of Natural Resources;

(2) sewer cleaning under authority of § 24–201 of this article;

(3) plumbing under authority of § 17–403 of this subtitle and §§ 24–106, 26–102, and 26–204 of this article;

(4) gas fitting under authority of § 17–404 of this subtitle;

(5) required permits for public utility construction under authority of §§ 27–101 and 27–107 of this article; and

(6) the Commission Pretreatment Program under authority of § 17–403 of this subtitle and § 9–332 of the Environment Article.

(b) (1) The Commission shall publish the regulations as provided under § 17–403(b) of this subtitle.

(2) The sworn certificate of a commissioner as to the publication of the regulations is prima facie evidence of publication.

§17–407.

(a) (1) Except as provided in subsection (b) of this section, in accordance with its regulations, the Commission may pay for actual property damage caused by:

(i) a sanitary sewer backup; or

(ii) a water main break on or after October 1, 1999.

(2) Payment made by the Commission under this section is not an admission of liability.

(b) The Commission may not pay for actual property damage caused by a sanitary sewer backup or water main break if the sanitary sewer backup, water main break, or resulting damage from the backup or break was caused by an intentional act or negligence of the owner or tenant of the property.

§17–408.

(a) Unless the Commission takes precautions to make a composting facility free of offensive off–site odors, the Commission may not construct the facility in an area that has more than 100 homes that are located within 5 miles of the facility.

(b) The Commission shall adopt regulations that provide standards for the construction and operation of a composting facility that is free of offensive off–site odors.

(c) If the Commission does not control and eliminate any offensive off–site odor that is caused by a composting facility that is constructed after July 1, 1986, the Commission shall close the facility within 4 months after the date the offensive

off–site odor is emitted from the facility.

(d) If a composting facility is closed for failure to meet any standards adopted by the Commission under this section, Montgomery County shall select an alternative method or location for the disposition of sludge located at the closed facility.

§17–501.

The sanitary district is composed of those parts of Montgomery County and Prince George's County that are described in Chapter 766 of the Acts of the General Assembly of 1982.

§18–101.

In this subtitle, "Secretary" means the Secretary of Budget and Management.

§18–102.

This subtitle does not prohibit the Commission from employing consulting or outside engineering services that the Commission considers necessary.

§18–103.

Except as otherwise provided by law, the provisions of the State Personnel and Pensions Article that govern skilled service and professional service employees do not apply to the Commission.

§18–104.

The Commission:

(1) may employ personnel and make expenditures necessary to carry out the purposes of this subtitle; and

(2) shall reimburse the State for any reasonable cost incurred by the Department of Budget and Management in carrying out the functions under this subtitle.

§18–105.

The Commission may adopt regulations to carry out this subtitle.

§18–106.

(a) The Commission shall organize its employees in a manner that promotes the efficient disposition of all matters within the Commission's jurisdiction.

(b) To carry out this division, the Commission may:

(1) organize its employees into departments or other divisional organizations;

(2) establish the functions, duties, and responsibilities of the general manager, secretary, treasurer, chief engineer, general counsel, and other employees the Commission considers necessary; and

(3) appoint, discharge, and set the compensation of its employees in accordance with this subtitle.

§18–107.

(a) The Commission may establish a merit system that includes all of its employees except:

(1) the general manager, secretary, treasurer, and chief engineer;

(2) the head of a department; and

(3) a part time, temporary, or contract employee.

(b) The Commission may:

(1) appoint or promote a merit system employee to the position of general manager or department head or designate a merit system employee as the general manager or department head on an acting basis;

(2) retain the employee in the merit system in the position or grade from which the employee was appointed or promoted; and

(3) continue to exclude the positions of general manager and department head from the merit system.

§18–108.

(a) The Commission shall establish a list of each position to be included under the merit system and its corresponding salary.

(b) The Commission may:

(1) establish additional position classifications; and

(2) combine, alter, or abolish existing position classifications and their corresponding salaries.

§18–111.

On all competitive selection processes for appointment, an honorably discharged veteran of the United States armed forces who was a bona fide resident of the State

when the veteran entered the United States armed forces shall receive a credit of 5%.

§18–114.

Unless otherwise provided by law, the Commission may not approve or pay any compensation for services unless the individual to whom the compensation is paid is an employee.

§18–115.

(a) Each merit system employee is entitled to the number of days of annual leave with pay that the Commission specifies by regulation.

(b) The number of days of annual leave with pay specified by a regulation adopted under this section shall be:

(1) at least 10 days but not more than 30 days in a calendar year; and

(2) generally consistent with the annual leave schedules provided by other governmental agencies in the area of the sanitary district.

§18–116.

(a) In addition to annual leave, each merit system employee is entitled to up to 15 days of sick leave with pay in a calendar year.

(b) (1) An employee may use sick leave at any time.

(2) An employee who uses 3 or more consecutive days of sick leave must present a certificate from a licensed physician before the employee may receive payment for the period of absence.

(c) An employee may accumulate unused sick leave up to 60 days or more as the Commission specifies by regulation.

(d) The Commission, by regulation, may provide for granting a leave of absence for a longer period, with full or partial pay, to an employee who is disabled through an injury or illness resulting or arising from the employee's employment with the Commission.

§18–117.

(a) The Commission, by regulation, may provide for the designation by a merit system employee of the individual to whom the employee's final salary payment, and any payment due for unused annual leave, should be made on the death of the employee.

(b) (1) The designation of the beneficiary shall be:

(i) in writing; and

(ii) on file with the Commission before the death of the employee.

(2) (i) The writing need not be in testamentary form.

(ii) The designation and payment are not testamentary dispositions.

(c) The Commission may make the payments described in subsection (a) of this section directly to the beneficiary designated by the employee.

§18–118.

(a) The Commission may establish a pension or retirement plan for its employees.

(b) (1) The Commission may:

(i) contract with an insurance company for a group, annuity, retirement, or pension plan; and

(ii) contribute to the plan as the Commission considers equitable or as required by contract.

(2) The Commission's contribution under paragraph (1)(ii) of this subsection shall be charged as expenses of the several functions of the Commission in the same proportion that the receipts of the respective functions bear to the total receipts of the Commission.

§18–119.

(a) The Commission may transfer an employee from one department to another.

(b) A transfer may not result in a diminution of an employee's salary unless:

(1) the employee agrees to the reduced salary; or

(2) the Secretary concurs in the reduction.

§18–120.

An employee may be separated from the merit system:

(1) temporarily through suspension, layoff, or leave of absence; or

(2) permanently through removal or resignation.

§18–121.

(a) The Commission may suspend an employee for disciplinary purposes for up to 30 days.

(b) Each suspension shall be without pay.

(c) An employee may not be suspended for disciplinary purposes for more than 30 days in a calendar year.

§18–122.

(a) An employee who is laid off because a position has been abolished, discontinued, or vacated because of a change in departmental organization or because of a stoppage or lack of work shall be placed on the eligible list for the classification of position from which the employee is laid off.

(b) If a vacancy occurs in the employee's merit system position, the employee shall be reemployed in preference to any eligible individual who is not an employee of the Commission.

§18–123.

(a) An employee may not be permanently removed except for cause and after an opportunity to be heard.

(b) An employee who is permanently removed may appeal to the Office of Administrative Hearings in accordance with § 4–401 of the State Personnel and Pensions Article.

(c) An employee may not be permanently removed from the merit system because of religious or political opinions or affiliations.

§18–124.

(a) The Commission, by regulation, shall establish what constitutes a resignation.

(b) A regulation adopted under subsection (a) of this section is subject to the approval of the Secretary.

§18–125.

(a) On or before October 1, 2010, the Commission shall adopt regulations that establish comprehensive Commission employee whistleblower protections.

(b) The regulations adopted under subsection (a) of this section shall:

(1) be similar to the provisions of Title 5, Subtitle 3 of the State Personnel and Pensions Article;

(2) prohibit a manager or supervisor from taking or refusing to take a personnel action as a reprisal against an employee who:

(i) discloses information that the employee reasonably believes evidences:

1. an abuse of authority, gross mismanagement, or gross waste of money;

2. a substantial and specific danger to public health or safety; or

3. a violation of law; or

(ii) following a disclosure under item (i) of this item, seeks a remedy provided by regulation or any other law;

(3) require the Commission to provide the employees of the Commission with written notice of the protections and remedies provided by the regulations;

(4) set up a procedure by which an employee who seeks relief for a violation of the regulations may file a complaint or a grievance;

(5) establish a system for investigating complaints and grievances; and

(6) set forth remedial actions that may be taken by the Commission if a violation of the regulations is found to have occurred.

§18–126.

(a) A person may not impersonate another in an examination held under this subtitle.

(b) A person may not willfully or corruptly falsify a score or report on an examination held under this subtitle.

(c) (1) A person, acting alone or in cooperation with another, may not:

(i) willfully or corruptly deceive an individual about the right to take an examination held under this subtitle;

(ii) willfully or corruptly interfere with the right of an individual to take an examination held under this subtitle;

(iii) falsify, or assist another to falsify, a score, grade, estimate, or report on the examination or standing of an individual examined under this subtitle; or

(iv) give to an individual any special information in order to improve or harm the individual's rating for appointment or employment.

(2) Notwithstanding paragraph (1)(iv) of this subsection, a person may

answer any inquiry from the Secretary.

(d) A candidate for employment may not deceive the Commission or the Secretary in order to improve the candidate's chances for appointment.

(e) (1) A candidate for appointment to a merit system position may not sign a resignation from that position in advance of the appointment.

(2) A resignation signed in violation of paragraph (1) of this subsection is void and of no effect.

§18–201.

(a) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Confidential employee" means an employee who assists or acts in a confidential capacity with respect to an individual who formulates, determines, or implements management policies in the field of labor–management relations.

(iii) "Probationary employee" means a Commission merit system employee during the employee's initial probationary period after hiring.

(2) The rights granted to Commission merit system employees under this subtitle do not apply to:

(i) attorneys in the Office of the General Counsel;

(ii) confidential employees;

(iii) probationary employees;

(iv) employees in the Office of the General Manager;

(v) employees in the Internal Audit Office;

(vi) employees in the Office of the Secretary; or

(vii) supervisors, as defined in § 2(11) of the National Labor Relations Act, 29 U.S.C. § 152(11).

(b) (1) Commission employees are divided into four bargaining units consisting of:

(i) an office/technical unit that includes:

1. office classification titles in which employees are responsible for internal and external communications, recording and retrieving information, and paperwork required in an office;

2. technical classification titles in which employees have a combination of basic scientific or technical knowledge and manual skill that is usually acquired through specialized postsecondary school education or through equivalent on–the–job training;

3. paraprofessional classification titles in which employees perform, in a supportive role, some of the duties of a professional or a technician but that usually require less formal training or experience than those duties performed by those with professional or technical status; and

4. all other nonprofessional job titles currently unrepresented by any other union;

(ii) a professional unit that includes professional classification titles in which employees have special or theoretical knowledge that is usually acquired through college training or other training that provides comparable knowledge or work experience;

(iii) a service, labor, and trade unit that includes:

1. classification titles in which employees:

A. perform service and maintenance;

B. may operate specialized machinery or heavy equipment; and

C. have duties that contribute to the comfort and convenience of the public or to the upkeep and care of Commission buildings, facilities, or grounds;

2. classification titles in which employees are required to have a special manual skill and thorough knowledge of processes that are required through on–the–job training, experience, apprenticeship, or other formal training programs; and

3. classification titles included in the service, labor, and trade bargaining unit as constituted on January 1, 2003; and

(iv) a law enforcement unit that includes Commission police officers.

(2) If a single employee organization is certified to represent more than one bargaining unit, the Commission shall negotiate a single contract with that organization covering all employees the organization represents.

§18–202.

(a) The Commission shall recognize the right of an employee organization, certified under this subtitle as the exclusive representative of a bargaining unit, to

represent the employees of the bargaining unit in collective bargaining and in the settlement of grievances.

(b) An employee organization certified as the exclusive representative of a bargaining unit shall:

(1) serve as the sole bargaining agent for the unit in collective bargaining; and

(2) represent all employees in the bargaining unit fairly, without discrimination, and without regard to whether an employee is a member of the employee organization.

(c) An employee organization meets the requirements of subsection (b)(2) of this section if the employee organization's actions with respect to employees who are members of the employee organization and employees who are not members of the employee organization are not arbitrary, discriminatory, or in bad faith.

§18–203.

(a) After a public hearing, the Commission shall appoint an experienced neutral third party to serve as labor relations administrator for 1 year.

(b) (1) After the term for the labor relations administrator appointed under subsection (a) of this section expires, the exclusive representative or representatives and the Commission shall jointly appoint a labor relations administrator from a list of five nominees on whom they have agreed.

(2) If the exclusive representative or representatives and the Commission are unable to jointly agree on a list of five nominees or are unable to jointly appoint a labor relations administrator from the list, the Commission shall request from the American Arbitration Association a list of 15 candidates located in the State or the Washington, D.C. metropolitan area.

(3) The Commission and the exclusive representative or representatives shall select the labor relations administrator by each of the parties striking one name from the list until the last name remains.

(4) A random drawing shall determine the order in which the parties shall strike names.

(5) The labor relations administrator shall be appointed for a term of 3 years.

(c) After the term for the labor relations administrator appointed under subsection (a) of this section expires and after a public hearing on the appointment, if no exclusive representative has been certified under this subtitle, the Commission shall appoint the next labor relations administrator for a term not exceeding 1 year.

(d) A labor relations administrator is eligible for reappointment.

§18–204.

(a) An employee organization that is certified or that seeks certification as an exclusive representative under this subtitle shall submit to the labor relations administrator:

(1) a copy of the employee organization's constitution and bylaws; and

(2) any subsequent change in the employee organization's constitution or bylaws.

(b) The constitution or bylaws shall include:

(1) a pledge that the employee organization accept members without regard to age, marital status, national origin, race, religion, disability, sexual orientation, or gender;

(2) the right of members to participate in the affairs of the employee organization;

(3) procedures for periodic elections for officers by secret ballot;

(4) fair procedures governing disciplinary actions;

(5) procedures for the accurate accounting of all income and expenditures;

(6) a requirement that an independent annual financial report be produced; and

(7) the right of members to inspect the organization's accounts.

§18–205.

(a) The labor relations administrator shall conduct an election for an exclusive representative after:

(1) an employee organization demonstrates, by petition, that at least 30% of the eligible employees in a bargaining unit support representation by an exclusive representative for collective bargaining; or

(2) an employee or an employee organization demonstrates, by petition, that at least 30% of the eligible employees in a bargaining unit no longer support the current exclusive representative.

(b) (1) At least 45 days before an election, the labor relations administrator shall provide, and the Commission shall post in conspicuous places in the Commission's facilities, a notice of the upcoming election.

(2) The notice shall contain:

(i) the date, time, and place of the election;

(ii) a description of which employees are eligible to vote in the election;

(iii) notification that a list of the names and home addresses of employees eligible to vote will be provided to the participating employee organizations;

(iv) instructions on how employees can remove their addresses from the list in accordance with subsection (c)(2) of this section; and

(v) any other information that, in the judgment of the labor relations administrator, is appropriate to convey to Commission employees.

(c) (1) At least 45 days before an election, the labor relations administrator shall obtain from the Commission the eligible employee voting list, which includes the names and home addresses of every employee in the bargaining unit.

(2) Commission employees may have their addresses removed from the eligible employee voting list by individually notifying the labor relations administrator in writing within 15 days after the posting of the notice required in subsection (b) of this section.

(3) After the 15–day period, the labor relations administrator shall provide the redacted eligible employee voting list to the employee organization.

(4) The provision of the eligible employee voting list under this subsection by the Commission, the labor relations administrator, or a Commission official, employee, or other agent does not constitute a violation of § 4–331 of the General Provisions Article or any State or local law, regulation, or ordinance.

(d) Elections shall be conducted by secret ballot containing:

(1) the name of each employee organization that submits a valid petition requiring an election;

(2) the name of any other employee organization supported by a petition signed by at least 10% of the eligible employees in the bargaining unit; and

(3) an option for no representation.

(e) (1) If none of the choices on the ballot receives a majority of the votes cast, the labor relations administrator shall hold a runoff election.

(2) In the runoff election, the ballot shall contain the two choices that received the highest number of votes in the initial election.

(f) After the election, the labor relations administrator shall certify an employee organization that received a majority of the votes cast as the exclusive representative.

(g) The Commission and the employee organization or organizations shall share equally the costs of the election.

(h) (1) Elections may not be conducted:

(i) within 1 year after the date of a valid initial election under this section; or

(ii) except as provided in paragraph (2) of this subsection, during the term of a collective bargaining agreement.

(2) During the term of a collective bargaining agreement, a petition for an election may be filed only during November of the fiscal year in which the agreement expires.

§18–206.

(a) If the Commission and an employee organization dispute the eligibility of an employee in a bargaining unit, the dispute shall be submitted to the labor relations administrator.

(b) The labor relations administrator shall hold one or more evidentiary hearings at which the Commission and interested employee organizations shall have the opportunity to present testimony, documentary and other evidence, and arguments.

(c) The decision of the labor relations administrator is final.

(d) The Commission and the employee organization or organizations shall share equally the costs of the hearings.

§18–207.

(a) The Commission and an employee organization certified as the exclusive representative shall meet and engage in collective bargaining in good faith regarding:

(1) salary and wages, including the percentage of the increase in the salary and wages budget that will be devoted to merit increments and cash awards;

(2) pension and other retirement benefits for active employees;

(3) employee benefits such as insurance, leave, holidays, and vacations;

(4) hours and working conditions;

(5) provisions for the orderly processing and settlement of grievances concerning the interpretation and implementation of a collective bargaining agreement that may include:

(i) binding third party arbitration; and

(ii) provisions for the exclusivity of forum;

(6) matters affecting the health and safety of employees; and

(7) the effect on employees of the exercise of the Commission's rights and responsibilities under § 18–211 of this subtitle.

(b) This section does not require the Commission or the employee organization to agree to any proposal or to make any concession.

(c) (1) (i) Collective bargaining may not begin later than September 1 before the beginning of a fiscal year for which an agreement has not been reached between the Commission and the certified representative.

(ii) Collective bargaining shall finish on or before the following February 1.

(2) During the period set in paragraph (1)(i) of this subsection, the parties shall negotiate in good faith.

(d) Salaries and wages shall be uniform for all employees in the same classification.

(e) The Commission and the employee organization shall share equally the costs of binding arbitration.

(f) (1) Notwithstanding any other provision of this subtitle, pension and other retirement benefits for active employees may not be subject to binding arbitration.

(2) Collective bargaining regarding pension and other retirement benefits for active employees may not require the Commission to offer more than one pension plan to its employees.

(3) If more than one employee organization is certified as an exclusive representative of a bargaining unit, the Commission shall engage in collective bargaining with all exclusive representatives at the same time about the terms of pension and other retirement benefits for active employees.

§18–208.

(a) (1) If the parties have not reached an agreement on or before December 1 on a collective bargaining agreement that would become effective the following July 1,

the parties shall jointly appoint a mediator–arbitrator.

(2) If the parties are unable to agree on a mediator–arbitrator, the labor relations administrator shall name the mediator–arbitrator on or before December 7.

(3) Notwithstanding appointment of the mediator–arbitrator, this section does not require commencement of mediation–arbitration before the date stated in subsection (c) of this section.

(b) During the course of the collective bargaining, either party may declare an impasse and request the services of the mediator–arbitrator, or the parties may jointly request the services of a mediator–arbitrator before an impasse is declared.

(c) If the mediator–arbitrator finds in the mediator–arbitrator's sole discretion that the parties are at a bona fide impasse or on February 1, whichever occurs earlier, the mediator–arbitrator shall direct the parties to submit:

(1) a joint memorandum listing all items to which the parties previously agreed; and

(2) a separate memorandum of each party's last final offer presented in negotiations on all items to which the parties did not previously agree.

(d) (1) On or before February 10, the mediator–arbitrator shall hold a closed hearing on the parties' proposals at a time, date, and place selected by the mediator–arbitrator.

(2) Each party shall submit evidence or make oral and written argument in support of the party's last final offer.

(3) The mediator–arbitrator may not open the hearing to a person who is not a party to the mediation–arbitration.

(e) (1) On or before February 15, the mediator–arbitrator shall issue a report that resolves all items that the parties have not agreed on previously.

(2) In resolving the items not previously agreed on, the mediator–arbitrator may consider the following factors:

(i) past collective bargaining contracts between the parties, including the past bargaining history that led to the agreement or the pre–collective bargaining history of employee wages, hours, benefits, and other working conditions;

(ii) a comparison of wages, hours, benefits, and conditions of employment of similar employees of other public employers in the State and the Washington, D.C. metropolitan area;

(iii) a comparison of wages, hours, benefits, and conditions of

employment of similar employees of private employers in Montgomery County and Prince George's County;

(iv) the public interest and welfare;

(v) the ability of the employer to finance any economic adjustments required under the proposed agreement;

(vi) the effect of any economic adjustments on the standard of public services normally provided by the employer; and

(vii) the annual increase or decrease in consumer prices for all items as reflected in the most recent Consumer Price Index – Urban Wage Earners and Clerical Workers ("CPI–W") for the Washington–Baltimore metropolitan area.

(3) In resolving the items not previously agreed on, the mediator–arbitrator shall consider all items on which the parties agreed before the mediation–arbitration began to be integrated with each offer.

(f) (1) (i) Subject to subparagraph (ii) of this paragraph, without ratification by the parties, the offer selected by the mediator–arbitrator, as integrated with the items on which the parties previously agreed, shall be the final agreement between the Commission and the exclusive representative.

(ii) The Commission shall request funds in the Commission's final budget from the county councils of Montgomery County and Prince George's County for all economic provisions of the final agreement.

(2) The parties shall execute an agreement incorporating the final agreement, including mediation–arbitration awards and all issues agreed to under this subtitle.

(g) The Commission and the employee organization shall share equally the costs of the mediator–arbitrator's services.

§18–209.

(a) The Commission and an employee organization certified as the exclusive representative of a bargaining unit shall execute a collective bargaining agreement incorporating all matters of agreement on wages, hours, and other terms and conditions of employment.

(b) If a collective bargaining agreement provides for a grievance procedure, that grievance procedure shall be the sole procedure for employees in the bargaining unit.

(c) The collective bargaining agreement may include an agency shop or other union security provision.

(d) The collective bargaining agreement supersedes any conflicting regulation or administrative policy of the Commission.

(e) A single–year or multiyear collective bargaining agreement shall expire at the close of the appropriate fiscal year.

(f) A collective bargaining agreement takes effect on the approval by the Commission and the membership of the union representing the bargaining unit.

(g) This section does not limit an employee's right to an appeal to the Office of Administrative Hearings under § 18–123(b) of this title.

§18–210.

(a) (1) The Commission shall include in its annual proposed operating budget, which it submits to the county executives of Montgomery County and Prince George's County, provisions for the funding of all terms included in all collective bargaining agreements.

(2) Unless the county councils of Montgomery County and Prince George's County both approve the Commission's budget so as to approve the terms of the collective bargaining agreement, the Commission and the employee organization, within 5 days after the annual joint county council meeting, shall reopen the negotiated agreement and bargain with respect to the provisions of the agreement not approved by the county councils.

(b) If a provision in a collective bargaining agreement is not funded by Montgomery County or Prince George's County or is ruled invalid, the remainder of the agreement remains in effect unless reopened under subsection (a)(2) of this section.

§18–211.

This subtitle and any agreement made under it may not impair the right and responsibility of the Commission to:

(1) determine the overall budget and mission of the Commission;

(2) maintain and improve the efficiency and effectiveness of operations;

(3) determine the services to be rendered and the operations to be performed;

(4) determine the location of facilities and the overall organizational structure, methods, processes, means, job classifications, and personnel by which operations are to be conducted;

(5) direct and supervise employees;

(6) hire, select, and establish the standards governing promotion of employees and classify positions;

(7) relieve employees from duties because of lack of work or funds or when the Commission determines continued work would be inefficient or nonproductive;

(8) take actions to carry out the missions of government in situations of emergency;

(9) transfer and schedule employees;

(10) determine the size, grades, and composition of the workforce;

(11) set the standards of productivity and technology;

(12) establish employee performance standards and evaluate and assign employees, except that evaluation and assignment procedures may be a subject for collective bargaining;

(13) make and implement systems for awarding outstanding service increments, extraordinary performance awards, and other merit awards;

(14) introduce new or improved technology, research, development, and services;

(15) control and regulate the use of machinery, equipment, and other property and facilities of the Commission, subject to § 18–207(a)(6) of this subtitle;

(16) maintain internal security standards;

(17) create, alter, combine, contract out, or abolish any job classification, department, operation, unit, or other division or service;

(18) suspend, discharge, or otherwise discipline employees for cause, subject to the grievance procedure stated in the collective bargaining agreement or as provided by law; and

(19) issue and enforce rules, policies, and regulations necessary to carry out this section and all other managerial functions that are not inconsistent with federal or State law or the terms of a collective bargaining agreement.

§18–212.

(a) (1) The Commission may not:

(i) interfere with, coerce, or restrain an employee in the exercise of rights under this subtitle;

(ii) dominate, interfere with, or assist in the formation,

administration, or existence of any employee organization or contribute financial assistance or other support to an employee organization;

(iii) encourage or discourage membership in any employee organization by discriminating against an employee through hiring, tenure, promotion, or other conditions of employment;

(iv) discharge or discriminate against an employee because the employee has signed or filed an affidavit, petition, or complaint or given any information or testimony under this subtitle; or

(v) refuse to bargain in good faith with an employee organization that is certified as the exclusive representative of a bargaining unit over any subject of bargaining or refuse to participate in good faith in binding arbitration or grievance procedures under this subtitle.

(2) Paragraph (1)(ii) of this subsection does not prohibit the Commission from allowing employees to negotiate or to confer with the Commission over labor matters during work hours without the loss of pay or time.

(b) The Commission may not contract out work that will displace employees in a bargaining unit unless the Commission gives written notice to the certified representative of the bargaining unit at least 90 days before signing the contract or within a different period of time as agreed by the parties.

§18–213.

(a) An employee organization may not:

(1) interfere with, coerce, or restrain an employee in the exercise by the employee of any right under this subtitle;

(2) cause or attempt to cause the Commission to discriminate against an employee in the exercise by the employee of any right under this subtitle;

(3) coerce, discipline, fine, or attempt to coerce a member of an employee organization as punishment or reprisal;

(4) coerce, discipline, fine, or attempt to coerce a member of an employee organization for the purpose of impeding the member's work performance;

(5) refuse to negotiate in good faith with the Commission as required under § 18–207 of this subtitle; or

(6) fail or refuse to cooperate in impasse procedures and impasse decisions as required under § 18–208 of this subtitle.

(b) Only an eligible employee may file an unfair labor charge against an

employee organization for a violation of subsection (a)(3) or (4) of this section.

§18–214.

(a) Commission employees shall retain the right to:

(1) form, join, or assist any employee organization;

(2) bargain collectively through the representative that they have chosen;

(3) engage in other lawful concerted activities for the purpose of collective bargaining; and

(4) refrain from any activity covered under this paragraph.

(b) An employee may only present a grievance arising under a collective bargaining agreement to the Commission through the employee organization certified as the exclusive representative for the bargaining unit.

(c) (1) An employee who is a member of a bargaining unit with an exclusive representative may discuss any matter with the General Manager of the Commission or the General Manager's designee.

(2) The Commission may not alter any terms or conditions of employment that are subject to collective bargaining under § 18–207 of this subtitle without following the process for collective bargaining under this subtitle.

§18–215.

(a) In this section, "strike" means the action of an employee, in concert with others, to:

(1) refuse to report to work;

(2) stop or slow down work; or

(3) abstain wholly or partly from the full, faithful, and proper performance of duties for the purpose of inducing, influencing, or coercing a change in the terms, conditions, rights, or privileges of employment.

(b) A Commission employee, group of Commission employees, or employee organization may not engage in, induce, initiate, or ratify a strike by Commission employees.

(c) If a strike occurs, a court of competent jurisdiction may enjoin the strike on request of the Commission.

(d) An employee may not receive compensation from the Commission while the employee is engaged in a strike.

(e) (1) If an employee engages in, induces, initiates, or ratifies a strike, the Commission may take appropriate disciplinary action against the employee, including suspension or discharge.

(2) If disciplinary action is taken and appealed, the labor relations administrator shall hold a hearing on the disciplinary action at which the Commission, the employee, and any interested employee organization may present evidence and argument.

(f) (1) If after a hearing an employee organization certified as an exclusive representative is found by the labor relations administrator to have assisted, authorized, or initiated a strike involving the refusal of Commission employees to report for work, the labor relations administrator shall revoke the certification of the employee organization.

(2) An employee organization decertified under paragraph (1) of this subsection may not be recertified for 2 years after the end of the strike.

(3) If after a hearing an employee organization certified as an exclusive representative is found by the labor relations administrator to have assisted, authorized, or initiated any other type of strike, the labor relations administrator may revoke the certification of the employee organization for up to 1 year after the end of the strike.

§18–216.

(a) It is an unfair labor practice for the Commission or an employee organization certified as an exclusive representative of a bargaining unit to violate the rights of a Commission employee under this subtitle.

(b) Within 30 business days after the alleged violation, the party charging an unfair labor practice shall submit the charge in writing to the labor relations administrator and the party alleged to have committed the unfair labor practice.

(c) Within 15 business days after an unfair labor practice charge is submitted, the Commission and the employee organization shall request the labor relations administrator to hold a hearing and decide whether an unfair labor practice has occurred.

(d) The labor relations administrator shall:

(1) conduct the hearing;

(2) issue a finding of facts and conclusion of law;

(3) order the party found to have committed the unfair labor practice to cease and desist from the prohibited practice; and

(4) order all relief necessary to remedy the violation of this subtitle and otherwise to make whole any injured employee or employee organization or the Commission, if injured, including reinstatement, restitution, back pay, or other remedy needed to restore the employee, the employee organization, or the Commission to the position or condition it would have been in but for the violation.

(e) The labor relations administrator may not order punitive damages, consequential damages, damages for emotional distress, pain, and suffering, or attorney's fees for purposes of satisfying the requirements of subsection (d)(4) of this section.

(f) If the labor relations administrator finds that the party charged has not committed an unfair labor practice, the labor relations administrator shall issue an order dismissing the charges.

(g) (1) Subject to paragraph (2) of this subsection, the labor relations administrator's decision is final.

(2) A party may seek judicial review of the decision on the basis that the decision is arbitrary, capricious, or exceeds the authority of the labor relations administrator.

(h) The Commission and the employee organization shall share equally the costs of any unfair labor practice proceeding.

(i) If the party found to have committed the unfair labor practice fails or refuses to comply with the labor relations administrator's decision in whole or in part, the charging party may file an action to enforce the order with the circuit court for the county in which any of the involved employees work.

§18–217.

(a) This section applies to the expression of any personal view, argument, or opinion or the making of any personal statement that:

(1) (i) publicizes the fact of a representational election and encourages employees to exercise their right to vote in the election;

(ii) corrects the record with respect to any false or misleading statement made by any person; or

(iii) informs employees of the Commission's policy relating to labor–management relations and representation;

(2) does not contain a threat of reprisal, force, or promise of benefit; and

(3) is not made under coercive conditions.

(b) The expression of any personal view, argument, opinion, or statement described in subsection (a) of this section does not constitute:

(1) an unfair labor practice under the provisions of this subtitle; or

(2) grounds for setting aside any election conducted under this subtitle.

§19–101.

In this title, "Board" means the Board of Ethics established by the Commission under regulations adopted in accordance with Title 5, Subtitle 8, Part IV of the General Provisions Article.

§19–102.

(a) Except where provisions of this title exceed the minimum standards of the Maryland Public Ethics Law, commissioners and employees of the Commission are subject to the conflict of interest and lobbying provisions of the Maryland Public Ethics Law.

(b) Notwithstanding any other provision of law, a commissioner, employee, contractor, or subcontractor of the Commission may not willfully and knowingly violate:

(1) any provision of this title;

(2) the Maryland Public Ethics Law; or

(3) any Commission regulation governing:

(i) conflicts of interest;

(ii) financial disclosure;

(iii) lobbying; or

(iv) ethics in public contracting.

§19–103.

(a) A commissioner shall disclose any conflicts of interest under the Maryland Public Ethics Law at a Commission meeting.

(b) The commissioner may not participate in any decision or act affected by the conflict of interest.

§19–104.

A commissioner may not attempt to influence a county or State official in the

conduct of the official's duties for a purpose contrary to:

(1) this title; or

(2) the Maryland Public Ethics Law.

§19–105.

(a) A commissioner or employee of the Commission who receives an ex parte communication that concerns a case where a determination or decision is required by law to be made only after a public hearing for interested parties shall make the ex parte communication public and part of the record of the proceeding.

(b) A commissioner or employee of the Commission who receives an ex parte communication that concerns the merits of a case where the commissioner's or employee's determination or decision is required by law to be made only after a public hearing for interested parties shall:

(1) note the substance of an oral ex parte communication for the record; and

(2) place the substance of a written ex parte communication on the record.

§19–106.

The Board may administer oaths.

§19–107.

(a) Notwithstanding any other provision of the Commission code of ethics, judicial enforcement under this section in the investigation of a complaint alleging improper disclosure of confidential information shall apply only to information that is subject to denial of a request for information under the Maryland Public Information Act.

(b) (1) A respondent aggrieved by a final order of the Board may seek judicial review as provided under Title 10, Subtitle 2 of the State Government Article.

(2) (i) Unless the Board and the respondent mutually agree otherwise, an order of the Board is stayed until the time for seeking judicial review expires.

(ii) If a timely appeal is filed, the order is stayed until final disposition by the court.

(3) The Commission may seek judicial enforcement:

(i) of an order of the Board; or

(ii) in accordance with § 19–108 of this title, to ensure compliance

with its regulations governing:

1. conflicts of interest;

2. financial disclosure;

3. lobbying; or

4. ethics in public contracting.

§19–108.

A court may:

(1) compel compliance with an order of the Board or Commission regulations governing conflicts of interest, financial disclosure, lobbying, or ethics in public contracting by:

(i) issuing an order to cease and desist from the violation; or

(ii) granting other injunctive relief; and

(2) impose a fine not exceeding $5,000 for a violation of this title or Commission regulations governing conflicts of interest, financial disclosure, lobbying, or ethics in public contracting.

§20–101.

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

(b) "Design/build contract" means a contract that provides for both architectural and engineering design services and construction services as a part of a single contract.

(c) "Evaluated bid price" means the price of a bid after adjustment in accordance with objective measurable criteria.

(d) "Facilities construction contract" means a contract that provides services for the construction of:

(1) a water or wastewater treatment plant;

(2) a water or wastewater pumping station and related force mains in the pumping station site limits;

(3) a water storage facility;

(4) a wastewater storage facility;

(5) a building for Commission purposes; or

(6) a pipeline.

(e) "Objective measurable criteria" means standards that enable the Commission to compare the economy, effectiveness, or value of the subject of the bids.

§20–102.

This subtitle applies only to:

(1) design/build contracts; and

(2) construction contracts.

§20–103.

If the Commission decides to proceed with the design or construction of a water supply or sanitary sewer system, the Commission shall comply with the requirements of this subtitle.

§20–104.

(a) The Commission shall provide an opportunity for a hearing before proceeding with the design or construction of a water supply or sanitary sewer system.

(b) Subject to subsection (c) of this section, the Commission:

(1) shall advertise in newspapers and technical media that the Commission considers appropriate for bids or proposals for design or construction services for any part of a water supply or sanitary sewer system; and

(2) may readvertise any part of the services needed if the Commission considers the prices quoted in response to a prior advertisement to be unreasonable.

(c) (1) Subject to paragraph (2) of this subsection, the Commission may use day labor to complete any part of the design or construction of a water supply or sanitary sewer system.

(2) Notwithstanding § 20–105(a) of this subtitle, the Commission may spend up to $15,000 for day labor for any part of construction services without advertising for or receiving bids or proposals.

(d) (1) Except as provided in paragraph (2) of this subsection, the Commission may enter into any type of contract under this subtitle that promotes the best interest of the Commission.

(2) The Commission:

(i) may not enter a cost–plus–percentage–of–cost contract; and

(ii) shall prohibit a cost–plus–percentage–of–cost subcontract under a contract with the Commission.

(e) The Commission may only enter into a design/build contract for a facilities construction contract with costs exceeding $2,000,000.

(f) The Commission may reject any bid or proposal.

(g) (1) The Commission may require a contract to be secured by bonds, penalties, and conditions.

(2) Security authorized under this subsection is enforceable in any court of competent jurisdiction.

(h) The Commission:

(1) may adopt regulations to establish a prequalification process for bidders or offerors; and

(2) shall adopt regulations to govern discussions held with offerors under § 20–105(c)(3) of this subtitle.

§20–105.

(a) The Commission shall award contracts by:

(1) competitive sealed bids in accordance with subsection (b) of this section; or

(2) competitive sealed proposals in accordance with subsection (c) of this section.

(b) (1) If a contract is awarded based on competitive sealed bids, the Commission shall seek bids by issuing an invitation for bids.

(2) Subject to paragraphs (3) through (5) of this subsection, an invitation for bids shall:

(i) include the contract specifications, including the expected degree of minority business enterprise participation provided under Subtitle 2 of this title; and

(ii) state whether the contract will be awarded based on the lowest bid price or the lowest evaluated bid price.

(3) If a contract will be awarded based on an evaluated bid price, the invitation for bids shall include the objective measurable criteria by which the lowest evaluated bid price will be determined.

(4) The Commission shall award contracts based on competitive sealed

bids to the responsible bidder who submits the lowest bid price or lowest evaluated bid price, as appropriate.

(5) If the Commission determines that an initial preparation of specifications for price bids is impractical, the invitation for bids may:

(i) include a request for an unpriced technical offer or sample; and

(ii) direct a bidder to submit:

1. a sealed price bid with the unpriced technical offer or sample; or

2. a price bid after the Commission:

A. evaluates the technical offer or sample; and

B. finds that the offer or sample is acceptable under the criteria set forth in the invitation for bids.

(6) If an invitation for bids includes a request for an unpriced technical offer or sample, the Commission shall:

(i) consider the price bid of a bidder whose technical offer or sample is acceptable;

(ii) return unopened the price bid of a bidder whose technical offer or sample is unacceptable; and

(iii) award the contract to the responsible bidder whose technical offer or sample is acceptable and who submits the lowest bid price or lowest evaluated bid price, as specified in the invitation for bids.

(c) (1) If a contract is awarded based on competitive sealed proposals, the Commission shall seek proposals by issuing a request for proposals.

(2) A request for proposals shall include:

(i) a statement describing the scope of the contract, including the expected degree of minority business enterprise participation provided under Subtitle 2 of this title;

(ii) the factors, including price, that will be used in evaluating proposals; and

(iii) the relative importance of each factor.

(3) After receipt of proposals, but before the contract is awarded, the Commission may conduct discussions with an offeror to:

(i) obtain the best price for the Commission; and

(ii) ensure full understanding of the requirements of the Commission, as set forth in the request for proposals and in the proposal.

(4) The Commission:

(i) shall treat all responsible offerors fairly and equally; and

(ii) may allow each responsible offeror to revise the offeror's initial proposal and submit a best and final offer.

(5) The Commission shall award a contract based on competitive sealed proposals to the responsible offeror who submits the proposal or best and final offer that the Commission determines is the most advantageous to the Commission, considering the evaluation factors set forth in the request for proposals.

§20–106.

(a) (1) The Commission may not award a contract unless the contract contains provisions obligating the contractor:

(i) not to discriminate in any manner against an employee or an applicant for employment on the basis of sex, race, creed, color, age, mental or physical disability, sexual orientation, or national origin; and

(ii) to include a similar nondiscrimination clause in all subcontracts.

(2) (i) If the nondiscrimination clause is omitted from a contract or subcontract, the Commission shall provide the contractor a reasonable opportunity to cure the defect, subject to this section.

(ii) If the contractor fails to cure the defect:

1. the Commission may declare the contract to be void; and

2. the contractor is entitled to the reasonable value of work performed and materials provided by the contractor.

(iii) If the contractor cures the defect, the contract remains in force according to its revised terms.

(b) (1) In accordance with this section, the Commission may compel a contractor to continue to perform under a contract if:

(i) the contractor willfully fails to comply with the requirements of a nondiscrimination clause; and

(ii) the contract is partially executory.

(2) If the Commission compels performance under this subsection, the Commission:

(i) is liable for no more than the reasonable value of work performed and materials provided by the contractor after the date on which the breach of contract was or should have been discovered; and

(ii) shall deduct any money that has been paid under the contract from the money that comes due under item (i) of this paragraph.

(c) (1) If a subcontractor willfully fails to comply with the requirements of a nondiscrimination clause, the contractor may declare the subcontract to be void.

(2) If a contractor declares a subcontract to be void under this subsection, the contractor is liable for no more than the reasonable value of work performed or materials provided by the subcontractor.

§20–201.

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

(b) Except as provided in § 20–203 of this subtitle, "minority business enterprise" means a legal entity that is:

(1) organized to engage in commercial transactions; and

(2) at least 51% owned and controlled by one or more individuals who are members of a group that is:

(i) disadvantaged socially or economically by the effects of past discrimination, including discrimination as to certification; and

(ii) identified by a study conducted in accordance with this subtitle or a similar, previously conducted study.

(c) "Office" means the Office of Small, Local, and Minority Business Enterprise established under § 20–202 of this subtitle.

§20–202.

(a) There is an Office of Small, Local, and Minority Business Enterprise in the Commission.

(b) The head of the Office is the Director of the Office of Small, Local, and Minority Business Enterprise.

(c) The Office shall:

(1) administer each Commission program that is created to promote the

growth of or participation by minority or local small business enterprises, including:

(i) the minority business enterprise utilization program for design/build and construction contracts under § 20–203 of this subtitle;

(ii) the minority business enterprise utilization program for the procurement of other goods and services under § 20–204 of this subtitle; and

(iii) the local small business enterprise program under Subtitle 3 of this title;

(2) promote and coordinate the plans, programs, and operations of the Commission that promote or affect the establishment, preservation, and strengthening of minority business enterprises;

(3) promote activities and the use of the resources of the Commission, local governments, and private entities for the growth of minority business enterprises;

(4) provide technical and managerial assistance to minority business enterprises;

(5) schedule seminars and workshops to educate minority businesses on how the Commission conducts business; and

(6) ensure compliance with certified minority business enterprise subcontract participation goals under § 20–206 of this subtitle.

§20–203.

(a) In this section, "minority business enterprise" has the meaning stated in § 14–301 of the State Finance and Procurement Article.

(b) (1) By resolution and adopting regulations, the Commission shall establish a mandatory minority business enterprise utilization program to facilitate the participation of responsible certified minority business enterprises in contracts awarded by the Commission in accordance with its competitive bidding or proposal procedures under Subtitle 1 of this title.

(2) The Office shall administer the program established under this subsection.

(c) Regulations that establish the program under subsection (b) of this section shall include provisions that:

(1) recognize the certification of minority business enterprises by the State certification agency designated under § 14–303(b) of the State Finance and Procurement Article;

(2) recognize any other certification program that the Commission determines substantially duplicates the requirements of the State certification agency;

(3) provide for the graduation of a minority business enterprise from the program if the Commission determines that the minority business enterprise no longer requires the assistance or benefits offered by the program;

(4) at the time of submission, require a bid or proposal based on a solicitation with an expected degree of minority business enterprise participation to include proof of a certified minority business enterprise commitment by stating:

(i) the potential subcontract opportunities available in the prime procurement contract; and

(ii) the number of minority business enterprises that have certified, under the penalties for perjury, that the minority business enterprise has entered into an agreement with the bidder or offeror to provide goods or services under specific terms outlined in the certification;

(5) require each general contractor to submit to the Commission monthly reports of the number of minority business enterprises employed by the general contractor;

(6) require each general contractor to provide prompt notification to the Commission if a contract with a minority business enterprise is terminated;

(7) require each general contractor to:

(i) maintain a participation level from minority business enterprises that is consistent with the participation level referenced under item (4)(ii) of this subsection; or

(ii) provide justification for the inability of the general contractor to maintain the participation level;

(8) provide for an increase in minority business enterprise participation as general contractors and subcontractors; and

(9) authorize the waiver of all or part of the program for a specific contract if the Commission determines that applying the program to the contract would conflict with the overall objectives and responsibilities of the Commission.

(d) Before accepting an alternative certification program under subsection (c)(2) of this section, the Commission shall examine the alternative program to ensure that the alternative program complies with the guidelines established under § 20–205 of this subtitle.

§20–204.

(a) (1) By resolution and adopting regulations, the Commission shall establish a minority business enterprise utilization program to facilitate the participation of responsible certified minority business enterprises in contracts awarded by the Commission for goods and services that are not covered under § 20–203 of this subtitle, if the Commission determines that:

(i) minority business enterprises are underrepresented in the award of these contracts due to the effects of past discrimination; and

(ii) a program is necessary to remedy the effects of this past discrimination.

(2) The Office shall administer the program established under this subsection.

(b) Regulations that establish the program under subsection (a) of this section shall include provisions that:

(1) recognize the certification of minority business enterprises by the State certification agency designated under § 14–303(b) of the State Finance and Procurement Article;

(2) recognize any other certification program that the Commission determines substantially duplicates the requirements of the State certification agency;

(3) provide for the graduation of a minority business enterprise from the program if the Commission determines that the minority business enterprise no longer requires the assistance or benefits offered by the program;

(4) at the time of submission, require a bid or proposal based on a solicitation with an expected degree of minority business enterprise participation to include proof of a certified minority business enterprise commitment by stating:

(i) the potential subcontract opportunities available in the prime procurement contract; and

(ii) the number of minority business enterprises that have certified, under the penalties for perjury, that the minority business enterprise has entered into an agreement with the bidder or offeror to provide goods or services under specific terms outlined in the certification;

(5) require each general contractor to submit to the Commission monthly reports of the number of minority business enterprises employed by the general contractor;

(6) require each general contractor to provide prompt notification to the

Commission if a contract with a minority business enterprise is terminated;

(7) require each general contractor to:

(i) maintain a participation level from minority business enterprises that is consistent with the participation level referenced under item (4)(ii) of this subsection; or

(ii) provide justification for the inability of the general contractor to maintain the participation level;

(8) provide for minority business enterprise participation through subcontracting;

(9) (i) authorize the waiver of all or part of the program for a specific contract if the Commission determines that applying the program to the contract would conflict with the overall objectives and responsibilities of the Commission; and

(ii) require the Commission to report annually to the Montgomery County and Prince George's County Senate and House Delegations to the Maryland General Assembly on any waivers granted under this subsection;

(10) except as provided in item (11) of this subsection, provide for a system of granting a preference of up to the lesser of 5% or $50,000 to minority business enterprises in evaluating bids or proposals;

(11) subject to subsection (d) of this section, establish a sheltered market program in which bidding on procurement contracts designated by the Commission as appropriate is restricted to certified minority business enterprises;

(12) require the solicitation document accompanying each solicitation to set forth the regulations that establish the program;

(13) require the geographic location and the principal place of business of the minority business enterprise to be a consideration for participation in the program, including requiring Montgomery County businesses and Prince George's County businesses to each have a targeted percentage of at least 40% of any contracts; and

(14) authorize the Commission to:

(i) refuse to recognize the certification of a business found to be in violation of the purposes of the program; and

(ii) permanently bar an active principal of a violating business from future participation in the program.

(c) Before accepting an alternative certification program under subsection (b)(2) of this section, the Commission shall examine the alternative program to ensure that:

(1) the alternative program complies with the guidelines established under § 20–205 of this subtitle; and

(2) the principal owner of an eligible minority business enterprise is in not more than one certified business that is participating in the Commission minority business enterprise utilization program under this section.

(d) (1) The sheltered market program established in subsection (b)(11) of this section may not be used until all less restrictive remedies under subsection (b) of this section and race–neutral remedies, including assistance with bonding requirements, financing, or bidding procedures for small firms, have been used and determined to be ineffective.

(2) If at least three certified minority business enterprises bid on a contract under the sheltered market program, the Commission shall award the contract to the lowest bidder.

(3) If fewer than three certified minority business enterprises bid on a contract under the sheltered market program, the contract shall be awarded under subsection (b)(10) of this section.

§20–205.

(a) (1) A certifying agency shall determine bona fide minority group membership based on an individual's claim that the individual is:

(i) a member of a minority group; and

(ii) regarded as a member by that minority community.

(2) A certifying agency may determine that an individual's claim under this subsection is invalid.

(b) (1) To be eligible for certification as a minority business enterprise and participation in a minority business enterprise utilization program under § 20–203 or § 20–204 of this subtitle, a business shall meet the standards under this subsection.

(2) (i) A minority business enterprise shall be an independent business.

(ii) A certifying agency shall determine whether a business is independent by considering:

1. the date the business was established;

2. the adequacy of the resources of the business for the work required under the contract;

3. the degree to which financial, equipment leasing, and other

relationships with nonminority businesses vary from industry practice; and

4. any other relevant factor.

(3) A minority owner shall have real, substantial, and continuing ownership and control of the business that goes beyond the pro forma ownership of the business as reflected in the ownership documents.

(4) A minority owner shall have the customary incidents of ownership and share in the risks and profits commensurate with the ownership interests in the business as demonstrated by an examination of the substance rather than the form of the arrangements.

(5) Recognition of the business as a separate entity for tax or corporate purposes is not necessarily sufficient for certification as a minority business enterprise.

(6) (i) A minority owner shall have the power to:

1. direct or cause the direction of the management and policies of the business; and

2. make the day–to–day and major decisions on matters of management, policy, and operations for the business.

(ii) The business may not be subject to a formal or informal restriction, including a bylaw, partnership agreement, or charter requirement for cumulative voting rights, that prevents a minority owner from making a business decision without the cooperation or vote of an owner who is not a minority.

(7) (i) The business may not be operated disproportionately by the owners of the business who are not minorities.

(ii) If the management of the business is contracted out to an individual other than the owner, the individual who has the ultimate power to hire and fire the managers may be considered as controlling the business.

(8) (i) Minorities shall directly hold all securities that constitute ownership or control of a corporation for the purpose of establishing the corporation as a minority business enterprise.

(ii) Securities held in trust or by a guardian for a minor may not be considered held by minorities in determining the ownership or control of a corporation.

(9) A contribution of capital or expertise by a minority owner to acquire an interest in a business shall be real and substantial and may not include:

(i) a promise to contribute capital;

(ii) a note payable to the business or owners of the business who are not socially and economically disadvantaged; or

(iii) participation as an employee and not as a manager.

(c) In determining eligibility as a minority business enterprise, a certifying agency shall:

(1) closely scrutinize a newly formed business, or a business for which the ownership or control has changed since the date of the advertisement of the contract, to determine the reason for the timing of the formation or change;

(2) carefully review a previous or continuing employer–employee relationship among present owners to ensure that an employee–owner has the management responsibilities and capabilities required under this section; and

(3) carefully review a relationship between a minority business enterprise and a business that is not a minority business enterprise that has an interest in the minority business enterprise to determine if the interest of the nonminority business conflicts with the ownership and control requirements of this section.

§20–206.

(a) The Office shall verify that a certified minority business enterprise listed in a schedule of participation is actually performing work and receiving compensation as established in the schedule.

(b) To facilitate the Office completing its duties under subsection (a) of this section, a contractor shall:

(1) allow the Office to inspect any relevant matter, including records and the job site;

(2) allow the Office to interview subcontractors and employees of the contractor;

(3) if performing a construction contract, ensure that subcontractors:

(i) are paid any undisputed amount to which the subcontractor is entitled as provided under § 15–226 of the State Finance and Procurement Article; and

(ii) comply with Commission regulations;

(4) include in the agreement with the certified minority business enterprise subcontractor a requirement that the subcontractor submit a monthly report to the Commission that:

(i) identifies the prime contract; and

(ii) lists payments received from the contractor in the previous month and invoices sent to the contractor that have not been paid; and

(5) submit a monthly report to the Commission that lists:

(i) unpaid invoices that are more than 30 days old received from certified minority business enterprise subcontractors; and

(ii) the reason payments have not been made.

(c) (1) (i) On completion of a contract or before final payment or release of retainage, the Commission may require a general contractor on a contract having a minority business enterprise subcontracting goal to submit to the Commission a final report of all payments made to or withheld from minority business enterprise subcontractors.

(ii) The final report shall be in affidavit form and under the penalties for perjury.

(2) Each solicitation shall contain notice of the requirements of this subsection.

(d) (1) On a finding that a contractor is noncompliant, the Commission shall notify the contractor in writing of the findings and state the required corrective action.

(2) A noncompliant contractor shall:

(i) initiate the corrective action within 10 days after receiving the written notice; and

(ii) complete the corrective action within the time specified by the Commission.

(e) If the Commission finds that a general contractor is in material noncompliance with minority business enterprise contract provisions and the general contractor fails to take the corrective action required by the Commission, the Commission may:

(1) terminate the contract;

(2) refer the general contractor to the general manager of the Commission or the full Commission for appropriate action; or

(3) initiate any other specific remedy identified in the contract.

§20–207.

(a) By October 31 of each year, the Commission shall issue a report to the Montgomery County and Prince George's County Senate and House Delegations to

the Maryland General Assembly concerning:

(1) the implementation and administration of the minority business enterprise programs under this subtitle for the fiscal year ending on the preceding June 30; and

(2) appropriate recommendations concerning the programs.

(b) (1) The Commission may conduct an impartial fact–finding study in connection with a minority business enterprise program for consistency with applicable law.

(2) The Commission shall report the findings of a study completed under this subsection to the Montgomery County and Prince George's County Senate and House Delegations to the Maryland General Assembly.

§20–208.

This subtitle shall be of no effect and may not be enforced after July 1, 2017.

§20–301.

In this subtitle, "program" means a local small business enterprise program.

§20–302.

(a) By resolution or adopting regulations, the Commission may establish a local small business enterprise program.

(b) The Office of Small, Local, and Minority Business Enterprise, established under § 20–202 of this title, shall administer the program.

§20–303.

The purpose of the program is to assist small businesses in Montgomery County and Prince George's County by:

(1) establishing a sheltered market or other appropriate preference; or

(2) facilitating the award of Commission construction contracts or procurement contracts for goods and services to small businesses in Montgomery County and Prince George's County.

§20–304.

(a) The Commission shall adopt:

(1) eligibility criteria for businesses to qualify for the program, including:

(i) the criteria for a small business qualifying under the Small Business Preference Program as established in regulations adopted by the Department of General Services under § 14–203 of the State Finance and Procurement Article;

(ii) a requirement that:

1. the business's principal place of business be in Montgomery County or Prince George's County; or

2. at least 25% of the total number of employees of the business be domiciled in Montgomery County or Prince George's County; and

(iii) any other eligibility criteria that the Commission determines to be necessary or appropriate for the promotion of small businesses in the Commission's service area; and

(2) administrative procedures for conducting the program.

(b) A business may qualify as a local small business enterprise under the program without regard to the race, ethnicity, or gender of the participants in the business.

(c) The Commission shall establish criteria for graduation from the program for a local small business that the Commission determines no longer requires the assistance or benefits offered by the program.

(d) The Commission shall review the eligibility criteria and administrative procedures of the program each year to assess their effectiveness in furthering the purposes of the program.

§21–101.

(a) In this section, "property" includes:

(1) land;

(2) structures;

(3) buildings;

(4) streambeds;

(5) waterways;

(6) water rights;

(7) watersheds;

(8) water systems and parts of water systems; and

(9) wastewater systems and parts of wastewater systems.

(b) The Commission may acquire property for the construction, extension, maintenance, or operation of a project the Commission considers:

(1) necessary to carry out this division; or

(2) in furtherance of this division.

(c) If the Commission decides to acquire property within or outside the sanitary district in accordance with subsection (b) of this section, the Commission may acquire the property:

(1) in fee; or

(2) as an easement.

(d) If the Commission fails to agree on the terms of acquisition with the owner of any property, the Commission may condemn the property by filing a petition for condemnation in the circuit court for the county in which the property is situated, as provided for condemnation of land under the Real Property Article.

(e) The Commission may condemn the interest of any tenant, lessee, or other person having an interest in property that the Commission decides to acquire.

§21–102.

(a) (1) Except as provided in subsection (b) of this section, land used for cemetery purposes may not be condemned unless the Commission adopts a resolution declaring that it is necessary for the public health and safety to acquire the cemetery land, or an easement in the land, immediately by condemnation.

(2) A resolution under this subsection may only be adopted on the affirmative vote of a majority of the commissioners from the county where the cemetery land is located.

(b) (1) The Commission may condemn public or private land used for cemetery purposes, or an easement in the land, without adopting a resolution in accordance with subsection (a) of this section if the land or easement is for the purpose of installing sewer lines or water lines.

(2) Sewer lines or water lines installed on property condemned under paragraph (1) of this subsection shall be constructed underground and enclosed.

(c) The land or easement to be acquired may not disturb:

(1) any existing grave, grave marker, or monument; or

(2) any grave site:

(i) the title to which has been transferred as a result of a bona fide sale or exchange; or

(ii) in which burial rights have vested or been transferred as a result of a bona fide sale or exchange.

§21–103.

If the Commission does not consider the property necessary for the operation of its water, sewer, or stormwater management systems, the Commission may sell, lease, transfer, convey, or dispose of any of its real or personal property on terms and conditions that the Commission considers advantageous.

§21–104.

(a) (1) In this section the following words have the meanings indicated.

(2) "High performance building" means a building that:

(i) meets or exceeds the current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Green Building Rating System Silver rating; or

(ii) achieves at least a comparable numeric rating according to a nationally recognized, accepted, and appropriate numeric sustainable development rating system, guideline, or standard approved by the Secretary of Budget and Management and the Secretary of General Services.

(3) "Major renovation" means the renovation of a building where:

(i) the building shell is to be reused for the new construction;

(ii) the heating, ventilating, and air–conditioning (HVAC), electrical, and plumbing systems are to be replaced; and

(iii) the scope of the renovation is 7,500 square feet or greater.

(b) It is the intent of the General Assembly that, to the extent practicable:

(1) the Commission shall employ green building technologies when constructing or renovating a Commission–owned building not subject to this section; and

(2) high performance buildings shall meet the criteria and standards established under the "High Efficiency Green Building Program" adopted by the Maryland Green Building Council.

(c) Except as provided in subsections (d) and (e) of this section, if a capital project includes the construction or major renovation of a building that is 7,500 square

feet or greater, the building shall be constructed or renovated to be a high performance building.

(d) The following types of unoccupied buildings are not required to be constructed or renovated to be high performance buildings:

(1) warehouse and storage facilities;

(2) garages;

(3) maintenance facilities;

(4) transmitter buildings;

(5) pumping stations; and

(6) other similar types of buildings, as determined by the Commission.

(e) (1) The Commission may request from the county where the proposed capital project is located a waiver from complying with subsection (c) of this section.

(2) On receipt of a written request of a waiver under this subsection, with approval of the county executive, the county council of the county where the proposed capital project is located may issue a waiver under this subsection if the county council determines that the use of a high performance building in a proposed capital project is not practicable.

§21–201.

In this subtitle, "water supply, sanitary sewer, or stormwater management project" includes a:

(1) water main, sewer, or drain or appurtenance of a water main, sewer, or drain;

(2) fire hydrant;

(3) reservoir;

(4) water purification plant;

(5) tank;

(6) pumping station; and

(7) sewage disposal plant.

§21–202.

The purpose of this subtitle is to provide that in emergencies the Commission, in its discretion, may condemn land or interest in land under the optional procedure provided by this subtitle before or after construction of a water supply, sanitary sewer, or stormwater management system, or part of a system, has begun.

§21–203.

This subtitle applies only to land in Prince George's County.

§21–204.

(a) Subject to subsection (b) of this section and §§ 21–205 and 21–206(a) of this subtitle, the Commission may enter on and take possession of remaining land or interest in land described in item (2) of this subsection and proceed with the extension or construction of a water supply, sanitary sewer, or stormwater management project if the Commission:

(1) has acquired or is acquiring by purchase or other procedure, including the condemnation procedures provided for in the Real Property Article and Subtitle 1 of this title, at least one–half of the takings of land or interest in land required for the extension or construction of the project; and

(2) determines that the remaining takings of land or interest in land are needed for the extension or construction of the project.

(b) A building may not be taken under this subtitle.

§21–205.

(a) (1) The Commission's right to enter and take possession of land or an interest in land under this subtitle takes effect immediately after the filing of a written declaration of taking in the Circuit Court for Prince George's County, accompanied by payment of the estimated fair market value of the land or interest in land, as required under § 21–206(a) of this subtitle.

(2) A declaration of taking may be:

(i) combined with a petition for condemnation, filed simultaneously with or as part of the same pleading; or

(ii) filed after a petition for condemnation.

(b) A declaration of taking shall:

(1) include a statement as to the number of takings in land or interest in land necessary for the extension or construction of the water supply, sanitary sewer, or

stormwater management project;

(2) include a statement that the Commission has acquired or is acquiring by purchase or procedures other than the declaration of taking method at least one–half of the takings needed for the extension or construction of the project;

(3) contain a description of the land or interest in land being taken;

(4) name the Commission as plaintiff and the owner of the land or interest in land as defendant;

(5) be docketed by the clerk of the circuit court, unless the petition for condemnation is on file or filed simultaneously with the declaration of taking; and

(6) identify the qualified appraiser and specify the estimated fair market value of the land or interest in land being taken, as required by § 21–206(a) of this subtitle.

(c) Notice of and service on the property owner of a declaration of taking shall be accomplished in the same manner as is required for petitions for condemnation.

(d) If the Commission files the declaration of taking accompanied by the payment of the estimated fair market value required under § 21–206(a) of this subtitle, the date of filing shall be the operative date of the taking to determine:

(1) the fair market value of the land or interest in land taken; and

(2) damages, if any, caused by the taking.

§21–206.

(a) (1) With the declaration of taking, the Commission shall pay to the owner of the land or interest in land, or to the Circuit Court for Prince George's County for the owner's benefit, a sum that the Commission estimates to be the fair market value of the land or interest in land being taken.

(2) The Commission's estimate of the fair market value of the land or interest in land being taken may not be less than its appraised value as evaluated by at least one experienced and qualified appraiser, whose qualifications as an appraiser have been accepted by a court of record of the State.

(b) Payment of the estimated fair market value of land or interest in land under this section does not limit the amount that may be awarded with respect to the land or interest in land.

(c) If the estimated fair market value of the land or interest in land is paid into the court under subsection (a) of this section, the property owner, on written request to the clerk of the court, may receive the sum paid without prejudice to any of the owner's

rights if the property owner agrees to pay back to the Commission the amount by which the sum paid exceeds the final award.

§21–207.

(a) (1) If the Commission and the owner of the land or interest in land being taken are unable to agree as to the compensation and damages, if any, caused by the taking, the Commission shall institute condemnation proceedings in the manner required by the Real Property Article and the Maryland Rules.

(2) The court shall hear and determine the condemnation proceedings as soon as practicable after the application to the court.

(b) If the condemnation petition is not filed at the same time as the Commission pays the estimated fair market value to the owner or to the court for the owner's benefit, the Commission shall file the condemnation petition not later than 30 days after receipt of notice from the property owner that a disagreement exists as to the compensation and damages, if any, caused by the taking.

§21–301.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "District council" has the meaning stated in § 14–101 of the Land Use Article.

(ii) "District council" includes a designee or hearing officer appointed by the district council.

(3) "Regional district" has the meaning stated in § 14–101 of the Land Use Article.

(b) An application for amendment to the zoning map of the regional district may be referred by the respective district council to the Commission for the Commission's review and comment.

(c) (1) The Commission shall review each application referred to it and shall report in writing on each application to the appropriate district council not less than 15 days before the regularly scheduled public hearing on the application.

(2) The report shall include an analysis of the probable impact on existing and proposed sewer, water, or other Commission facilities in terms of:

(i) treatment facilities;

(ii) sewer lines of both program and less–than–program size;

(iii) their respective design capacity and present volume flow to

capacity relationship;

(iv) construction schedules; and

(v) proposed projects under the 6–year capital improvements program or 10–year water and sewer plan.

(d) With respect to an application referred to the Commission under subsection (b) of this section, the Commission shall provide supplemental information requested by the district council at least 15 days before the regularly scheduled public hearing on the application or within 15 days after the Commission receives the request, whichever is later.

(e) On request of the district council, Commission staff shall appear before the district council to discuss information provided by the Commission under this section.

§21–401.

In this subtitle, "urban renewal authority":

(1) means a unit of government that is engaged in urban renewal activity; and

(2) includes:

(i) the State;

(ii) Montgomery County;

(iii) Prince George's County; and

(iv) any unit of government in Montgomery County or Prince George's County.

§21–402.

If the Commission is paid or assured payment by an urban renewal authority for the Commission's costs and expenditures in accordance with this subtitle, the Commission may cooperate with and assist the urban renewal authority in an urban renewal project undertaken by the urban renewal authority by abandoning, relocating, installing, constructing, or reconstructing water or sanitary sewer facilities in the urban renewal area.

§21–403.

(a) If an urban renewal project or an act of the General Assembly that provides for an urban renewal program requires or results in the abandonment, relocation, realignment, raising, lowering, rebuilding, or removal of any water or sanitary sewer facility of the Commission, the urban renewal authority shall pay to the Commission

the entire cost less any salvage value from the old facility.

(b) An urban renewal authority may not allow any Commission structure to be removed, abandoned, or damaged in connection with an urban renewal project until:

(1) the urban renewal authority has paid the Commission; or

(2) payment to the Commission has been assured to the Commission's satisfaction, in accordance with this subtitle.

(c) If an urban renewal project requires the construction of a new water or sanitary sewer facility by the Commission, the Commission may:

(1) construct the facility if:

(i) the costs of the construction will be repaid through existing provisions for special assessments, including front foot benefit charges; or

(ii) the payment is made or assured by the urban renewal authority; and

(2) enter into agreements with an urban renewal authority providing for payment to the Commission over a period of time, with the terms of the contract and rate of interest determined by the Commission.

§22–101.

In this subtitle, "bond" means a bond, note, certificate of indebtedness, security, or other instrument evidencing debt issued and sold or offered for sale in accordance with law.

§22–102.

(a) The Commission may issue bonds of the sanitary district in amounts necessary to carry on its work, including for:

(1) acquisition, design, construction, reconstruction, establishment, extension, enlargement, or condemnation of the water and sewer systems in the sanitary district or in an area where extension of the systems may be authorized by law;

(2) acquisition of land or equipment for, or construction, remodeling, enlargement, or replacement of any office or operating building necessary to administer or operate the systems; or

(3) design and construction of trunk sewers and sewers or portions of sewer lines required to relieve septic tank failures and for which no front foot benefit charges can be collected as determined by the Commission, and sewage pumping

stations and sewage disposal facilities, including reimbursement to the District of Columbia or other federal authorities for any construction within the District of Columbia.

(b) (1) The Commission may issue bonds of the sanitary district for the acquisition of capital equipment in amounts necessary to carry on its work, including:

(i) computer equipment;

(ii) laboratory equipment;

(iii) maintenance field and yard equipment;

(iv) office equipment;

(v) telecommunication equipment; and

(vi) trucks and fleet vehicles.

(2) The bonds may be issued only to finance the acquisition of equipment:

(i) with a useful life of 4 to 7 years;

(ii) that the Commission expects to finance over a period of 4 years or less; and

(iii) for which the Commission budgets accordingly.

(3) The principal of the bonds issued under this subsection shall be payable annually beginning not more than 1 year after the date of issue.

(4) The bonds issued under this subsection shall mature not more than 4 years after the date of issue.

(5) The aggregate amount of bonds issued under this subsection outstanding at any time may not exceed $15,000,000, subject to annual upward adjustment in accordance with the Consumer Price Index – All Urban Consumers (CPI–U), for the Washington, DC–MD–VA metropolitan area, over the base year 1997.

(c) Except as otherwise provided in this section, bonds issued under this section shall be issued as serial bonds with the principal payable annually, beginning no later than 3 years from the date of issue.

(d) (1) The bonds shall:

(i) be issued in denominations determined by the Commission;

(ii) bear interest annually at rates the Commission determines to be advantageous to the sanitary district and in the public interest; and

(iii) mature no later than 40 years from the date of issue.

(2) The bonds may be:

(i) registered or coupon bonds; or

(ii) registrable as to principal with interest represented by coupons.

(3) The interest on the bonds shall be payable semiannually.

(e) (1) Notwithstanding any other provision of law, the Commission may issue bonds that have a maturity of more than 1 year as fully registered bonds without coupons.

(2) The Commission may determine the form of the bonds issued under paragraph (1) of this subsection for the purposes of:

(i) qualifying the interest on the bonds for exemption from federal income tax; and

(ii) conforming to standards and practices for the registration and transfer of bonds generally followed by banks and trust companies acting as registrars and transfer agents of bonds, including:

1. signing of bonds by facsimile signatures of Commission officers;

2. authentication of bonds by the manual signature of an officer of a bank or trust company signing as the registrar or transfer agent;

3. maintenance by registrars or transfer agents of records of owners of bonds;

4. complying with the standard record date system for payment of interest;

5. issuing bonds on the basis of book entries and certificates; and

6. complying with requirements for the form of bond that is acceptable to central depositories used in the marketing and trading of municipal bond issues.

(f) The bonds of the sanitary district or of the Commission are forever exempt from taxation by the State and counties and municipalities in the State.

(g) The bonds may be made redeemable before maturity at the option of the Commission at the prices and under terms and conditions that the Commission sets before the bonds are issued.

§22–103.

(a) Except as provided in subsection (b) of this section, the aggregate principal amount of bonds outstanding at any time that will not reach full maturity within 5 years from the date of issue may not exceed the greater of:

(1) the sum of:

(i) 3.8% of the total assessable base of all real property assessed for county tax purposes within the sanitary district; and

(ii) 7% of the total assessable personal property and operating real property described under § 8–109(c) of the Tax – Property Article assessed for county tax purposes within the sanitary district; or

(2) the sum of:

(i) 3.8% of the total assessable base of all real property assessed for county tax purposes within the sanitary district as of July 1, 1997; and

(ii) 7% of the total assessable personal property and operating real property described under § 8–109(c) of the Tax – Property Article assessed for county tax purposes within the sanitary district as of July 1, 1997.

(b) (1) In this subsection, "government obligation" means:

(i) a direct obligation of the United States; or

(ii) an obligation unconditionally guaranteed as to principal and interest by the United States.

(2) To calculate the maximum debt authorized under this section, the aggregate amount of bonds outstanding is reduced by:

(i) the amount held in the joint sinking fund account for the payment of principal of the bonds; and

(ii) the amount of any bond for which there is irrevocably deposited:

1. cash; or

2. government obligations maturing as to principal and interest at times and in amounts sufficient to provide adequate and complete payment of the principal or redemption price and interest as required on the bond.

(c) Except as otherwise provided by an act of the General Assembly of Maryland, the maximum debt level authorized under this section applies to any bond issued under an act of the General Assembly of Maryland enacted on or after July 1, 1997.

§22–104.

(a) (1) The bonds shall be:

(i) issued under the hand and seal of the Commission; and

(ii) guaranteed as to payment of principal and interest by Montgomery County and Prince George's County.

(2) Each bond shall contain the following statement:

"The payment of interest when due and the principal at maturity is guaranteed by Montgomery and Prince George's counties, Maryland".

(b) (1) The bonds of the sanitary district shall be signed:

(i) by the chair, secretary, and treasurer of the Commission; or

(ii) if authorized by the Commission, by any two commissioners.

(2) The official seal of the Commission shall be impressed on a bond of the sanitary district.

(3) For bonds issued for the purposes described under § 22–102(a)(1) and (2) of this subtitle, the Commission may authorize:

(i) any of its officials to sign a bond by facsimile signature; and

(ii) a facsimile of the official seal to be printed on the bond.

(4) For bonds issued for the purposes described under § 22–102(a)(3) of this subtitle, the Commission may authorize:

(i) any of its officials to sign a bond by facsimile signature, provided that the bond is manually signed by at least one official; and

(ii) a facsimile of the official seal to be printed on the bond.

(c) Within 20 days after the bonds are presented by the Commission for signing, the guaranty or endorsement by Montgomery County and Prince George's County shall be signed on each of the bonds on behalf of each county by the county executives of Montgomery County and Prince George's County, or by the county executive's designee, by facsimile or manual signature as the county executive determines.

(d) The liability under the guarantee for each county is in the same proportion that the assessable base of that part of that county within the sanitary district bears to the assessable base of the sanitary district.

(e) (1) The Commission may waive the guarantee required under subsection

(d) of this section, if the Commission determines that:

(i) the waiver would not seriously affect the sale of the bonds of the sanitary district; and

(ii) money market conditions justify the sale of the bonds of the sanitary district without the guarantee.

(2) The waiver of the guarantee under paragraph (1) of this subsection on one issue of bonds may not be construed to be a waiver of the guarantee of future bond issues.

§22–105.

(a) (1) If a bond issued by the Commission is destroyed, lost, or mutilated, the Commission may execute and deliver to the holder or registered owner of the bond a new bond with the same date, number, maturity, and tenor:

(i) on conditions to evidence ownership and the destruction or loss of the bond that the Commission determines; or

(ii) in exchange and substitution for and cancellation of the mutilated bond and any interest coupons.

(2) The Commission may require indemnity and payment of charges in connection with the exchange or substitution of a bond.

(b) (1) If the destroyed, lost, or mutilated bond was guaranteed by Montgomery County and Prince George's County, the new bond issued in substitution shall be endorsed with a guaranty identical to the guaranty on the destroyed, lost, or mutilated bond.

(2) The endorsement shall be signed as provided in § 22–104 of this subtitle.

§22–106.

(a) (1) To retire and pay the interest on bonds issued under this subtitle, each year the county councils of Montgomery County and Prince George's County shall impose against the assessable property that is in the sanitary district a tax sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full.

(2) The tax is to be determined, imposed, collected, and paid over to the Commission as provided in this section.

(3) Each year the Commission shall determine the amount necessary to pay the principal and interest on bonds issued to provide funds for the construction,

remodeling, enlargement, or replacement of any office or operating building.

(4) (i) The Commission shall set aside the amount determined under paragraph (3) of this subsection from water service charges, sewer usage charges, house connection charges, and any other charges imposed by the Commission as the Commission determines to be fair and equitable.

(ii) The amount set aside shall be deducted from the amount that the Commission determines to be necessary to be raised by direct taxation under this section on certification to the county councils of Montgomery County and Prince George's County.

(b) At least 30 days before the taxable year for property taxes, the county executives of Montgomery County and Prince George's County shall certify to the Commission the total valuation of assessable property within the sanitary district in each county.

(c) (1) The Commission shall determine the amount necessary, for the next taxable year, to pay:

(i) interest on all outstanding bonds;

(ii) principal of all serial bonds maturing during the year; and

(iii) the proportionate part of principal of all outstanding sinking fund bonds as determined by the usual table of redemption of bonds by annual deposit in a sinking fund on interest.

(2) After deducting all amounts in hand applicable to payment of interest and principal on the bonds, the Commission shall certify to the county councils of Montgomery County and Prince George's County the number of cents per $100 necessary to raise the amount determined under paragraph (1) of this subsection.

(d) (1) Each year the county councils of Montgomery County and Prince George's County shall impose a tax in the amount determined under subsection (c)(1) of this section on all assessable property within the sanitary district.

(2) The taxes imposed under this section shall:

(i) have the same status as county taxes; and

(ii) be imposed and collected by the tax collecting authority for each county as county taxes.

(e) Every 60 days, each county shall pay to the Commission the taxes collected under this section.

§22–107.

(a) (1) The amount collected by the Commission for benefits imposed against property for water supply and sewer construction under Title 25, Subtitle 2 of this article shall be set aside in a separate fund known as the Current Bond Fund.

(2) (i) The Current Bond Fund shall be used to pay interest on all outstanding bonds.

(ii) The balance of the Current Bond Fund shall be prorated monthly and applied to:

1. the payment of the principal of maturing serial bonds; and

2. the payment into the joint Sinking Fund Account, as provided under § 22–108 of this subtitle, of the proportionate part of the principal of outstanding sinking fund bonds as the outstanding par value of both types of bonds bear to each other.

(b) To determine the amount necessary to be imposed under § 22–106 of this subtitle, the Commission shall deduct the amount to its credit in the Current Bond Fund account from the amount necessary to be raised in any 1 year for interest on all outstanding bonds.

§22–108.

(a) (1) From the money received from the taxes imposed under § 22–106 of this subtitle together with the amount in hand to the credit of the Current Bond Fund or the amount applicable to the payment of interest and principal on the bonds, the Commission shall:

(i) pay all interest on the bonds as and when due; and

(ii) pay or reserve a sufficient amount of money to pay the serial bonds becoming due during the taxable year.

(2) After making the distributions required under paragraph (1) of this subsection, the Commission shall deposit in one or more banks in Montgomery County or Prince George's County, to the credit of both counties and the Commission, as a joint fund to be known as the Sinking Fund Account, the amount raised for the payment of the proportionate part of the principal of the sinking fund bonds.

(b) The Commission and Montgomery County and Prince George's County shall invest money in the Sinking Fund Account in any bonds in which the U.S. Treasury Department authorizes national banks to invest savings or trust funds.

(c) If receipts from the tax or other sources are inadequate to pay the principal of the serial bonds becoming due during the taxable year and to deposit the principal

payment on the sinking fund bonds, the deficiency shall be added to and collected in the following year's tax levy.

(d) Before the first taxable year for property taxes, the Commission may pay the interest on any bonds it issues out of the proceeds of the sale of the bonds.

§22–109.

To ensure the prompt payment of interest and provision for the payment of the principal on bonds issued under this subtitle:

(1) the prompt and proper performance of the acts required under §§ 22–106 and 22–108 of this subtitle is specially enjoined; and

(2) a person who is required to act under §§ 22–106 and 22–108 of this subtitle:

(i) shall perform the acts required under those sections;

(ii) shall pay over any funds as required under those sections; and

(iii) may not use any part of the funds for any other purpose than for the payment of principal and interest on the bonds.

§22–110.

(a) (1) Subject to paragraph (2) of this subsection, the Commission may borrow money in anticipation of taxes, sale of bonds, or other revenue of the fiscal year in which the loan is made or the next succeeding fiscal year to:

(i) pay the principal and interest of bonds due or to become due within 4 months;

(ii) pay the interest becoming due on any bonds within 4 months and not otherwise adequately provided for; or

(iii) meet payments required to be made to employees and laborers and not otherwise provided for.

(2) The loan shall be payable not later than the end of the fiscal year after the year in which the loan is made.

(b) (1) The Commission shall issue negotiable notes for all money borrowed under subsection (a) of this section.

(2) The notes may be renewed and money may be borrowed on new notes to pay any indebtedness.

(3) The notes and loans shall mature within the time limit for the payment

of the original loan.

(4) The Commission shall authorize, by resolution, the notes and set:

(i) the actual or maximum face amount of the notes;

(ii) the actual or maximum rate of interest to be paid on the amount borrowed; and

(iii) the actual or approximate maturity of the notes.

(5) The Commission shall determine the form and manner of execution of the notes.

(c) (1) Subject to paragraph (2) of this subsection, the Commission may determine the manner in which the notes may be disposed of.

(2) The aggregate amount of notes outstanding at any one time may not exceed an amount equal to the total principal of and interest on bonds of the sanitary district due and payable in the fiscal year in which the notes are issued.

§22–111.

Each year the Commission shall:

(1) determine the amount necessary to pay the principal and interest requirements of the bonds; and

(2) set the water service charge of the sanitary district at a rate sufficient to pay:

(i) the cost of the service; and

(ii) the requirements of bonds, issued and outstanding, that are to be paid out of the water service.

§22–112.

The amount of water service charges and sewer usage charges collected each year for the payment of principal and interest due on outstanding bonds shall be deducted from the amount that the Commission has determined is necessary to be raised by an ad valorem tax on certification to the county councils of Montgomery County and Prince George's County.

§22–113.

(a) (1) Subject to written approval of the county executives and county councils of Montgomery County and Prince George's County, the Commission, on behalf of the sanitary district, may:

(i) borrow money for any purpose for which bonds of the Commission are to be issued; and

(ii) issue negotiable bond anticipation notes of the Commission for any money borrowed in anticipation of the issuance of the bonds or of other revenues for capital expenditures.

(2) The aggregate amount of all bond anticipation notes outstanding under this section at any one time may not exceed $85,000,000.

(3) The aggregate amount of bond anticipation notes issued under this section in anticipation of the issuance of bonds that are subject to the 7% limitation under § 22–103(a) of this subtitle, together with the aggregate amount of bonds then outstanding that are subject to the limitation, may not exceed the 7% limitation.

(b) (1) Except as otherwise provided for emergent purposes under subsection (d) of this section, bond anticipation notes, including any renewals under item (ii) of this paragraph:

(i) shall mature within 5 years from the date the notes are first issued; or

(ii) if issued for a period of less than 5 years, may be renewed for successive periods not to exceed 1 year each.

(2) The notes shall be payable within 5 years after the date of the first issue.

(c) The notes shall:

(1) be issued in denominations determined by the Commission;

(2) bear interest as provided in § 22–102(d) of this subtitle;

(3) be payable at or before maturity; and

(4) be in the form and executed in the manner that the Commission determines.

(d) (1) (i) Except as provided in paragraph (2) of this subsection, bond anticipation notes shall be sold at public sale.

(ii) Renewal notes may be exchanged for outstanding notes on terms that the Commission determines.

(2) Subject to paragraph (3) of this subsection, the Commission may sell the notes at a negotiated sale if:

(i) the Commission determines that, for economic, engineering, or

financial administration purposes, the requirements for the funds require the sale of the notes at an immediate or earlier time than is possible through the procedures of a public sale; and

(ii) the amount of bond anticipation notes sold at negotiated sale, issued or outstanding at any one time, does not exceed $10,000,000.

(3) Before concluding a negotiated sale, the Commission shall negotiate with at least two recognized banking institutions that purchase bond anticipation notes and obtain the terms most favorable in the Commission's interest.

(4) Bond anticipation notes sold at a negotiated sale:

(i) shall mature within a period not exceeding 180 days; and

(ii) may be renewed not more than one time for an additional period not to exceed 180 days.

(e) (1) Except as provided in paragraph (2) of this subsection, bond anticipation notes shall be paid from the proceeds of the bonds in anticipation of which they are issued.

(2) (i) The Commission may retire the notes from funds available for the payment of the bonds authorized by the Commission.

(ii) The amount of the bonds authorized shall be reduced by the amount of the retired notes.

(f) (1) Bond anticipation notes issued under this section are general obligations of the Commission.

(2) The full faith, credit, and taxing power of the Commission shall be pledged for the repayment of the notes.

(g) (1) Montgomery County and Prince George's County shall guarantee the bond anticipation notes as to payment of principal and interest substantially in the manner and form and with the effect provided for the guarantee of the construction bonds of the Commission issued under § 22–102(a)(1) of this subtitle.

(2) The Commission may waive the required guarantee.

(h) Bond anticipation notes issued under this section, including the interest on the notes, are forever exempt from taxation by the State and counties and municipalities in the State.

(i) The powers and authority granted under this section are in addition and supplemental to the powers and authority granted under any other law and shall be liberally construed to effectuate the purposes of this section.

§22–114.

(a) The Commission may borrow money and issue refunding bonds to refund bonds issued and outstanding by the Commission if:

(1) the county executives and county councils of Montgomery County and Prince George's County approve the plan for the issuance of refunding bonds; and

(2) the Commission determines that issuing refunding bonds will result in total savings in debt service costs, directly or through any debt restructuring.

(b) The Commission shall authorize the issuance of refunding bonds by resolution that may include:

(1) the date of the refunding bonds;

(2) the maturity dates of the refunding bonds, which may not exceed 40 years from the date of issue;

(3) the interest rates on the refunding bonds, which may not exceed 10% annually;

(4) the denominations of the refunding bonds;

(5) the form of the refunding bonds, which may be coupon or registered;

(6) registration or conversion privileges;

(7) the manner of executing the refunding bonds;

(8) the manner of payment at places in or outside of the State;

(9) terms for redemption before maturity;

(10) terms for replacement of mutilated, destroyed, stolen, or lost bonds; and

(11) any other terms, conditions, or covenants.

(c) Refunding bonds issued to refund outstanding bonds for which front foot benefit charges have been imposed shall mature on or before 1 year after the date set for the payment of the final installment of the front foot benefit charge.

(d) (1) Refunding bonds may be:

(i) exchanged for bonds being refunded;

(ii) sold at public sale; or

(iii) subject to paragraph (2) of this subsection, sold at a negotiated sale in an open meeting.

(2) Refunding bonds may be sold at a negotiated sale if the Commission determines:

(i) that a public sale would be impracticable to effectuate the purpose of the refunding bonds; and

(ii) the price, terms, and conditions are in the best interest of the Commission.

(e) (1) At least 45 days before the sale or exchange of any refunding bonds, the Commission shall deliver its plan on the issuance of the refunding bonds to the county executives and county councils of Montgomery County and Prince George's County.

(2) Except as provided in paragraph (3) of this subsection, the Commission may not sell or exchange the refunding bonds unless the plan under paragraph (1) of this subsection is approved by the county executives and county councils of Montgomery County and Prince George's County.

(3) (i) On or before 30 days after the delivery of the plan, the county executives and county councils of Montgomery County and Prince George's County shall approve or disapprove of the plan.

(ii) Failure of a county executive or county council of Montgomery County or Prince George's County to act within 30 days is deemed as approval of the plan by that county.

(4) The county executives and county councils of Montgomery County and Prince George's County may waive the time period requirements under this subsection.

(f) If an officer whose signature or facsimile signature appears on a refunding bond or coupon ceases to be an officer before the delivery of the refunding bond, the signature or facsimile is valid and sufficient as if the officer remained in office until delivery.

(g) Refunding bonds issued to refund bonds guaranteed as to payment of principal and interest by Montgomery County or Prince George's County may be guaranteed in the same manner and form as under § 22–104 of this subtitle.

(h) Refunding bonds authorized under this section are:

(1) in addition to any other bonds authorized under this subtitle; and

(2) included in computing the amount of bonds that may be issued under the 7% limitation under § 22–103 of this subtitle.

(i) Refunding bonds authorized under this section are forever exempt from taxation by the State and counties and municipalities in the State.

(j) The powers granted under this section are not subject to the provisions of any other law in conflict with the powers.

§22–115.

(a) The Commission may determine the amount of proceeds from the refunding bonds to deposit in a trust fund established in the name of the Commission with a trust company or other banking institution as trustee.

(b) (1) Money in the trust fund may be invested and reinvested in direct obligations of, or obligations the principal of which and the interest on which is guaranteed by, the United States.

(2) The Commission may provide for the use of money in the trust fund to pay all or part of the principal, interest, and redemption premium of the bonds being refunded and of the refunding bonds.

(3) The proceeds of the refunding bonds shall be invested and applied so that the principal, interest, and redemption premium on the bonds being refunded is paid in full on maturity, redemption, or interest payment dates.

(c) On or after the earliest redemption date, the Commission may call for redemption any bonds being refunded that are subject to redemption before the stated maturity dates.

(d) (1) The Commission may issue refunding bonds in one or more series.

(2) (i) The Commission shall determine the principal amount of each series required to achieve the purpose for the issuance of the refunding bonds.

(ii) The principal amount of the refunding bonds may be greater than the principal amount of bonds being refunded.

(e) In addition to or in lieu of any other money or security that the Commission may provide for the payment or security of the refunding bonds, the Commission may make all or part of the refunding bonds payable from money in and secured by the trust fund.

(f) (1) To retire and pay interest on refunding bonds issued under § 22–114 of this subtitle, each year the county councils of Montgomery County and Prince George's County shall impose a tax on the assessable property within the sanitary district sufficient to pay:

(i) the interest on the bonds as it becomes due; and

(ii) the principal and redemption premium, if any, of the bonds at their maturity or redemption.

(2) If the series of refunding bonds is issued to refund stormwater management bonds, the county council of the respective county provided with the proceeds of the bonds being refunded shall impose the tax.

(3) The counties shall determine, impose, collect, and pay the tax to the Commission as provided under § 22–106 of this subtitle.

(4) The provisions of § 22–106 of this subtitle apply to the refunding bonds issued under § 22–114 of this subtitle.

(5) The Commission shall make adequate provision for extending to its rate payers the benefit of savings in debt service costs derived through the issuance of any refunding bonds issued under § 22–114 of this subtitle.

(g) Any provision of law requiring the setting and collecting of front foot benefit charges for the payment of the principal of and the interest on the outstanding bonds being refunded shall apply to the payment of the refunding bonds issued under § 22–114 of this subtitle to refund outstanding bonds.

(h) The powers granted under this section are not subject to the provisions of any other law in conflict with the powers.

§22–201.

(a) This subtitle shall be liberally construed to carry out its purposes.

(b) The purpose of this subtitle is to authorize the Commission to issue bonds in a manner that provides flexibility without imposing additional debt burdens on the assessable tax base of the sanitary district, so as to yield overall savings to the residents of the sanitary district.

(c) This subtitle does not apply to debt issued by the Commission under Subtitle 1 of this title.

§22–202.

(a) The Commission may issue and sell revenue bonds to finance or refinance any of the Commission's costs of a project authorized under this division.

(b) (1) Revenue bonds may finance:

(i) necessary expenses of preparing, printing, selling, and issuing the bonds;

(ii) funding of reserves;

(iii) payment of interest related to financing a project in the amounts and for the period that the Commission determines; and

(iv) initial program development costs.

(2) Commission funding sources, other than revenue bond proceeds, may finance initial program development costs or other project costs only if those costs are reimbursed from project revenues.

(c) (1) The Commission may issue bonds under this subtitle only if the Commission authorizes the issuance by resolution.

(2) The resolution may authorize one or more officers of the Commission to determine or specify by bond order the matters that this subtitle requires to be determined or specified, or as may be necessary or advisable to accomplish the purposes of this subtitle.

(d) Bonds issued under this subtitle, and their principal, interest, and any premium:

(1) are limited obligations of the Commission;

(2) are payable solely from the revenues identified in the authorizing resolution or from other money made available for the payment; and

(3) do not constitute a pledge of the faith and credit of the Commission or of any entity with taxing power.

(e) (1) (i) Except as provided in subparagraph (ii) of this paragraph, bonds issued under this subtitle shall be dated, bear interest, and mature at the time that the Commission determines.

(ii) The bonds shall mature no later than 50 years after their date of issue.

(2) The bonds may bear interest at variable rates of interest, in a manner and amounts that the Commission determines.

(3) The bonds shall be payable in the manner and at the times and places that the Commission determines.

(4) The bonds may be made redeemable before maturity at the option of the Commission at a price and under terms and conditions that the Commission determines.

(5) (i) The Commission shall determine the forms and manner of execution of the bonds.

(ii) The bonds may be executed by facsimile signature.

(6) If an officer whose signature appears on a bond ceases to be an officer before the bond is delivered, the signature of the officer is valid and sufficient as if the officer had remained in office until delivery.

§22–203.

Bonds issued under this subtitle are negotiable instruments under the laws of the State.

§22–204.

(a) The Commission may sell bonds issued under this subtitle:

(1) at public or private sale; and

(2) in a manner and for a price that the Commission determines to be in the best interests of the Commission.

(b) Sections 19–205 and 19–206 of the Local Government Article do not apply to the issuance and sale of bonds authorized by this subtitle.

§22–205.

(a) The proceeds of each bond issuance under this subtitle shall be used solely for the projects for which the bonds were issued.

(b) The proceeds shall be distributed in the same manner and under any restrictions stated in:

(1) the authorizing resolution of the Commission; or

(2) the trust agreement securing the bonds.

(c) (1) If the proceeds of the bonds are less than the cost of the project for which the bonds were issued, by resolution, the Commission may issue and sell additional bonds in the same manner as the earlier issue to fund the amount of the deficit.

(2) Unless otherwise provided in the authorizing resolution or in the trust agreement securing the bonds, the additional bonds shall be:

(i) considered to be of the same issue as the earlier issue; and

(ii) entitled to payment from the same funds as the earlier issue, without preference or priority of the earlier issue.

(d) If the proceeds of bonds issued under this subtitle exceed the cost of the

project for which the bonds are issued, the surplus shall be used as the Commission determines.

§22–206.

As determined by the Commission, bonds issued under this subtitle may be secured by or made payable from:

(1) letters of credit;

(2) lines of credit;

(3) bond purchase agreements;

(4) bond insurance policies;

(5) guaranty agreements; and

(6) similar credit arrangements.

§22–207.

(a) The Commission may provide by resolution for the issuance of revenue refunding bonds to refund bonds issued under this subtitle.

(b) To the extent applicable, revenue refunding bonds issued under this section shall conform to the requirements of this subtitle.

§22–208.

Bonds issued under this subtitle are not subject to the limitations of §§ 22–102(b) and 22–1035 of this title.

§22–209.

(a) The Commission may enter into a trust agreement to secure bonds issued under this subtitle.

(b) The trustee under the trust agreement may be a bank or trust company that has the powers of a trust company in or outside the State.

(c) The trust agreement may pledge or assign all revenues from one or more projects as specified by the Commission.

(d) The trust agreement may provide for the protection and enforcement of the rights and remedies of the bondholders, including:

(1) covenants setting forth the duties of the Commission regarding:

(i) construction, acquisition, improvement, installation, maintenance, operation, repair, and insurance of a project; and

(ii) custody, safeguarding, and application of all money;

(2) the establishment and funding of reserve funds;

(3) requirements that a project be constructed and paid for under the supervision and approval of consulting engineers employed or designated by the Commission; and

(4) statements of the rights and remedies of the bondholders and of the trustee, which may restrict the individual right of action of bondholders.

§22–210.

(a) Bonds issued under this subtitle, including their interest and any profit from their sale or exchange, are exempt from taxation by the State and its counties and municipalities.

(b) If bonds are issued under this subtitle with the expectation that their interest may be excluded from the gross income of the bondholders, the Commission shall enter into all agreements and make all certifications necessary or advisable to show compliance with the applicable provisions of federal tax law.

§23–101.

(a) The Commission shall develop surveys, plans, specifications, and estimates for water supply and sanitary sewer systems in the portions of the sanitary district that the Commission considers necessary.

(b) The Commission shall divide the sanitary district into water or sanitary sewer districts that in the Commission's judgment:

(1) best serve the needs of the communities in the sanitary district; and

(2) promote the convenience and economy of the installation and operation of water supply and sanitary sewer systems.

(c) The Commission may proceed with construction that the Commission considers advisable in any district.

(d) If the Commission initiates construction without petition or request from an interested party, the Commission may give reasonable notice that the Commission considers advisable.

(e) (1) The Commission may extend its water supply or sewer systems into any area outside of the sanitary district that is contiguous to or in the vicinity of the

sanitary district if the property owners of the area agree to the conditions imposed by the Commission.

(2) Except as provided in this division, the powers and authority in this subsection may not be restricted by any other general, special, or local law.

(f) The Commission may not install, operate, or exercise any authority over stormwater management in Montgomery County.

§23–102.

(a) A privately owned or municipally owned water supply or sanitary sewer system or part of a system, water main, sewer, water purification or sewage disposal plant, or connection with these facilities may not be constructed or installed, except as provided in this section.

(b) A municipality or the property owners or residents of a locality in the sanitary district may construct and operate a water supply or sanitary sewer system or part of a system at their own expense if the Commission decides that it is inexpedient or impracticable to build the system due to remoteness from the Commission's general system or for other reasons.

(c) (1) A system constructed in accordance with subsection (b) of this section shall be constructed under plans and specifications submitted to and approved by the Commission.

(2) The construction, maintenance, and operation of the system shall be under the supervision and general control of the Commission.

(d) All construction and operating records for the system, including cost records, shall be filed with the Commission.

(e) The Commission may take over the system or a part of the system, water main, sewer, water purification or sewage disposal plant, or connection with these facilities in the same manner as provided in § 23–103 of this subtitle.

(f) Except as provided in this division, the powers and authority in this section may not be restricted by any other general, special, or local law.

§23–103.

(a) The Commission may purchase a municipally or privately owned water supply or sewer system if the Commission:

(1) extends its general water supply or sewer system to the municipally or privately owned water supply or sewer system and is ready to connect with the system; or

(2) considers the purchase to be expedient, advisable, and proper for the adequate operation of the system under the Commission's jurisdiction.

(b) If the Commission and the owner of a municipally or privately owned water supply or sewer system fail to agree to the purchase price or conditions of purchase of the water or sewer system, the Commission may acquire the system by condemnation, as provided in this division.

§23–104.

(a) If a privately owned water or sewer system is the subject of a condemnation proceeding under this division, a jury in the proceeding shall determine the fair market value as provided for in § 12–105(b) of the Real Property Article.

(b) (1) If the Commission condemns a privately owned system, the Commission shall take the system free and clear of all debts and liens.

(2) (i) The Commission shall make a party defendant any person that has a recorded lien or encumbrance against the privately owned system.

(ii) The circuit court may determine the respective amounts due the defendants.

(c) After the payment into the court or to the proper parties:

(1) the Commission may take possession of, maintain, and operate the private system; and

(2) all properties along the line of any water main or sewer of the private system shall stand in the same relation, bear the same benefit assessment, and be subject to the same regulations and penalties as though the private system had been constructed and put into operation by the Commission under the provisions of this division.

(d) A building or premises properly connected with the acquired private system at the time of its purchase is not subject to the connection charge specified under Title 25, Subtitle 3 of this article.

(e) (1) If the Commission considers that a privately owned water or sewer system is unfit, in whole or in part, for incorporation with the Commission's system, the Commission shall:

(i) disregard the existence of the system or unfit part of the system; and

(ii) extend the Commission's system to serve the area served by the existing system or unfit part of the system.

(2) All of the provisions of this division relating to systems constructed by the Commission apply to an extension under paragraph (1) of this subsection.

§23–105.

(a) After the payment for the acquisition is made to the court or to the municipality:

(1) the Commission may take possession of, maintain, and operate a municipally owned water or sewer system; and

(2) all properties along the line of any water main or sewer of the municipal system shall stand in the same relation, bear the same benefit assessment, and be subject to the same regulations and penalties as though the municipal system had been constructed and put into operation by the Commission under the provisions of this division.

(b) A building or premises properly connected with the acquired municipal system at the time of its purchase is not subject to the connection charge specified under Title 26, Subtitle 3 of this article.

(c) If outstanding bonds exist for a municipal system acquired by the Commission:

(1) the municipality may use the amount paid by the Commission for the system for the purchase or redemption of any bond or debt that may be outstanding against the system; or

(2) the Commission, as a part of the compensation for the system, may assume the payment of any outstanding bond.

§23–201.

(a) (1) In this section the following words have the meanings indicated.

(2) "Authorization for service" means an application by a property owner or developer to the Commission for water or sewer service that requires the construction of subdivision lines.

(3) "Development" means a project for the construction of:

(i) two or more residential dwelling units; or

(ii) a commercial or industrial structure.

(4) "Health hazard" means an owner–occupied residential property with a failing well or septic system as certified by the State or a local health department.

(5) "Payment security" means security to guarantee payment to the utility

contractor, subcontractors, and suppliers that provide labor, materials, or construction equipment for the construction of subdivision lines.

(6) "Performance security" means security to guarantee completion of the construction of subdivision lines.

(7) (i) "Subdivision lines" means the water and sewer pipelines or facilities necessary to provide service to a development, including service connections to individual lots or properties in a development.

(ii) "Subdivision lines" does not include pipelines or facilities that constitute major projects as defined in § 23–301 of this title.

(b) (1) Subject to paragraph (2) of this subsection, this section does not apply to:

(i) authorizations for service for which:

1. application was made with the Commission on or before June 30, 1999; and

2. the Commission entered into a contract for construction of subdivision lines with notice to proceed issued by the Commission to its contractor on or before June 30, 2001; or

(ii) authorizations for service for the relief of health hazards.

(2) Each part of a multipart authorization for service shall be considered a separate authorization under paragraph (1) of this subsection.

(c) Notwithstanding any other provision of law and except as provided in subsection (b) of this section, the owner or developer of a development in the sanitary district shall construct all subdivision lines for the development at the expense of the owner or developer.

(d) Before constructing subdivision lines, the owner or developer of a development shall enter into an agreement with the Commission that:

(1) requires the subdivision lines to be constructed under plans and specifications submitted to and approved by the Commission;

(2) requires the owner or developer to comply with all applicable laws and requirements for the construction of the subdivision lines;

(3) provides for the inspection of the subdivision lines by the Commission before the line is placed in service;

(4) requires the property owner or developer to provide:

(i) performance security payable to the Commission in an amount acceptable to the Commission, taking into account potential cost escalation; and

(ii) payment security payable to the Commission in an amount equal to the amount of the performance security; and

(5) provides that before the subdivision lines are placed in service, the property owner or developer shall provide the Commission with a release of liens, on a form acceptable to the Commission, signed by the utility contractor and notarized, stating that the utility contractor, subcontractors, and suppliers have been paid.

(e) Acceptable forms of performance security and payment security under subsection (d) of this section are:

(1) a certified check;

(2) a cash deposit;

(3) a certificate of deposit;

(4) an irrevocable letter of credit from a financial institution acceptable to the Commission and in a form acceptable to the Commission;

(5) a bond executed by a surety company authorized to do business in the State; or

(6) any other form of security acceptable to the Commission.

(f) (1) (i) A utility contractor, subcontractor, or supplier providing labor, materials, or equipment for the construction of the subdivision lines that has not been paid may file a claim against the payment security within 180 days after completion of construction of the subdivision lines under the procedure required in the payment security.

(ii) If a procedure is not specified in the payment security, the procedure shall be as established by regulations adopted by the Commission.

(2) The Commission may not release or reduce the amount of the payment security until:

(i) all claimants have been paid; or

(ii) 180 days have passed since completion of construction and no claims have been made.

§23–202.

(a) (1) If property abuts on a street or right–of–way in which a water main or sanitary sewer is installed, the Commission shall provide a service connection from the

water main or sanitary sewer to the property line of the abutting lot.

(2) The service connection shall be constructed by and at the expense of the Commission and shall be paid for in accordance with this division.

(b) (1) When the Commission declares a water main or sewer complete, after notice, every abutting property owner may hook up spigots, hydrants, toilets, and waste drains with the water main or sewer, as appropriate, within the time set by the Commission.

(2) If the fixtures described in paragraph (1) of this subsection do not exist or if the Commission determines that they are improper or inadequate, the property owner shall install satisfactory equipment.

(c) (1) Any cesspool, sink drain, outhouse, or well that is polluted or a menace to health shall be abandoned and left in a way that it cannot be used or pose a risk to the public health.

(2) The Commission shall determine the disposition of these facilities.

(d) (1) After the construction or acquisition of a water main or sewer, the Commission may order a property owner or occupant who refuses to connect to the water main or sewer to hook up to the water main or sewer if:

(i) a condition exists that appears to be a menace to the health of the occupants of the property or the occupants of a nearby or adjoining property;

(ii) the property on which the condition exists abuts the water main or sewer;

(iii) the Commission gives the owner or occupant 10 days' notice and an opportunity to be heard; and

(iv) the Commission determines the condition to be a menace to the health of the occupants of the property or the occupants of a nearby or adjoining property.

(2) (i) If the Commission determines that a condition exists as provided in paragraph (1) of this subsection, the Commission shall pass an order that requires that the property hookup be made in not less than 30 days or more than 90 days of the issuance of the order.

(ii) The property owner or occupant may not refuse to comply with the order or violate any of the other provisions of this section.

(iii) As provided in the Administrative Procedure Act, the property owner or occupant may seek judicial review of the decision of the Commission.

§23–203.

(a) Except as provided in subsection (e) of this section, this section does not apply to streets, roads, alleys, sidewalks, or public property in the jurisdiction of Montgomery County.

(b) (1) The Commission shall make taps in installations of the Commission at a charge that the Commission considers reasonable.

(2) The Commission may construct and make water service connections of 2 inches or larger and charge for the connections at the actual cost to the Commission.

(c) The Commission may authorize the construction of service connections by a master plumber, who is registered in the sanitary district, under the supervision of the Commission.

(d) (1) If the Commission, by resolution, authorizes service connections to be made by a master plumber, under regulations and after issuance of a written permit by the Commission, the master plumber may enter on and cut into a street under the jurisdiction of a public authority to the same extent that the Commission may enter on and cut into the street.

(2) (i) The master plumber shall first post with the Commission an indemnity bond in an amount set by and with sureties approved by the Commission.

(ii) The bond shall indemnify the Commission and any State, county, or municipal authority having jurisdiction over the street against all loss, cost, or damage that may be caused by the master plumber's entering on and cutting into the street.

(iii) The master plumber shall deposit with the Commission in cash a sum set by the Commission to cover the cost of resurfacing the cut.

(3) (i) The only permit required shall be a permit issued by the Commission in accordance with this section.

(ii) The master plumber shall notify the authority having control of the street to be entered and cut of the time and nature of the work to be done.

(e) Before cutting into a street, road, alley, sidewalk, or public property under the jurisdiction of Montgomery County, a master plumber shall secure a permit from the county and pay a fee and comply with regulations established by the county.

(f) The Commission shall adopt regulations to implement this section.

§23–204.

The Commission may grant water or sewer service connections, hookups, or

authorizations for service or otherwise extend water and sewer service to a new development in the Prince George's County portion of the sanitary district only if the development is in conformance with adopted and approved plans, programs, and policies of the county or other regulations that the county may include in an adopted and approved comprehensive water and sewer plan, amendment, or revision.

§23–301.

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

(b) (1) "Major project" means an extension, project, or program of water and sewer facilities.

(2) "Major project" includes:

(i) a sewer main at least 15 inches in diameter;

(ii) a water main at least 16 inches in diameter; and

(iii) a sewage or water pumping station, force main, and storage or other major facility.

(3) "Major project" does not include a sewer main or water main that:

(i) provides only local service;

(ii) is 2,000 feet or less; and

(iii) is built to avoid unnecessary and uneconomical duplication when a major project is constructed.

(c) "Program" means a 6–year projected program by the Commission of capital improvements for water and sewer facilities.

§23–302.

(a) In this subtitle, the requirements and responsibilities of the county executives and county councils or successor forms of governments shall be performed separately or jointly by the branches of the respective county governments as provided by charter or other law.

(b) The designation of a specific branch of county government is not intended to expand, limit, modify, or vary the powers and duties of the county executives and county councils of Montgomery County or Prince George's County.

§23–303.

A Program shall include:

(1) the major projects that the Commission determines may be required in each of the next 6 fiscal years:

(i) in the sanitary district; and

(ii) in geographical areas outside the sanitary district that the Commission determines are appropriate to include in the Program;

(2) a statement of the objectives and the relationship to the long–range development plans designated by each county for each major project;

(3) a projected construction schedule, an estimate of cost, and a statement of funding sources, including contributions that may be required for the construction of a major project;

(4) the information and documentation for each major project that the Commission is required to submit for the 6–year period covered by the Program under Title 9, Subtitle 5 of the Environment Article;

(5) the addition of a new major project and the deletion, modification, or rescheduling of a previously approved major project for which a construction contract has not been awarded or will not be awarded during the fiscal year in which the Program is being submitted;

(6) an indication, by major project, of the mains for which construction contributions have been made or committed and the amounts of contributions as of the date of the preparation of the Program;

(7) additional information for major projects for which contributions are made or committed before approval or amendment of the Program; and

(8) for each major project, as applicable:

(i) the estimated maximum diameter, length, and location of water and sewer mains;

(ii) the design capacity and approximate location of pumping stations;

(iii) the maximum population that could be served by each sewer construction item as the item is proposed to be designed;

(iv) the maximum area limits that could be served by gravity systems for each sewer system construction item and the area that each item is designed to serve, with the area limits set forth in a general narrative statement and on a map;

(v) the demonstrated need for each major project, including a presentation of appropriate facts justifying the proposed construction; and

(vi) the estimated cost of each construction item in the Program.

§23–304.

(a) Before October 1 of each year, the Commission shall prepare and submit a Program to the County Executive and County Council of Montgomery County and the County Executive of Prince George's County.

(b) In Montgomery County, the County Executive shall submit recommendations and suggested amendments about the Program to the County Council as an integral part of the comprehensive 6–year Capital Improvements Program required by the Montgomery County Charter.

(c) In Prince George's County, the County Executive shall submit the Program, together with comments, recommendations, and suggested amendments, to the County Council.

§23–305.

(a) Before final action on a Program is taken, public hearings shall be held on the Program.

(b) The public hearings may be conducted in conjunction with public hearings on the 6–year programs or capital budgets of Montgomery County, Prince George's County, or other agencies.

§23–306.

(a) The county councils of Montgomery County and Prince George's County shall approve, disapprove, or modify a Program.

(b) The county councils of Montgomery County and Prince George's County shall seek the advice and recommendation of the Maryland–National Capital Park and Planning Commission in reviewing a Program.

(c) The county councils of Montgomery County and Prince George's County may designate a water or sewer main for controlled or limited access for service to designated areas within the respective county.

(d) (1) A modification to a Program by the county council of Montgomery County or Prince George's County is not final until the modification is submitted to the Commission for written comment.

(2) The Commission has at least 30 days to comment on the modification.

§23–307.

(a) If the statement of objectives included in the Program as provided in §

23–303 of this subtitle declares that a major project to be constructed in whole or in part in one county is designed to provide services in whole or in substantial part to the other county, the major project may be disapproved with the concurrence of the county council of the county that is to receive the services.

(b) (1) Notwithstanding subsection (a) of this section, the county council of the county in which the major project is located may direct modifications in location or change the proposed year of construction if the modification or change will not prevent the services being available when needed.

(2) The county council's authority to direct modifications in the location of a major project described in subsection (a) of this section may be exercised to effect reasonable changes in the location of the major project by the county council of the county in which the major project is located when the major project is first approved as a part of a Program.

(c) After approval of a major project in a Program, the county council of the county in which the major project is located may make further modifications only if:

(1) the modifications do not result in substantial net additional costs or expenses to the Commission; or

(2) the county directing the modifications reimburses the Commission for substantial net additional costs or expenses.

§23–308.

In approving or modifying a Program, if Montgomery County or Prince George's County approves a major project for which money from the anticipated sources of funding shown by the Commission under § 23–303 of this subtitle is insufficient, the Commission is not obligated to undertake the major project unless the county approving the major project provides additional sources to fund the major project.

§23–309.

(a) If the Commission becomes legally liable to a third party as a direct result of a modification of a previous approval of a major project by Montgomery County or Prince George's County, the county directing the change is responsible for the liability that results from the change.

(b) The County Executive or County Council of Montgomery County or the County Executive of Prince George's County shall settle or release a claim for liability under subsection (a) of this section by:

(1) negotiating with the claimant; or

(2) paying the final judgment of a court award.

(c) In litigation resulting from a claim for liability under subsection (a) of this section, the County Executive or County Council of Montgomery County and the County Executive of Prince George's County may:

(1) intervene in a court proceeding before judgment; and

(2) interpose defenses available to the county or the Commission.

§23–310.

(a) If the Commission has made expenditures to a third party for services or property as part of an approved major project that is subsequently modified or removed by Montgomery County or Prince George's County so that the services or property are no longer necessary, the county directing the modification or removal shall reimburse the Commission for the amount of the expenditures.

(b) The Commission shall give Montgomery County or Prince George's County any right, title, and interest in an item for which reimbursement has been made.

§23–311.

Within 5 days after final action on a Program, the county councils of Montgomery County and Prince George's County shall submit to the Commission notification of final action, including:

(1) the details of changes or modifications; and

(2) evidence of compliance with specified requirements of this subtitle that may be applicable to the final action.

§23–312.

(a) The Commission shall:

(1) review each Program;

(2) revise each Program as required by a final action of the county councils of Montgomery County and Prince George's County; and

(3) adopt each Program before the beginning of the first fiscal year of that Program.

(b) The Commission's capital budget for the first fiscal year of each Program approved by the Commission shall provide money to begin the approved major projects for the first year of that Program.

(c) (1) A major project may not begin if the major project is not in conformity with the part of the Program applicable to that fiscal year unless the major project is included in the Program by an amendment to the Program.

(2) The amendment to the Program:

(i) may be proposed by the Commission or initiated by the county executive or county council of Montgomery County or Prince George's County;

(ii) on reasonable advance notice to the public, shall be subject to a public hearing held by the county council of the county that initiates the amendment or by both county councils if the amendment affects both counties; and

(iii) requires final action by the county council of each affected county.

(3) The county council of the affected county shall notify the Commission of the final action.

(4) The Commission shall adopt an amendment approved by final action by the county council of each affected county.

(d) (1) In this subsection, "material change" does not include the following items if service from a major project as constructed does not extend beyond the area approved for construction of a sewer project:

(i) a normal deviation from the most recent estimated construction costs;

(ii) a change in location caused by right–of–way acquisition problems;

(iii) a condition found in the field when actual construction plans are prepared; or

(iv) a modification of an estimated size or length of a construction item.

(2) A major project may not be constructed until an adopted Program is amended as to any material change.

§23–313.

(a) The Commission shall submit a final report, including construction cost figures, on completed major projects to the county executive and county council of Montgomery County or Prince George's County.

(b) (1) When the Commission submits a Program under § 23–304 of this subtitle, the Commission shall include a status report of all approved major projects that have not been completed as of the date that the Program is submitted.

(2) The report shall:

(i) identify the major project;

(ii) specify the dates of approval of the major project;

(iii) indicate the current status of the major project, including an estimate of the date of completion of construction;

(iv) indicate if the major project is the subject of a material change and any amendment that is required under § 23–312 of this subtitle; and

(v) for an approved major project in Montgomery County, indicate a change in the last estimated construction costs and a modification in location, size, and length of a construction item.

§23–314.

(a) Unless the county councils of Montgomery County and Prince George's County have approved the extension, the Commission:

(1) may not extend or approve construction of a sewer of any size or capacity to serve property in either county beyond the area that has been approved for service in a Program and the 10–year water and sewer plan required under § 9–503 of the Environment Article; or

(2) subject to subsection (b) of this section, may not extend a water line of any size or capacity beyond the approved terminal point of a major project.

(b) If the county councils of Montgomery County and Prince George's County have approved the extension, the Commission may extend a water line beyond the terminal point if:

(1) the extension of the water line would provide water service to a development that is within an approved sewer project area; or

(2) the affected county, through an appropriate county unit, has approved the installation of individual sewage disposal facilities.

(c) The Commission may construct an extension that requires approval under this section if:

(1) the proposed extension has been submitted for approval; and

(2) within 30 days after receipt of the proposed extension, the affected county has not notified the Commission that the extension should not be made.

§23–315.

(a) This section applies only in Prince George's County.

(b) Except as provided in subsection (c) of this section, the Commission may provide sanitary sewer service in drainage areas that are tributary to county–approved

trunk sewers and county–approved pumping stations outside of the county–approved service areas.

(c) Property to which sanitary sewer service is provided under this section shall be developed in accordance with a master plan adopted by the Maryland–National Capital Park and Planning Commission and approved by the County Council of Prince George's County after submission to the County Executive of Prince George's County for review.

(d) Notwithstanding subsection (c) of this section, the Commission may provide sanitary sewer service to existing structures located in the drainage areas described in subsection (b) of this section.

§23–316.

(a) It is the intent of the General Assembly that the Commission, the Maryland–National Capital Park and Planning Commission, and the county executives and county councils of Montgomery County and Prince George's County cooperate to the fullest extent in seeking to attain maximum harmony of water and sanitary sewer construction programs with the other elements of orderly growth in Montgomery County and Prince George's County.

(b) The Commission, the Maryland–National Capital Park and Planning Commission, and the county executives and county councils of Montgomery County and Prince George's County are encouraged to:

(1) meet and discuss each Program; and

(2) exchange information and details necessary to achieve the coordination contemplated by this section for each Program.

(c) The Commission shall give additional information and details that the county executives and county councils of Montgomery County and Prince George's County request in connection with the consideration of a Program.

§24–101.

(a) (1) A person shall obtain a permit from the Commission before the person may engage in plumbing, waterworks, or sewer construction in a building or on private property in the sanitary district or areas of Prince George's County that are not in the sanitary district.

(2) The person shall pay to the Commission a reasonable permit fee set by the Commission.

(b) Work performed under a permit authorized by this section shall:

(1) conform to the Commission's regulations; and

(2) be subject to any inspection that the Commission considers necessary.

§24–102.

(a) (1) A person shall obtain a permit from the Commission before the person may construct a private or semipublic water supply or sewer system for the use of at least two buildings or premises in the sanitary district or areas of Prince George's County that are not in the sanitary district.

(2) The person shall pay to the Commission a reasonable permit fee.

(b) (1) The private or semipublic water supply or sewer system shall be installed, maintained, and operated under regulations that the Commission adopts.

(2) The owner or operator of the system shall pay to the Commission a reasonable supervision and inspection fee that the Commission sets.

(c) If an owner or operator of a private or semipublic water supply or sewer system fails or refuses to correct, maintain, or operate the system in compliance with the requirements of the Commission, the Commission may:

(1) make the correction or take over the operation of the system for the period necessary; and

(2) collect the costs for the correction or operation from the owner or operator.

§24–103.

(a) (1) A person shall obtain a permit from the Commission before the person may make a hookup with a water or sewer service line that the Commission constructs or maintains.

(2) A hookup shall be made under the conditions that the Commission authorizes.

(b) To prevent or eliminate leakage, loss of water, the unnecessary use of sewers, or other waste of water, the Commission may:

(1) at a reasonable time, enter a building or premises that has a connection with the water supply or sewer system under the jurisdiction of the Commission; and

(2) issue an order requiring a change in the plumbing, waterworks, or water or sewer connection that the Commission considers necessary.

§24–104.

(a) This section does not apply to:

(1) in Montgomery County:

(i) an apartment house with fewer than five dwelling units; or

(ii) a water supply or sewage collection and disposal system constructed:

1. to serve only a single building or group of buildings serving as a single farm unit or as a single commercial or industrial establishment;

2. by the county, an instrumentality of the county, or the City of Rockville; or

3. by a municipality, if the municipality owned and operated the system on June 1, 1965; and

(2) in Prince George's County, a water supply or sewage collection and disposal system:

(i) constructed to serve only a single family residence or a single building; or

(ii) owned and operated by a municipality on January 1, 1959.

(b) (1) This subsection does not apply to Calvert Manor.

(2) Subject to subsection (c) of this section, a person shall obtain a permit from the Commission before the person may construct, alter, extend, or operate a water supply or sewage collection and disposal system outside the sanitary district in Montgomery County or Prince George's County.

(c) (1) The Commission may not issue a permit under subsection (b) of this section until the Commission approves:

(i) complete plans and specifications for the construction, alteration, extension, or operation of the water supply or sewage collection and disposal system; and

(ii) any other information that the Commission requires.

(2) The Commission shall:

(i) during construction, inspect all projects for which the permit was issued; and

(ii) require the construction to conform to the approved plans and specifications.

(3) The Commission may charge a reasonable permit fee not exceeding 6%

of the estimated construction cost for a project described in this section.

(d) (1) A person holding a permit under subsection (b) of this section shall submit to the Commission:

(i) any material change in the plans and specifications; and

(ii) a statement of the reasons for the change.

(2) The Commission shall approve and issue a permit for a material change before the person may include the change in the actual construction.

(e) A water supply or sewage collection and disposal system, including oxidation ponds and sewage lagoons, for which a permit is required under this section shall be installed, maintained, and operated under regulations that the Commission adopts.

(f) The Commission shall:

(1) inspect the operations of any water supply or sewage collection and disposal system authorized under this section;

(2) require the owners or operators of the system to maintain and operate the system in compliance with the Commission's reasonable requirements and with regard to public health, safety, and comfort;

(3) set and collect from the owners or operators of the system a reasonable fee for the supervision and inspection of the system; and

(4) if the owner or operator fails or refuses to correct, maintain, or operate the system in compliance with the Commission's requirements:

(i) make the correction or take over the operation of the system for any period necessary; and

(ii) collect the costs for the correction or operation from the owner or operator.

(g) The Commission:

(1) shall adjust its inspection fees accordingly if a municipality in Montgomery County or Prince George's County:

(i) owns or operates a water supply or sewage collection and disposal system;

(ii) performs or has performed bacteriological and chemical analyses on the system by qualified personnel, as approved by the Department of the Environment and the Commission; and

(iii) files with the Commission a monthly report of the analyses showing that satisfactory operating conditions exist in the system; and

(2) is not required to duplicate an analysis.

(h) (1) If a water or sewage treatment facility is constructed under a Commission permit and operates subject to inspection by the Department of the Environment, the Commission is not required to duplicate the operational inspection functions that the Department of the Environment conducts.

(2) The Commission may eliminate or reduce its operation and inspection fee in proportion to the eliminated inspection activities.

(3) All other requirements of the Commission permit for the facility shall be applicable.

(i) (1) When a water supply or sewage collection and disposal system authorized under this section is completed, the person constructing the system shall file with the Commission as a permanent record a certified copy of the plans in full, showing the work as built.

(2) The record shall include the information and be in the form that the Commission requires.

(j) A person found to have violated this section is not relieved from the requirement to secure and pay for a permit and comply with all other applicable provisions of this section.

§24–105.

(a) (1) In those parts of Prince George's County that are not in the sanitary district, the Commission's plumbing regulations:

(i) apply to plumbing installations that began on or after June 1, 1965; but

(ii) do not apply to plumbing installations that existed on July 1, 1965.

(2) (i) The owner of the property where plumbing installations existed on July 1, 1965, is not required to change the plumbing until water or sewer service is obtained from a Commission system.

(ii) If water or sewer service is obtained from a Commission system, this section and the Commission's regulations apply to the property and the plumbing as if the property were in the sanitary district.

(b) (1) The Commission may enter into an agreement with Prince George's

County under which the county will issue the necessary permit and perform the necessary inspection for and in the name of the Commission in those areas that are not in the sanitary district, if the agreement provides that the plumbing regulations of the Commission will be applied.

(2) This subsection or an agreement entered into under this subsection does not affect the power of the Commission:

(i) to adopt regulations to install plumbing in Prince George's County as the Commission considers necessary for the public health; or

(ii) to regulate public and semipublic water supply and sewer systems under this section and § 24–102 of this subtitle.

§24–106.

(a) (1) Subject to § 12–305 of the Business Occupations and Professions Article, only the Commission may issue licenses to persons to work in the plumbing business in areas of Montgomery County or Prince George's County under the jurisdiction of the Commission.

(2) License fees may not exceed the fees set in the Maryland Plumbing Act.

(3) The Commission shall exercise the authority of the State Board of Plumbing in areas under the jurisdiction of the Commission.

(b) (1) A person holding a valid master plumber/gasfitter license or a journeyman plumber/gasfitter license issued by the Commission is entitled to an equivalent license issued by the State Board of Plumbing without examination on presentation of:

(i) the license issued by the Commission; and

(ii) a notarized statement of good standing issued by the Commission.

(2) A person holding a valid master plumber/gasfitter license or a journeyman plumber/gasfitter license issued by the State Board of Plumbing is entitled to an equivalent license issued by the Commission without examination on presentation of the license issued by the State Board of Plumbing.

(c) A license issued to a master plumber/gasfitter or a journeyman plumber/gasfitter in good standing under a reciprocity arrangement by the State Board of Plumbing and the Commission before July 1, 1978, remains in force.

§24–107.

Any new or replacement piping that is buried or installed for the purpose of connecting a building to a water supply system or a sewerage system shall comply with the requirements of § 12–129 of this article.

§24–201.

(a) (1) In this section, "sewer cleaning" means the cleaning or clearing of and the removal of stoppages or obstructions in sanitary sewer lines, pipes, and fixtures.

(2) "Sewer cleaning" does not include any installation, maintenance, extension, removal, or alteration of any pipe, sanitary fixture, or other sewer apparatus.

(b) This section may not be construed to:

(1) require a person to have a sewer cleaner's license to clean a sewer on the person's own property;

(2) prevent a person from cleaning a sewer on the person's own property; or

(3) apply to or prohibit the cleaning by any person of a sewer or sanitary fixture of any dwelling, commercial or industrial establishment, or premises owned or operated by the person.

(c) The Commission shall adopt and enforce regulations governing sewer cleaning in sanitary sewer lines, pipes, and fixtures connected to the Commission's sanitary sewer system.

(d) (1) (i) To qualify for a sewer cleaner's license, a person need not be a master plumber.

(ii) A sewer cleaner's license does not authorize the licensee to engage in the plumbing business other than sewer cleaning.

(2) The Commission:

(i) shall require that a person other than a licensed master plumber who is engaged in or represents the person to the public as engaged in sewer cleaning be licensed by the Commission;

(ii) may require a bond of the licensee to insure compliance with and adherence to the regulations adopted by the Commission;

(iii) may establish qualifications and examine applicants concerning their competency and qualifications for a license under this section; and

(iv) may require a reasonable fee for the issuance and renewal of a license in an amount not more than one–half of the fee charged for a master plumber's license.

§24–202.

(a) Within 24 hours of the discovery of a leak in a sanitary sewer line, pipe, or fixture that is connected to the sanitary sewer system of the Commission, the Commission shall:

(1) notify the county and any municipal corporation in which the sewage leak is located about:

(i) the sewage leak; and

(ii) the Commission's intended action concerning the sewage leak; and

(2) include the following on the Commission's Web site:

(i) notice to the general public about the sewage leak; and

(ii) the phone number for obtaining additional information from the Commission.

(b) The Commission shall adopt regulations to implement this section.

§24–203.

(a) In this section, "public access point" includes a parking lot, playground, picnic area, boat launching ramp, or park.

(b) Within 24 hours after a leak is reported, the Commission shall post warning signs at each public access point to a waterway that becomes contaminated by a leak in a sanitary sewer line, pipe, or fixture that is connected to the sanitary sewer system of the Commission.

(c) A warning sign posted under this section shall include:

(1) the source and date of discovery of the leak; and

(2) the contact information, including a telephone number, of the Commission for members of the general public to use for obtaining additional information.

(d) The Commission:

(1) shall post the warning signs downstream from the leak in accordance with regulations adopted by the Commission; and

(2) is not required to post any warning sign upstream from a leak.

(e) The Commission shall adopt regulations to implement this section, including regulations concerning:

(1) the minimum distance from the source of a leak within which warning signs must be posted; and

(2) the form and content of the warning signs.

§25–101.

(a) In this section, "industrial user" means:

(1) an industry identified in the category "Division D – Manufacturing" of the North American Industry Classification System developed by the United States Office of Management and Budget; or

(2) any industry in another class of significant waste producers that the Commission establishes by regulation.

(b) Notwithstanding any other provision of this subtitle or Subtitles 3 through 5 of this title that requires a regulation, rate, or charge to be uniform throughout the sanitary district, if the Commission determines that in any area of the sanitary district the conditions for service from any of its systems, including the cost of instituting and maintaining the service, are substantially different from the conditions for service generally in the sanitary district, the Commission may define the area as a subdistrict and adopt a different regulation, rate, or charge to apply in that subdistrict.

(c) Notwithstanding any other provision of this subtitle or Subtitles 3 through 5 of this title that requires a regulation, rate, or charge to be uniform throughout the sanitary district, if the Commission determines that conditions for service from any of its systems, including the cost of maintaining and operating the systems, to a property occupied by an industrial user are substantially different from the conditions for service generally in the sanitary district, the Commission may adopt regulations and set higher rates or charges or adopt more restrictive usage regulations for industrial users.

(d) Before adopting any different regulation, rate, or charge under this section, the Commission shall:

(1) publish notice of the proposed modification in at least one newspaper of general circulation in each county of the sanitary district; and

(2) hold a public hearing on the necessity or advisability of a modification of the regulation, rate, or charge.

§25–102.

Except as provided in Subtitle 2 of this title, any law or regulation that applies in the sanitary district shall apply to any property for which the front foot benefit charge or ad valorem tax is suspended or exempted.

§25–103.

(a) The intent of this section:

(1) is to declare the effect of the Acts of the General Assembly that have added area or property to the sanitary district on the conditions provided in this section; and

(2) is not to amend any of the conditions established by these Acts.

(b) Until the Commission begins, extends, or acquires a water or sanitary sewer system in an area or property added to the sanitary district and makes water or sewer service available to the properties in the area:

(1) the Commission may not seek the imposition of an ad valorem tax on that area or property; and

(2) the area or property added to the sanitary district is included in the sanitary district for all purposes of this division, except as a taxing district.

§25–104.

If the Commission determines that it is necessary or advisable to modify an existing rate, charge, or assessment, the Commission shall:

(1) publish notice of the proposed modification in at least one newspaper of general circulation in each county of the sanitary district; and

(2) hold a public hearing on the necessity or advisability of the proposed modification.

§25–105.

(a) (1) An appeal to the Public Service Commission of the reasonableness of any rate, charge, or assessment of the Commission may be taken by:

(i) an individual who has a financial interest in the appeal; or

(ii) the county council of Montgomery County or Prince George's County.

(2) Under regulations of the Public Service Commission, on appeal under paragraph (1) of this subsection, the Public Service Commission shall determine the

reasonableness of the rate, charge, or assessment of the Commission.

(b) An appeal under this section shall be taken by filing a written complaint within 30 days after the date on which the Commission set the rate or fixed the charge or assessment.

§25–106.

(a) Except for assessments and benefit charges authorized by Subtitle 2 of this title, this section applies to any fee or charge imposed by the Commission.

(b) (1) A person may file a written claim with the Commission, in a form and containing the information and supporting documents required by the Commission, for a refund of the amount of a fee or charge the person paid to the Commission that exceeds the amount that is properly and legally payable.

(2) If the property for which the fee or charge was paid has been transferred to a new owner after the payment, the new owner may file the claim for the refund.

(c) (1) On the receipt of a claim for a refund under subsection (b) of this section, the Commission shall investigate the merits of the claim.

(2) On the request of the claimant, the Commission, or the Commission's designee, shall hold a hearing on the claim.

(3) A claim shall be disallowed unless it is filed within 3 years after the date of the payment for which the refund is requested.

(4) The Commission shall pay interest on any amount refunded under this section, calculated at the rate of 6% per year, starting 180 days from the date the claim was made.

(d) If the Commission fails to reach a final decision on a claim within 180 days after the date the claim is filed, the failure shall be deemed a final rejection of the claim.

(e) Within 30 days after the date of final action by the Commission on a claim for a refund filed under subsection (b) of this section, a petition for judicial review may be filed with the circuit court as provided in Title 7, Chapter 200 of the Maryland Rules.

(f) Notwithstanding any other provision of this section, the Commission may refund a payment that the Commission determines was paid in excess of the amount that was properly and legally payable, whether or not the person who made the payment files a claim for a refund.

§25–201.

In this subtitle, "sewer" means a sanitary sewer.

§25–202.

The construction, acquisition, replacement, or enlargement of, or the installation of a service connection to, a water main or sewer benefits each property that abuts on, is connected to, or is served by the water main or sewer.

§25–203.

(a) To impose a benefit charge for the construction of a water supply or sewer system, the Commission shall classify each property that abuts on a street, road, lane, alley, right–of–way, or easement in which a water main or sewer line is to be laid as:

(1) agricultural;

(2) industrial or business;

(3) institutional;

(4) multiunit business;

(5) multiunit residential;

(6) residential subdivision; or

(7) small acreage.

(b) The classification of a property by the Commission is final, subject only to revision:

(1) at a hearing under § 25–204(a) of this subtitle; or

(2) by the Commission if the use of the property changes.

§25–204.

(a) (1) When construction begins or within 12 months after completion of a water supply or sewer project, the Commission shall:

(i) in accordance with a classification established under § 25–203 of this subtitle, impose a benefit charge on each property that abuts on the water main or sewer; and

(ii) notify each property owner in writing of:

1. the classification of the owner's property;

2. the benefit charge imposed on the property; and

3. the time and place of a hearing to contest the imposition of

the charge.

(2) The Commission may deliver the notice required under this subsection by:

(i) mailing the notice to the last known address of the property owner;

(ii) giving the notice in person to an adult occupying the property; or

(iii) if the property is vacant or unimproved, posting the notice on the property.

(b) (1) For each class of property, the Commission shall impose a benefit charge for water supply or sewer construction, or both, that is based on:

(i) the approximate cost of construction as an integral part of the whole system; and

(ii) 1. the number of front feet abutting on the street, road, lane, alley, right–of–way, or easement in which the water main or sewer is placed; or

2. for multiunit classes, the number of units in or on the property that abut on the water main or sewer.

(2) In accordance with paragraph (1) and subject to paragraph (3) of this subsection, in imposing a front foot benefit charge the Commission:

(i) for an irregularly shaped lot that abuts on a street, road, lane, alley, right–of–way, or easement in which there is or is being constructed a water main or sewer, shall use a front footage the Commission considers reasonable and fair;

(ii) for all the lots in a block owned by the same property owner and appurtenant to a residence, may use a continuous front footage for all the lots regardless of the streets on which the lots face;

(iii) for a lot with a front and rear on separate streets, may use a front footage on both the front and rear; and

(iv) for a corner lot of less than 2 acres in the residential subdivision classification:

1. may not use a front footage on more than one side unless the corner lot abuts on two parallel streets; and

2. if the corner lot abuts on two parallel streets, shall use a front footage that is reasonable and fair, taking into consideration the front footage toward which the building on the lot would naturally face.

(3) The Commission may impose a front foot benefit charge on the full front footage for a lot described in paragraph (2) of this subsection even if a water main or sewer does not extend along the full length of a boundary.

(c) The benefit charge shall be:

(1) unless otherwise provided in this subtitle, uniform for each classification of property in the sanitary district for any 1 year;

(2) determined by the Commission as costs and conditions require; and

(3) imposed once a year to begin on the January 1 or July 1 after the date of its imposition and may not be increased in that year.

(d) (1) Beginning when the Commission imposes a benefit charge for a property, the Commission shall require the property owner to pay the benefit charge annually for a period of years equal to the period of maturity of the bonds the proceeds of which financed the construction of the water main or sewer.

(2) If a property of the Housing Opportunities Commission of Montgomery County is subject to a benefit charge under this subtitle, the benefit charge shall be paid in the same manner as by a private property owner.

(e) Each benefit charge imposed under this subtitle is a lien against the property that continues until the benefit charge is paid and the account is extinguished in accordance with this subtitle.

§25–205.

(a) (1) The Commission may not impose a front foot benefit charge on:

(i) property owned by the State, a county, or a municipality;

(ii) property in the sanitary district that is connected to or authorized by the Commission to be connected to a water or sewer system operated by:

1. a municipality; or

2. a water or sewer company under the jurisdiction of the Department of the Environment;

(iii) property owned by a regularly organized volunteer fire department that is used for public purposes; or

(iv) subject to paragraph (2) of this subsection, property classified as agricultural that is actually used for farming purposes, unless a connection is made to a water main or sewer running through or adjacent to the property.

(2) The Commission may impose a reasonable front foot benefit charge on

property classified as agricultural, which may not exceed the charge for 300 feet of front footage.

(b) The Commission may suspend the imposition and collection of a front foot benefit charge:

(1) with respect to a sewer line, for property otherwise subject to a front foot benefit charge that the Commission determines cannot obtain service from the sewer pipe on which the benefit charge would be based;

(2) for construction of a water main if the owner of the property that is otherwise subject to the benefit charge is not permitted to connect to the water main because of a finding:

(i) by the Commission that there is no sewer and the extension of an improved sewer system is not reasonably feasible; and

(ii) by a county health department that a septic system would not be approved for the disposal of the water for which the connection is requested; or

(3) if the property that is otherwise subject to the front foot benefit charge for a water main or sewer has a preexisting residential dwelling that is served by a well or septic system, until the property owner requests service from the water main or sewer.

(c) (1) If a property is exempt from front foot benefit charges or if the Commission has suspended front foot benefit charges for a property and the property is no longer eligible for the exemption or suspension, the Commission shall:

(i) classify the property in accordance with § 25–203 of this subtitle; and

(ii) impose a front foot benefit charge at a rate and for a period of time equal to that of property that was originally classified or for which the Commission imposed benefit charges in the year of the suspension.

(2) The Commission shall use money from front foot benefit charges imposed on property under paragraph (1) of this subsection to:

(i) amortize bonds issued to construct water mains and sewers for which benefit charges were imposed under this subtitle; or

(ii) construct other water mains and sewers for which benefit charges are imposed.

§25–206.

(a) This section applies only to a property owner:

(1) whose property does not abut a water main or sewer; and

(2) who has not previously paid a benefit charge for the construction of the water main or sewer.

(b) The Commission:

(1) shall allow a property owner to connect to a nonabutting water main or sewer;

(2) shall classify the property and impose a front foot benefit charge to be paid by the property owner at the rate and for the same number of years as though the property abutted on a water main or sewer constructed in the year in which the connection is made;

(3) when the connection is made, shall place the property owner in the same position as to all charges, rates, and benefits as if the property abutted on a newly constructed water main or sewer;

(4) if a water main or sewer abutting on the property is subsequently constructed, may require the property owner to connect to the abutting line and discontinue service from the nonabutting line; or

(5) while the property is in the same classification as when the nonabutting connection was made, shall allow the prior imposition of a front foot benefit charge to stand and may not impose a front foot benefit charge for the new abutting water main or sewer.

§25–207.

(a) In this section, "cost of construction" includes the cost of connecting a water main or sewer to the Commission system.

(b) If a property owner applies for a water main or sewer in an area in which the Commission determines service is not economically feasible unless the applicant makes a substantial contribution to the cost of construction of the water main or sewer, the Commission may classify the applicant's property together with adjacent or adjoining properties that could be readily served by the construction required by the applicant as a remote area.

(c) The Commission may construct the water main or sewer after:

(1) approving the application;

(2) receiving payment from the applicant of the contribution necessary for the cost of construction; and

(3) imposing the required front foot benefit charge.

(d) (1) The Commission may contract with the applicant at the time of the contribution to refund part or all of the contribution from any front foot benefit charges imposed on the property for the water main or sewer subsequently constructed by the Commission and served through the lines of the applicant in the remote area.

(2) The Commission shall determine the proportion of the contribution to be refunded and the maximum time of repayment, not to exceed 10 years.

§25–208.

When the Commission acquires an existing water or sewer system other than a municipal system, the Commission may impose a front foot benefit charge less than the uniform front foot benefit charge required in § 25–204 of this subtitle if:

(1) the construction cost of the system has been added, wholly or partly, to the purchase price of the property that abuts on the system; and

(2) the addition of the construction cost is a factor in the cost of the system to the Commission.

§25–209.

(a) A water or sewer connection benefit charge imposed by the Commission under this section is in addition to a benefit charge imposed under any other section of this subtitle.

(b) (1) (i) When a benefit charge or portion of a benefit charge for a water main or sewer connection is made payable on an installment basis as provided in § 25–304(b) of this title, the deferred amount and interest shall be paid by an annual benefit charge in an amount and for the period of years necessary to amortize the account.

(ii) Property subject to a benefit charge imposed under this section is subject to the benefit charge until payments have amortized the charge, including accrued interest.

(2) The Commission shall allow a property owner subject to a benefit charge for the deferred portion of a connection benefit charge to extinguish the account by paying the principal and interest due up to the time of payment.

(c) If a federal, State, county, or other governmental unit or municipality acquires property for public use that is subject to a benefit charge under this section, the benefit charge shall be paid and extinguished as provided in § 25–212 of this subtitle.

(d) A benefit charge imposed under this section shall be collected as provided in § 25–214 of this subtitle.

(e) To implement this section, the Commission may:

(1) include in the sale of bonds the cost of making service connections that are paid on an installment basis; and

(2) use any funds obtained from the sale.

§25–210.

(a) (1) When the Commission replaces or enlarges a water main or sewer to provide increased water or sewer service capability for abutting or connected property because of a change in the use or zoning classification of the property, a benefit charge for the construction of the replacement or enlarged system shall be:

(i) imposed as provided in § 25–204 of this subtitle;

(ii) collected as provided in § 25–214 of this subtitle; and

(iii) redeemed as provided in § 25–211 of this subtitle.

(2) Any unpaid portion of the initial benefit charge imposed for the original construction of the water main or sewer shall be included in the new benefit charge as an incremental charge to the single resulting benefit charge for the enlarged system only for the remaining years of the initial benefit charge.

(b) The Commission may not impose an additional benefit charge under subsection (a) of this section for a property in the residential subdivision class that abuts on an enlarged water main or sewer and that is subject to, or was subject to and paid, a benefit charge for water main or sewer construction until the classification of the property is changed because of a change in use or zoning classification requested by the property owner.

§25–211.

(a) (1) For purposes of this section, the annual benefit charge for a property shall be calculated at a sum:

(i) equal to the base rate applied to the classification for the property as it is used, disregarding any allowance for excess; but

(ii) not less than the base rate applied to property in the residential subdivision classification.

(2) At any time, a benefit charge may be extinguished or redeemed by payment to the Commission of a sum equal to:

(i) the annual benefit charge multiplied by the number of years yet to run on the bonds that financed the construction of the water main or sewer on which

the benefit charge was based; and

(ii) less the interest calculated at the rate of interest on the bonds that financed the construction of the water main or sewer on which the benefit charge is based.

(b) Notwithstanding subsection (a) of this section, if a benefit charge is paid and redeemed because the property is acquired by the State, a county, or other governmental unit under any law that requires redemption, the payment to the Commission:

(1) shall be the capitalized amount of the actual benefit charge; but

(2) may not be less than an amount calculated as if the property were in the small acreage classification, with the redemption amount calculated as provided in this section.

(c) (1) On receiving a sum from the extinguishment or redemption of one or more front foot benefit charges, the Commission:

(i) shall purchase and cancel one or more bonds from the series of bonds issued for the construction that was the basis of the front foot benefit charge; or

(ii) may invest or use the sum to:

1. construct other water mains and sewers for which benefit charges are imposed; or

2. amortize bonds issued for the construction of water mains and sewers for which front foot benefit charges are imposed under this subtitle.

(2) The Commission may make up a deficiency in the purchase of a bond or pay a premium from any available surplus funds.

(3) The extinguishment or redemption of a benefit charge is conditional until the last year of maturity of the bonds from which proceeds the water mains or sewers were constructed.

(4) If, after extinguishment or redemption, the use of the property changes to another classification that would yield a greater benefit charge than that used to calculate the sum to extinguish or redeem the benefit charge, the Commission may:

(i) reclassify the property;

(ii) calculate a benefit charge to give credit for the sum paid for the extinguishment or redemption; and

(iii) reimpose the benefit charge for the remaining number of years

until the bonds mature.

§25–212.

(a) Except as provided for the Housing Opportunities Commission of Montgomery County under § 25–204(d)(2) of this subtitle, when the State or a county or municipality, or a unit of the State or a county, acquires property for public use that is subject to a benefit charge imposed under this subtitle, the benefit charge shall be paid and extinguished by payment to the Commission of a sum calculated in accordance with § 25–211 of this subtitle.

(b) When property is acquired without eminent domain, the Commission shall be paid the amount necessary to extinguish the benefit charge before the deed evidencing the transfer may be recorded in the land records of the county in which the property is located.

(c) When property is acquired by eminent domain:

(1) the Commission shall be named a party to the eminent domain proceedings and the jury shall make a separate award to the Commission of the amount necessary to extinguish the benefit charge; or

(2) the condemning authority shall pay the Commission the amount necessary to extinguish the benefit charge at the same time the condemning authority pays the amount awarded to the property owner if:

(i) by oversight or mistake, the Commission is not named a party to the proceedings; or

(ii) the jury's inquisition does not specify a separate award for the amount necessary to pay the benefit charge.

(d) If the Housing Opportunities Commission of Montgomery County allows a benefit charge to become delinquent:

(1) by the first month of the next fiscal year, the Montgomery County Council shall authorize and appropriate sufficient funds to pay the delinquent benefit charge and all penalties and interest on the charge; and

(2) the Montgomery County Executive shall pay the appropriated funds to the Commission promptly.

§25–213.

(a) This section applies to:

(1) an omission or mistake previously made by the Commission; or

(2) a judgment or decree previously rendered on a property if front foot benefit charge payments have not been made on the property.

(b) (1) When the Commission discovers an omission or mistake or within a reasonable time after a court renders a judgment or decree, the Commission may impose a front foot benefit charge at a rate and in a classification that it could have imposed originally or that a court orders, including any increases applied to the project of which the property is a part, if:

(i) the Commission discovers that property subject to a front foot benefit charge:

1. mistakenly has not had a front foot benefit charge imposed;

2. has had the charge imposed but was listed in the wrong name; or

3. has had the charge imposed under an incorrect description; or

(ii) a property owner did not receive notice as required by § 25–204 of this subtitle; or

(iii) the court set aside the service of notice by judgment or decree.

(2) The front foot benefit charge imposed under this section shall run for the period of years the benefit charge would have run if it had been imposed at the proper time or in the proper manner.

§25–214.

(a) This section applies to the collection of benefit charges for the Commission by the directors of finance of Prince George's County and Montgomery County or by other tax collecting authorities in those counties.

(b) Each year, for 30 days before the collection of taxes begins in Montgomery County and Prince George's County, the Commission shall have access to the records of the treasury division in each county's department or office of finance to inform each county:

(1) regarding which properties or property owners are subject to a benefit charge and the annual benefit charge imposed on the property;

(2) regarding each property on which the Commission has imposed a benefit charge that was not subject to State or county taxes; and

(3) of the total benefit charge imposed for all properties in the county.

(c) (1) (i) All laws relating to the collection of county taxes apply to the collection of a benefit charge.

(ii) A benefit charge:

1. for purposes of collection, shall be treated as a county tax;

2. shall bear the same interest and penalties as a county tax; and

3. shall be advertised with, and in the same manner as, a county tax.

(2) The director of finance shall collect a benefit charge in accordance with this section.

(3) The director of finance:

(i) shall refer a protest, objection, or complaint concerning a benefit charge to the Commission; and

(ii) may not refund, change, or amend a benefit charge.

(4) A property redeemed from a county tax sale or a property sold by the county council of Montgomery County or Prince George's County after a final tax sale may not be redeemed or sold except on payment of the benefit charge due on the property.

(5) A property subject to a delinquent benefit charge shall be sold for the delinquent benefit charge at the same time and in the same manner as property sold for delinquent county taxes.

(d) (1) The director of finance shall:

(i) print on the tax bill:

"To Sanitary Commission benefit charge $....";

(ii) provide a space on the tax bill for the interest or penalty;

(iii) make the proper entries on each tax bill mailed; and

(iv) collect the amount specified on the bill for the benefit charge with the State and county taxes.

(2) In Montgomery County, each property tax bill shall list separately any deferred water main or sewer connection benefit charges applicable to an assessed property.

(3) Beginning June 1, 2013, in Prince George's County, each property tax bill shall contain a notice of the number of annual payments remaining on the assessed property for the front foot benefit charge.

(e) (1) On or before the 10th day of each month, the director of finance shall pay the Commission the amount of the benefit charges collected by the director of finance through the last day of the preceding month.

(2) If the director of finance does not pay the amount due the Commission as provided in paragraph (1) of this subsection, the amount due shall bear a penalty of 1% per month.

(3) The director of finance is personally liable for failure to pay the amount due to the Commission.

(4) The county councils of Montgomery County and Prince George's County shall require the bonds of its respective director of finance to be conditioned on payment to the Commission of the amount collected under this section.

(f) (1) By December 1 of each year, the Commission shall pay Montgomery County and Prince George's County a reasonable amount for the services of its respective director of finance.

(2) The payment provided for in paragraph (1) of this subsection shall be included as an item in the Commission's operating budget.

§25–301.

(a) For each service connection under § 23–202 of this article, the Commission shall set a connection charge that the Commission determines to be reasonable.

(b) Subject to a yearly revision by the Commission:

(1) for connections of the sizes and classes for which the average cost reasonably may be ascertained, the connection charge shall be uniform throughout the sanitary district; and

(2) for all other connections, the connection charge shall be the actual cost.

(c) All property owners shall pay the connection charge to the Commission before the actual connection of any line on private property is made.

(d) Of the total revenue over actual cost that is derived from the connection charges, the Commission shall:

(1) retain one–half of the revenue in a contingency fund for repair, replacement, or any extraordinary expense in the maintenance and operation of water supply or sewer systems under the control of the Commission; and

(2) apply one–half of the revenue to pay the Commission's debt service for outstanding debts.

§25–302.

(a) If the Commission determines that it is feasible, reasonable, and economical, the Commission may place in a separate class a water or sanitary sewer connection that is made to a water or sewer line installed in a street, road, alley, or right–of–way that has not been paved or otherwise improved to avoid the necessity of replacing pavement or street improvements on installation of the connection.

(b) (1) The Commission may:

(i) impose a connection charge based on the actual cost of the connections, including the Commission inspection charge; or

(ii) provide for the installation of the connections, including taps into a main or line, by the applicant or at the applicant's cost, under supervision and inspection of the Commission.

(2) The Commission may authorize any class of connection from its water line or sanitary sewer line to be constructed beyond the property line of the property to be served if the connecting line is constructed at the same time from the main to the structure on the property to be served.

(c) The property owner shall pay the entire expense of the construction and maintenance of the part of the connecting line from the property line into the property.

§25–303.

(a) If the Commission provides for a class of connections for unimproved areas as provided in § 25–302 of this subtitle:

(1) the charges for water and sanitary sewer connections to similar properties in developed areas may be based on the Commission's calculation, based on its experience, of an average cost for connections in both unimproved and developed areas; and

(2) the Commission may specify this connection charge as the uniform connection charge provided in § 25–301 of this subtitle for connections installed by the Commission in developed areas.

(b) Any difference between the actual cost of the connections and the uniform connection charge shall be paid from the water service charge or a sewer usage charge, as applicable.

§25–304.

(a) (1) The Commission may provide for the installation of the water or sewer connection as part of the construction of a water or sewer lateral line where the property to which the connection is made has not been assessed a front foot benefit charge under § 25–203 of this title.

(2) If an installation is made under paragraph (1) of this subsection, the Commission shall collect the deferred part of the connection charge by the benefit charge assessment procedure under §§ 25–204(e) and 25–209 of this title.

(b) (1) If the water or sewer lateral line has been constructed or where the property for which an application for connection is made has been assessed a benefit charge under § 25–204 of this title and the property is in an agricultural, small acreage, or residential class, the Commission may provide for an installment payment method for all or a part of the water and sewer connection charges for single family residential units with individual water or sewer connections.

(2) If an installment payment method is established and chosen by an applicant for connection:

(i) the installation of the connection is an additional benefit to the property; and

(ii) the applicant is liable for payment for the additional benefit until the deferred charge has been amortized under the schedule that the Commission requires.

(3) The connection charge benefit assessment is payable as provided in §§ 25–204(e) and 25–209 of this title.

§25–305.

In adopting or amending any regulation under this subtitle, and in establishing or modifying water or sewer connection charges under §§ 25–302 and 25–303 of this subtitle, the Commission shall comply with the requirements of § 17–403 of this article.

§25–401.

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

(b) "Apartment unit" means a single family housing unit that:

(1) is one of multiple units within a building;

(2) contains at least one full bath and one full kitchen; and

(3) does not contain more than two toilets.

(c) "Fixture unit" means the assigned value for a plumbing fixture or group of plumbing fixtures, as set forth in the Commission's plumbing and gas fitting regulations, that is standardized with a common lavatory having an assigned value of one based on its probable discharge into the drainage system or hydraulic demand on the water supply.

(d) "New service" means:

(1) a first time connection of a property to the Commission water or sewer system, including:

(i) a direct connection of an improvement or building; or

(ii) a connection of the improvement or building through an existing on–site system; or

(2) a new connection or increased water meter size for a property previously or currently served by the Commission if the new connection or increased meter size is needed because of a change in the use of the property or an increase in demand for service at the property.

(e) "Property" means an improvement or a building on a lot or parcel of land that contains plumbing fixtures.

(f) "Toilet" means a water closet, as set forth in the Commission's plumbing and gas fitting regulations.

§25–402.

(a) In addition to any other charges authorized under this division, the Commission may impose a system development charge that shall be paid by an applicant for new service.

(b) The system development charge shall be paid as follows:

(1) for residential properties:

(i) 50% at the time the plumbing permit application is filed; and

(ii) 50% within 12 months after the earlier of the date on which a plumbing permit application is filed or on transfer of title to the property; and

(2) for other properties, 100% at the time the plumbing permit application is filed.

(c) When the applicant files the plumbing permit application, the applicant shall deposit with the Commission security:

(1) in the form of an irrevocable letter of credit;

(2) in the form of a financial guaranty bond; or

(3) in a form the Commission establishes and approves under its regulations.

§25–403. IN EFFECT

(a) (1) Each year the Montgomery County Council and the Prince George's County Council shall meet to determine the amount of the system development charge.

(2) The amount of the system development charge for a particular property:

(i) shall be based on the number of plumbing fixtures and the assigned values for those fixtures as set forth in the Commission's plumbing and gas fitting regulations;

(ii) except as provided in item (iii) of this paragraph and subsection (c) of this section, may not exceed $200 per fixture unit; and

(iii) for residential properties with five or fewer toilets, shall be based on the number of toilets per dwelling unit and:

1. for each apartment unit, may not exceed $2,000;

2. for dwellings with one or two toilets, may not exceed $3,000;

3. for dwellings with three or four toilets, may not exceed $5,000;

4. for dwellings with five toilets, may not exceed $7,000; and

5. for dwellings with more than five toilets, shall be calculated on a fixture unit basis.

(3) When determining the system development charge, the county councils shall consider the actual cost of construction of Commission facilities.

(b) When determining the system development charge, under criteria established jointly and agreed on by the county councils, the county councils:

(1) shall grant a full or partial exemption from the charge for public sponsored or affordable housing as jointly defined and agreed on by the county councils;

(2) may grant a full or partial exemption from the charge for:

(i) revitalization projects; or

(ii) property owned by a community–based organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and has the primary mission and purpose of providing recreational and educational programs and services to youth, if:

1. the property is used primarily for recreational and educational programs and services to youth; and

2. the exemption amount is limited to $80,000; and

(3) may grant a full or partial exemption from the system development charge, under conditions set forth by the county councils, for:

(i) residential property located in a mixed retirement development as defined in the zoning ordinance of Prince George's County;

(ii) residential property located in a planned retirement community as defined in the zoning ordinance of Montgomery County;

(iii) elderly housing other than that included in item (i) or (ii) of this item; or

(iv) properties used for manufacturing or biotechnology research and development.

(c) On July 1, 1999, and July 1 of each succeeding year, the maximum charge, as established in subsection (a)(2) of this section, may be changed by an amount equal to the prior calendar year's change in the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor for urban wage earners and clerical workers for all items for the Washington, D.C. metropolitan area, or the successor index.

(d) If the county councils do not agree on the amount of the system development charge, the system development charge imposed during the previous year shall continue in effect for the following fiscal year.

(e) If the system development charge established by the county councils is less than the amount necessary to recover the full cost of constructing growth related facilities, the Commission shall identify the part of the cost of that growth that will be paid by current ratepayers as:

(1) a percentage of any rate increase; and

(2) the annual monetary amount on a typical residential customer's annual water and sewer bill.

25–403. // EFFECTIVE JUNE 30, 2016 PER CHAPTER 124 OF 2013 //

(a) (1) Each year the Montgomery County Council and the Prince George's County Council shall meet to determine the amount of the system development charge.

(2) The amount of the system development charge for a particular property:

(i) shall be based on the number of plumbing fixtures and the assigned values for those fixtures as set forth in the Commission's plumbing and gas fitting regulations;

(ii) except as provided in item (iii) of this paragraph and subsection (c) of this section, may not exceed $200 per fixture unit; and

(iii) for residential properties with five or fewer toilets, shall be based on the number of toilets per dwelling unit and:

1. for each apartment unit, may not exceed $2,000;

2. for dwellings with one or two toilets, may not exceed $3,000;

3. for dwellings with three or four toilets, may not exceed $5,000;

4. for dwellings with five toilets, may not exceed $7,000; and

5. for dwellings with more than five toilets, shall be calculated on a fixture unit basis.

(3) When determining the system development charge, the county councils shall consider the actual cost of construction of Commission facilities.

(b) When determining the system development charge, under criteria established jointly and agreed on by the county councils, the county councils:

(1) shall grant a full or partial exemption from the charge for public sponsored or affordable housing as jointly defined and agreed on by the county councils;

(2) may grant a full or partial exemption from the charge for revitalization projects; and

(3) may grant a full or partial exemption from the system development charge, under conditions set forth by the county councils, for:

(i) residential property located in a mixed retirement development as defined in the zoning ordinance of Prince George's County;

(ii) residential property located in a planned retirement community as defined in the zoning ordinance of Montgomery County;

(iii) elderly housing other than that included in item (i) or (ii) of this item; or

(iv) properties used for manufacturing or biotechnology research and development.

(c) On July 1, 1999, and July 1 of each succeeding year, the maximum charge, as established in subsection (a)(2) of this section, may be changed by an amount equal to the prior calendar year's change in the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor for urban wage earners and clerical workers for all items for the Washington, D.C. metropolitan area, or the successor index.

(d) If the county councils do not agree on the amount of the system development charge, the system development charge imposed during the previous year shall continue in effect for the following fiscal year.

(e) If the system development charge established by the county councils is less than the amount necessary to recover the full cost of constructing growth related facilities, the Commission shall identify the part of the cost of that growth that will be paid by current ratepayers as:

(1) a percentage of any rate increase; and

(2) the annual monetary amount on a typical residential customer's annual water and sewer bill.

§25–404.

(a) (1) The Commission shall deposit all funds collected under the system development charge into a system development charge fund.

(2) The system development charge fund is a special fund that may not revert to general funds of the Commission.

(b) The Commission may use the funds collected from the system development charge only to:

(1) pay for new treatment, transmission, and collection facilities, the need for which is directly attributable to the addition of new service and the construction of which began after July 1, 1993; or

(2) amortize any bond that is issued in connection with the construction of those new facilities.

(c) Other costs of enhancement, maintenance, or environmental regulation on existing or new systems shall be borne equally by all ratepayers.

§25–405.

(a) The Commission may allow a developer to design and construct any on–site or off–site facility necessary for the developer's project if the facility is:

(1) in the Commission Capital Improvement Program and the 10–year Comprehensive Water Supply and Sewerage System Plan adopted by one of the county councils;

(2) a major project included in the Commission Capital Improvement Program; or

(3) a project that includes a sewer main or water main that:

(i) provides only local service;

(ii) is 2,000 feet or less;

(iii) has a diameter of:

1. 15 inches or more if it is a sewer main; or

2. 16 inches or more if it is a water main; and

(iv) is built to avoid unnecessary and uneconomical duplication when a major project is constructed.

(b) A facility constructed under this section shall be designed, constructed, and inspected in accordance with:

(1) the standards used by the Commission; and

(2) all applicable laws, regulations, and written policies of the Commission.

(c) After the Commission approves a facility constructed by a developer under this section, the Commission shall:

(1) accept the facility as part of the Commission system; and

(2) subject to subsection (d) of this section, grant the developer a credit against any charge imposed under this subtitle in an amount equal to the cost of constructing the facility.

(d) The Commission's internal auditor shall review and approve the costs incurred by the developer.

(e) The Commission and the developer shall enter into an agreement that incorporates the provisions of this section.

(f) If the Commission rejects a developer's request to design and construct facilities under this section, the Commission shall explain in writing to the developer the reasons for the rejection.

(g) (1) The Commission shall submit a report at the end of each fiscal year to the Montgomery County and Prince George's County Delegations to the General Assembly and to the county councils of Montgomery County and Prince George's County.

(2) The report shall state the number of requests made by developers under this section, including:

(i) the number of acceptances and rejections by the Commission; and

(ii) the justification for any rejections.

§25–501.

(a) The Commission shall set a service rate that the Commission considers necessary to provide funds for:

(1) maintaining, repairing, and operating its water supply and sewer systems, including the overhead expense and depreciation allowance; and

(2) making any payments to the District of Columbia, as specified in this title.

(b) The service rate:

(1) shall be chargeable against all properties for a connection with any line owned by the Commission;

(2) shall be uniform throughout the sanitary district; and

(3) may be changed as necessary.

(c) (1) Notwithstanding any other law, on or before July 1, 2015, the Commission shall establish a Customer Assistance Program to provide financial assistance with water and sewer bills to eligible ratepayers.

(2) (i) The Commission shall establish income eligibility standards for a ratepayer to receive financial assistance under this subsection.

(ii) The income eligibility standards established under this paragraph shall be applied uniformly throughout the sanitary district.

(3) The Customer Assistance Program shall be funded from Commission revenues.

§25–502.

(a) (1) Except as provided in this subtitle, the service rate for water shall consist of:

(i) a minimum or a ready to serve charge; and

(ii) a charge for water used.

(2) The minimum or ready to serve charge shall be based on the size of the meter on the water connection leading to the property.

(3) The charge for water used shall be based on the amount of water passing the meter during the period between the last two readings.

(4) The meter shall be placed on each water connection by and at the expense of the Commission.

(b) The Commission may provide that a specified minimum number of gallons of water:

(1) be included in the minimum or ready to serve charge without additional service charges for the water; and

(2) may vary with the size of the meter involved.

(c) (1) If the Commission furnishes water to a federal, State, or other unit of government that is exempt from benefit charges or ad valorem taxes imposed under this division, the Commission shall set the water service charge at an amount the Commission considers necessary and reasonable.

(2) In setting the charge, the Commission shall take into consideration the general tax, the benefit charge imposed in the sanitary district, and the regular service rate as provided in subsections (a) and (b) of this section.

(d) (1) If, because of public necessity, the Commission has extended the Commission's water system outside the boundaries of the sanitary district to render a needed service, the Commission may pay for the extension out of its funds.

(2) The Commission may set any charge that it considers reasonable for all connections to its water system made outside of the sanitary district.

(3) In setting the charge the Commission shall take into consideration the general tax and front foot benefit charge imposed in the sanitary district.

(4) The Commission has the same authority over connections made to the Commission's water system outside the sanitary district as it has in the sanitary district.

(e) (1) On request by the Mayor and City Council of the City of Laurel, the Commission shall furnish water from the Patuxent River supply to the city.

(2) The service rate for the water supplied by the Commission to the City of Laurel shall be at the actual cost of supplying the water to the city's water system.

(3) The Mayor and City Council of the City of Laurel may construct a system to receive water from the Commission to the nearest convenient point to the Commission's Patuxent River supply.

(4) The connection point between the Commission's system and the city's water system must be at or near the Commission's dam.

§25–503.

(a) Except as otherwise provided in subsections (c), (d), and (e) of this section, the Commission shall impose a sewer usage charge, based on the water consumption of each property, against all properties connected to the Commission's sewer system to provide funds for:

(1) payment of principal and interest for bonds authorized under § 22–102(a) and (b) of this article;

(2) maintenance of the sewer system and disposal facilities, including the overhead expense and depreciation allowance; and

(3) payments to the District of Columbia for disposal of sanitary district sewage.

(b) (1) The Commission shall impose a sewer usage charge against the property of a federal, State, or other unit of government that is:

(i) exempt from front foot benefit charges and ad valorem taxes imposed under this division; and

(ii) connected to the Commission's sewer system.

(2) In setting the charge, the Commission shall take into consideration the general tax, the front foot benefit charge imposed in the sanitary district, and the regular sewer usage charge as provided in this section.

(c) (1) If the Commission furnishes sewer service to a property that is not connected to the Commission's water system, the Commission shall impose a sewer usage charge that:

(i) fairly and ratably compensates the Commission for the use of the sewer system; and

(ii) takes into consideration the sewer usage on the property and the sewer usage charge applicable to similar properties connected to the water system.

(2) The Commission shall bill for the amount of the sewer usage charge under this subsection monthly, twice a year, or once a year.

(d) (1) Subject to paragraphs (2) and (5) of this subsection, if water furnished by the Commission to a lot or parcel of land is used exclusively for any purpose that results in the water not entering the Commission's sewer system, the Commission may not impose a sewer usage charge to the owner, tenant, or occupant of a lot or parcel of land for the amount of the water furnished by the Commission that does not enter the Commission's sewer system.

(2) The owner, tenant, or occupant of a lot or parcel of land exempt under paragraph (1) of this subsection shall pay the Commission:

(i) the cost of installing a separate metered connection; and

(ii) an annual amount equal to the Commission's annual water service charge for the size of the meter installed.

(3) The Commission shall determine the location for the installation of the required meter.

(4) The Commission may adopt regulations regarding the maintenance and control of the meter.

(5) The sewer usage charge for properties under paragraph (1) of this subsection shall be based on the total amount of water used as determined under § 25–502(a) and (b) of this subtitle, less the amount of separately metered water.

(e) (1) A commercial, industrial, or multiresidential property may use a separate metered connection as provided in subsection (d) of this section, even though a portion of the separately metered water enters the sewer system of the Commission, provided that the owner, tenant, or occupant of the property requests to be billed according to a formula determined by the Commission.

(2) The formula determined by the Commission under paragraph (1) of this subsection shall:

(i) credit the owner, tenant, or occupant for separately metered water not entering the sewer system of the Commission; and

(ii) be consistent with:

1. manufacturers' engineering standards for the class of equipment using the separately metered water supplied by the Commission; or

2. industry standards for the class of operations using the separately metered water supplied by the Commission.

(3) The sewer usage charge for properties under paragraph (1) of this subsection shall be based on the sum of:

(i) the total amount of water used as determined under § 25–502(a) and (b) of this subtitle, less the amount of separately metered water; and

(ii) the amount of separately metered water as adjusted by the formula described in paragraph (2) of this subsection.

(f) This section may not be construed to invalidate an existing contract between the Commission and a municipality located in the sanitary district without the consent of the municipality.

§25–504.

(a) The Commission:

(1) may provide for the billing and collection of the water and sewer usage charges on an estimated basis for periods of 6 months or less, based on the historical daily average consumption calculated from actual previous usage;

(2) shall read the meter at least once every 6 months; and

(3) (i) shall base the final bill for the 6–month period on the actual consumption adjusted by previous estimates, if the meter had not been read because it was inaccessible;

(ii) shall base the final bill for the 6–month period on the historical daily average consumption, calculated from actual previous usage, if a final reading cannot be made because:

1. the meter malfunctioned;

2. the meter had been taken out of service for repairs, maintenance, or water system relining purposes; or

3. there was theft of service;

(iii) may modify the historical daily average consumption calculation based on appropriate evidence submitted by the owner; and

(iv) may not base a final bill on estimated usage for two consecutive 6–month periods.

(b) (1) The Commission shall bill for the amount of water and sewer usage charges to each property served monthly, every other month, four times a year, or twice

a year, as the Commission determines.

(2) On receipt each bill is payable to the Commission.

(c) (1) A late payment charge of 5% of the unpaid charges shall be added and collected as part of the bill if:

(i) the Commission sends out a bill for water and sewer usage charges in the regular course of business;

(ii) for a service period of less than 3 months, the bill is not paid 20 days from the date of sending; or

(iii) for a service period of 3 months or more, the bill is not paid 30 days from the date of sending.

(2) The late payment charge is in addition to and not in substitution for or derogation of any other right or remedy granted to the Commission by any other law.

(d) (1) If a bill is not paid within 30 days after the date of sending, after leaving written notice on the premises or mailing notice to the owner's last known address, the Commission shall turn off the water to the property.

(2) The water may not be turned on again until the bill, any late payment penalty charges as authorized by law, and the cost incurred in shutting off and restoring the water supply are paid.

(e) If a bill is not paid within 60 days after the date of sending, the bill shall be collected against the owner of the property served in the same manner as other debts are collected in Montgomery County and Prince George's County.

(f) (1) This subsection applies only to property subject to a condominium regime established under Title 11 of the Real Property Article.

(2) Notwithstanding any other law, if the Commission directly bills the governing body of a condominium or a person designated by the governing body of a condominium for water or sewer usage charges for all or a portion of the units in a condominium property, and a charge is in default for at least 60 days, the Commission shall post notice conspicuously at or near the entry to the common area of the condominium.

(3) The Commission may enter onto the common area of a condominium property at a reasonable time to post the notice required under this subsection.

(g) The provisions of subsections (b), (d), (e), and (f) of this section that relate solely to sewer usage charges may not be construed to invalidate an existing contract between the Commission and a municipality located in the sanitary district without the consent of the municipality.

§25–505.

(a) (1) In this section the following words have the meanings indicated.

(2) "Acquiring authority" means the State, Montgomery County, Prince George's County, or any municipality or unit of the State, Montgomery County, or Prince George's County.

(3) "Bill for water and sewer usage charges" includes, if applicable, the late payment penalty provided under § 25–504(c) of this subtitle.

(b) (1) Before acquiring property in the sanitary district, an acquiring authority shall:

(i) determine if any bill for water and sewer usage charges is outstanding against the property; and

(ii) require the payment of any outstanding bill for water or sewer charges on the property before acquiring the property.

(2) If a bill for water and sewer usage charges is not paid before an acquiring authority acquires the property, the acquiring authority shall:

(i) deduct the amount of the bill from the purchase price of the property; and

(ii) pay the amount of the bill over to the Commission.

(3) If the bill for water or sewer usage charges is not paid when the acquisition of the property is completed, the acquiring authority:

(i) is responsible for the bill; and

(ii) shall pay the bill to the Commission on demand.

§25–506.

(a) In this section, "charitable institution" means an institution:

(1) that is located in Montgomery County or Prince George's County; and

(2) whose purpose is primarily charitable.

(b) Except as provided in subsection (c) of this section, if a charitable institution does not discriminate against the entrance or care of residents of Montgomery County or Prince George's County, the Commission:

(1) shall supply without cost up to 100 gallons of water per day for each resident of the charitable institution; and

(2) may not charge the charitable institution a fee for sewer usage for the water supplied under item (1) of this subsection.

(c) (1) The charitable institution shall install and maintain a water meter at its own cost.

(2) The Commission may charge the charitable institution for:

(i) the cost of reading the water meter; and

(ii) sewer usage and water used in excess of 100 gallons per day for each resident of the charitable institution.

§25–507.

(a) This section may not be construed to invalidate a contract between the Commission and a municipality located in the sanitary district without the consent of the municipality.

(b) Except as provided in subsection (c) of this section, the Commission shall charge and collect its service rate for water, including a ready to serve charge, for all water used by:

(1) the State;

(2) Montgomery County;

(3) Prince George's County; and

(4) a municipality in Montgomery County or Prince George's County.

(c) Notwithstanding any other law, a fire department or rescue squad that is recognized by Montgomery County or Prince George's County or that is maintained and operated by a municipality in Montgomery County or Prince George's County is exempt from all Commission water and sewer usage charges and meter service charges.

§25–508.

(a) This section applies only in Prince George's County.

(b) There is an Office of Prince George's County Ombudsman in the Commission.

(c) The Prince George's County Executive, with the approval of the Prince George's County Council, shall appoint an Ombudsman.

(d) (1) (i) Prince George's County shall:

1. pay the Ombudsman's salary;

2. provide to the Ombudsman any benefits available to other employees of Prince George's County; and

3. provide funding for the Office of the Ombudsman.

(ii) The county may pay for any legal expenses incurred by the Ombudsman, as provided in the county budget.

(2) The Prince George's County Council shall determine the salary of the Ombudsman.

(3) While holding office, the Ombudsman may participate in any Commission program of group health, life, or disability insurance to the same extent and under the same terms as other Commission officers and employees.

(e) The Ombudsman may represent the interests of a Prince George's County residential or commercial customer who files a written claim with the Commission for:

(1) a refund of a payment on a bill for water and sewer usage charges that exceeds the amount that is properly and legally payable; or

(2) a reduction in a bill for water and sewer usage charges that exceeds the amount that is properly and legally payable that has not yet been paid.

(f) The Ombudsman:

(1) shall:

(i) receive a copy of, and review, any written claim filed with the Commission under § 25–106(b) of this title;

(ii) investigate the merits of the claim;

(iii) attend any hearing held in accordance with § 25–106(c)(2) of this title and present any findings and recommendations on the merits of the claim during the hearing; and

(iv) prepare a written statement of findings and recommendations on the claim and provide copies of the statement to the Commission and the claimant; and

(2) may represent the customer in any appeal process.

(g) Notwithstanding any other provision of this division, as to Prince George's County residential customers, if all undisputed bills for water and sewer usage charges are paid when due, the Commission may not interrupt service during the pendency of a written claim filed for a reduction in a bill for water and sewer usage charges that exceeds the amount that is properly and legally payable.

§26–101.

The Commission and Anne Arundel County may enter into a contract for the Commission to construct, operate, and maintain a water system in Anne Arundel County for the purpose of supplying water to:

(1) the corrective institution of the District of Columbia, as authorized by Chapter 434 of the Acts of 1953, or its successor, if any; and

(2) residents of Anne Arundel County who may be reasonably served from the water system.

§26–102.

To carry out this subtitle, the Commission may:

(1) enter on a public roadway as provided in § 27–101 of this article without receiving a permit from or paying a fee to Anne Arundel County;

(2) acquire property in Anne Arundel County in the same way as provided for acquiring property in Prince George's County in Title 21, Subtitle 2 of this article; and

(3) adopt regulations.

§26–103.

Except as provided in Commission regulations, a person may not use, handle, tamper with, obstruct, interfere with, deface, or destroy any part of the water system constructed by the Commission under this subtitle, including pipes, fittings, fireplugs, pumps, engines, appliances, wires, or other fixtures or equipment.

§26–201.

The Commission may construct, operate, and maintain a water system to the Howard County boundary line to supply water to the residents of Howard County.

§26–202.

(a) The Commission may contract with Howard County and any person to furnish water.

(b) The parties to a contract under this section may determine by agreement the costs, rentals, service charges, or other fees entered into under the contract.

(c) (1) If the Commission and any person who wants water service cannot agree on the reasonableness of the charge for the service, the Public Service Commission may determine the amount of the charge.

(2) The Public Service Commission's determination is final and binding on all parties concerned.

§26–203.

(a) The Commission may contract with the Howard County Department of Public Works for the maintenance and operation of parts of the Howard County Department of Public Works' water system that are supplied from the Commission's water system.

(b) If the contract under subsection (a) of this section requires the Commission to maintain and operate parts of the Howard County Department of Public Works' water system:

(1) the operating control of those parts of the Howard County Department of Public Works' water system belongs exclusively to the Commission; and

(2) the Commission shall collect fees and charges incident to the maintenance and operation of the water system or the use of water in accordance with § 25–504(b), (c), and (d) of this article.

§26–204.

(a) If Howard County is supplied with water from the Commission's system, the Commission may adopt regulations requiring:

(1) the use of water saving devices;

(2) curtailing of water use during water restriction periods; and

(3) compliance with health requirements of the Commission's plumbing regulations.

(b) Howard County shall comply with the regulations adopted by the Commission for those parts of the Howard County Department of Public Works' water system supplied with water by the Commission.

§26–205.

Except as provided in Commission regulations, a person may not use, handle, tamper with, obstruct, or interfere with any part of the Howard County Department of Public Works' water system that is supplied with water from the Commission's water system, including pipes, fittings, fireplugs, pumps, engines, appliances, wires, or other fixtures or equipment.

§26–206.

(a) The Commission may provide a sewage collection and disposal system for

the Patuxent River drainage area in Howard County.

(b) (1) The Commission may contract with Howard County regarding:

(i) sewage disposal; and

(ii) the terms and conditions on which sewage disposal service may be performed.

(2) The cost of sewage disposal under this section may not be apportioned or levied on any property in Montgomery County or Prince George's County.

§27–101.

(a) The Commission may:

(1) enter on a public roadway to install, maintain, and operate the Commission system; and

(2) construct a water main, sewer, or an appurtenance of a water main or sewer in a public roadway in Montgomery County and Prince George's County, subject to the regulation and permit provisions of §§ 27–102 and 27–108 of this title.

(b) When the Commission disturbs a public roadway, the Commission shall:

(1) notify the State, county, or municipality that has authority over the public roadway of the Commission's plans;

(2) repair and leave the public roadway in the same or a superior condition to that existing before the public roadway was disturbed; and

(3) pay all costs for returning the public roadway to the same or superior condition.

(c) In addition to the authority over the construction and location of underground construction in the sanitary district, the Commission may regulate the construction of an overhead line, pole, or other public utility along a public roadway in the sanitary district.

§27–102.

(a) In Montgomery County and Prince George's County, the county executive and county council may adopt regulations concerning the Commission's entry into or use of a public roadway for which a permit is required.

(b) The regulations adopted under this section:

(1) shall be adopted after consultation with the Commission;

(2) may include provisions for the review and approval of the required permits to be issued by the Commission under § 27–108 of this title for the construction or location of pipes, conduits, tracks, lines, poles, or facilities of a public utility in the public roadways of the county;

(3) subject to reasonable provisions for control by the county of the construction, disturbing, or repair of the public roadway, may not:

(i) be administered so as to constitute a taking of a franchise right that a public service company or a utility company has in a public roadway; and

(ii) divest the Commission of its right to use a public roadway for the installation of a Commission facility;

(4) subject to this title, may not prohibit the installation in a public roadway of a facility being constructed by the Commission to provide service to the sanitary district in the other county; and

(5) may not be inconsistent with this title.

(c) (1) The review and approval procedures authorized by subsection (b)(2) of this section:

(i) may require review and approval by the county before the Commission issues the permit; and

(ii) may not result in any cost to the Commission or to the public utility.

(2) A permit issued by the Commission under § 27–108 of this title is not effective unless the appropriate county approves the permit.

(d) (1) The Commission:

(i) shall give a county advance notice of the date, time, and extent to which the Commission plans to cut into a public roadway, sidewalk, or other public property of the county; and

(ii) if required by a regulation adopted under this section, shall:

1. submit a copy of proposed construction plans to the county before construction begins; and

2. apply for and obtain a permit from the county at no cost to the Commission.

(2) The county shall promptly process the Commission's permit application.

(3) The issuance of a permit under this section constitutes approval of the Commission's proposed construction as specified in the permit.

(4) If the construction under this section is an emergency, the Commission shall notify the appropriate county as soon as practicable after the cut.

(e) On prior notice, the county may:

(1) make all necessary final repairs to restore property to a condition satisfactory to the county; and

(2) charge all costs for the final repairs to the Commission or to the public utility that made the entry on the property.

§27–103.

(a) Sections 27–101 and 27–102 of this title do not limit the Commission's authority to enter into contracts or agreements with a unit of federal, State, county, or municipal government or with the District of Columbia concerning the matters described in §§ 27–101 and 27–102 of this title, if the agreement or contract is necessary, advisable, or expedient in connection with the construction, maintenance, and operation of the Commission's water and sewer systems.

(b) Sections 27–101 and 27–102 of this title do not impair the rights of the State Highway Administration concerning Commission or utility use of a State highway, including a road that is constructed in whole or in part with federal funds.

§27–104.

(a) (1) In this section the following words have the meanings indicated.

(2) "Homeowner corporation" means a homeowner association with 5,000 or more members that has:

(i) filed a written request with the Commission to receive the information required by this section; and

(ii) provided the Commission with a map of the homeowner corporation's geographic boundaries.

(3) "System repair" means work to install, maintain, or operate the Commission system that involves cutting into a public roadway, sidewalk, or other improvement on public property of a county or municipality located in the sanitary district.

(b) (1) On or before September 1 of each year, the Commission shall submit to each county, municipality, and homeowner corporation located in the sanitary district a plan of system repairs scheduled for the next 3 years.

(2) The Commission shall submit the plan of scheduled system repairs to the person designated by the county, municipality, or homeowner corporation.

(c) For each scheduled system repair, the plan shall include:

(1) the anticipated system repair date and time;

(2) the system repair location; and

(3) an analysis of the impact that the system repair will have on the affected counties, municipalities, and homeowner corporations.

(d) Before submitting the plan of system repairs, the Commission shall consult with the affected counties, municipalities, and homeowner corporations located in the sanitary district.

§27–105.

(a) (1) If a county requires the relocation or removal of a Commission facility, the county shall give notice to the Commission of the requirement within a reasonable time.

(2) On receiving notice, the Commission shall provide the county with an estimate of the cost of removing or relocating the facility.

(3) On completion of the removal or relocation of the facility, the Commission shall provide the county with an itemized statement of the actual cost of removal or relocation.

(b) (1) For the relocation or removal of a facility for which the Commission is required to pay because of any road construction or improvement required by either Montgomery County or Prince George's County, the governing body of the county in which the construction or improvement is made shall pay one–half of the actual cost of the construction or improvement in that county.

(2) (i) Unless the county disputes a charge in the itemized statement of actual costs, the county shall pay the costs within 6 months after receipt of the statement.

(ii) If the itemized statement as submitted or finally agreed on is not paid within 6 months after submission or agreement, the itemized statement shall bear 6% interest until paid.

(c) (1) If there is a dispute over a charge in the itemized statement of actual costs, within 3 months after receipt of the statement, the dispute shall be referred to an arbitrator selected by the Commission and the county.

(2) If the Commission and the county do not agree on an arbitrator, the

Commission and the county shall each appoint an arbitrator, who jointly shall appoint a third arbitrator.

(3) If a dispute goes to arbitration, the itemized statement as finally determined shall bear 6% interest after 6 months from the date of the finding by the arbitrator or arbitrators until the statement is paid.

§27–106.

(a) (1) In this section the following words have the meanings indicated.

(2) "Construction contractor" means a person that performs or is hired to perform road construction work.

(3) "Road construction work" means the construction, repair, paving, repaving, or grading of a public roadway.

(b) Before beginning road construction work on a public roadway in the sanitary district in which a water, sewer, or stormwater management structure is installed, a construction contractor shall give notice to the Commission and the county of the proposed construction work.

(c) The notice:

(1) shall include the proposed construction schedule and information about the location of construction to accomplish the purposes of this section;

(2) except in emergency road repair situations, shall be given to the Commission and the county at least 7 days before road construction work begins; and

(3) in an emergency road repair situation, shall be given to the Commission and the county as promptly as feasible under the emergency situation.

(d) Unless allowed by the Commission or the county, as appropriate, a person may not disturb, remove, pave over, or repave over a manhole, valve, fitting, or other Commission water or sewer structure or county stormwater management structure.

§27–107.

(a) (1) Before a person begins underground construction in a public roadway in the sanitary district, the person shall file with the Commission a construction plan that shows the location and depth of the proposed main, conduit, or pipe in the public roadway.

(2) Construction may not begin before the Commission approves the plan.

(3) Unless the Commission approves the change, a change may not be made in the physical location of the main, conduit, or pipe shown on the plan.

(b) (1) The Commission may remove or change the location of a conduit, main, or pipe that interferes with the operation of the Commission's water and sewer systems if:

(i) the conduit, main, or pipe is constructed without the Commission's approval; or

(ii) the physical location of the conduit, main, or pipe is changed from that shown on the plan approved by the Commission.

(2) The person that constructed the interfering conduit, main, or pipe, or the person's successor, shall pay the expenses of the removal or change in location.

(3) The Commission is not liable for damage to the interfering conduit, main, or pipe because of construction or maintenance of the Commission's water and sewer systems.

(c) (1) If a person has a building, conduit, pipe, track, or other physical obstruction on a public roadway in Montgomery County or Prince George's County that blocks or impedes the Commission's water or sewer system, on reasonable notice from the Commission, the person shall promptly adjust, accommodate, or remove the obstruction at the person's expense and in a manner that fully meets the Commission's needs.

(2) The Commission may condemn an easement in a franchise or right in accordance with Title 21, Subtitle 1 of this article.

(d) The Commission may charge a reasonable fee for any permit that the Commission is required to obtain and for engineering services that the Commission is required to perform under this section.

§27–108.

(a) A person may not erect a pole or other structure in the sanitary district for the purpose of carrying wires overhead without first obtaining a permit from the Commission.

(b) The Commission may:

(1) require that plans for the location or construction of the pole or structure be filed with the Commission; and

(2) charge a reasonable fee for the permit.

§28–101.

The Commission is exempt from the payment of any fee or charge under § 5–403(b) and (c) of the Natural Resources Article.

§28–201.

(a) There is a Commission police force.

(b) (1) A Commission police officer may exercise the powers of a law enforcement officer in the State on property that is owned, leased, or operated by or under the control of the Commission.

(2) A Commission police officer may not exercise law enforcement powers on any other property unless the officer is:

(i) engaged in fresh pursuit of a suspected offender;

(ii) requested or authorized to do so in a political subdivision by the chief executive officer or chief police officer of the political subdivision;

(iii) needed for the orderly flow of traffic to and from property owned, leased, or operated by or under the control of the Commission; or

(iv) ordered to do so by the Governor.

(c) (1) After consulting with the Secretary of State Police and the Police Training Commission, the Commission shall adopt regulations to carry out this section, including standards for character, training, education, human relations, experience, and job performance for Commission police officers.

(2) To the extent practicable, the Commission shall adopt standards that are similar to the standards of the Department of State Police.

(3) Standards adopted on or after October 1, 2002, on minimum hiring qualifications of Commission police officers do not affect the status of an individual who was a qualified Commission special police officer on October 1, 2002.

§28–301.

(a) The Commission shall conduct quarterly testing of drinking water in the Commission system for unregulated contaminants included in the United States Environmental Protection Agency's third cycle of unregulated contaminant monitoring regulations established in accordance with Title XIV, § 1445(a)(B)(i) of the federal Public Health Service Act.

(b) Within 30 days after receiving the results of each quarterly test, if the results indicate that a contaminant is present, the Commission shall:

(1) report the results of the test to the county executives of Montgomery County and Prince George's County; and

(2) publish the results of the test on its Web site.

§29–101.

(a) In this section, "enforcement official" means an employee of the Commission authorized by the Commission to issue a citation for a Commission infraction under this section.

(b) This section applies to the violations of the following:

(1) regulations governing sewer cleaning adopted under § 24–201 of this article;

(2) regulations governing plumbing adopted under § 17–403, Title 24, Subtitle 1, § 26–102, or § 26–204 of this article;

(3) regulations governing erosion and sediment control for utility construction adopted under § 17–403 of this article and § 4–105 of the Environment Article;

(4) regulations governing gas fitting adopted under § 17–404 of this article;

(5) regulations governing required permits for public utility construction adopted under §§ 27–101, 27–107, and 27–108 of this article;

(6) regulations governing the Commission Pretreatment Program adopted under § 17–403 of this article and § 9–332 of the Environment Article; or

(7) any other regulation adopted in accordance with § 17–406 of this article.

(c) (1) (i) A person who violates any provision of a regulation listed in subsection (b) of this section has committed a Commission infraction and on delivery of a citation by the Commission under subsection (d)(1) of this section shall pay to the Commission a civil fine in the amount of:

1. for a first violation of the regulation, $250;

2. for a second violation of the regulation, $500;

3. for a third violation of the regulation, $750; and

4. for a fourth or subsequent violation, $1,000.

(ii) Each day that a violation of the regulation remains uncorrected is a separate Commission infraction subject to an additional citation and fine in the amount of $250.

(2) (i) The payment due date for the fine may not be less than 10 or more than 20 calendar days after the date of delivery of the citation.

(ii) The recipient of the citation may pay the fine before the payment due date specified in the citation.

(d) (1) After verifying a Commission infraction the enforcement official shall deliver the citation to any person charged with committing the Commission infraction in accordance with the enforcement procedures of the regulations.

(2) The citation shall be on a form adopted by the Commission and shall include:

(i) the date of delivery of the citation;

(ii) the name and address of the person charged;

(iii) the specific provision of the regulations that has been violated;

(iv) the nature of the Commission infraction;

(v) the location and time that the Commission infraction occurred;

(vi) the amount of the civil fine assessed for the Commission infraction;

(vii) the manner, location, and time in which the fine may be paid to the Commission;

(viii) a statement that each day that a violation continues is a separate Commission infraction subject to additional citation;

(ix) the name, business address, title, and telephone number of the enforcement official who issued the citation; and

(x) notice of the person's right to a trial for the Commission infraction and instructions and time limits for that election.

(e) (1) A person who receives a citation for a Commission infraction under this section may elect to stand trial by filing with the Commission a notice of the person's intent to stand trial.

(2) The notice of intent to stand trial shall be given at least 5 days before the payment due date specified in the citation.

(3) On receipt of the notice of intent to stand trial, the Commission shall forward to the District Court having venue a copy of the citation and a copy of the notice of intent to stand trial that was filed by the person who received the citation.

(4) On receipt of the citation and the notice of intent to stand trial, the District Court shall schedule the case for trial and notify the defendant and Commission of the trial date.

(5) The District Court shall remit to the Commission all fines, penalties, or forfeitures the Court collects for Commission infractions.

(f) (1) If a person who receives a citation for a Commission infraction fails to pay the fine by the payment due date specified in the citation and fails to file a notice of the person's intent to stand trial for the offense:

(i) the person is liable for the assessed fine; and

(ii) the Commission shall send a notice of the Commission infraction to the person's last known address.

(2) (i) If the fine is not paid within 35 days after the date of the notice, the Commission may request adjudication of the case through the District Court, which may include the filing of a demand for judgment on affidavit.

(ii) On receipt of the request for adjudication, the District Court shall schedule the case for trial and summon the defendant to appear.

(3) If the defendant fails to respond to the summons and the Commission has made a proper demand for judgment on affidavit, the District Court shall enter judgment against the defendant in favor of the Commission in the amount then due.

(g) (1) For the purpose of this section, a Commission infraction is a civil offense.

(2) The adjudication of a Commission infraction:

(i) is not a criminal conviction; and

(ii) does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

(h) In a proceeding for a Commission infraction before the District Court, the violation shall be prosecuted in the same manner and to the same extent provided for municipal infractions under §§ 6–108 through 6–110, 6–112, and 6–114 of the Local Government Article.

§29–102.

(a) (1) Except as provided in paragraph (2) of this subsection, a person who violates a watershed regulation adopted under § 17–403 of this article has committed a Commission infraction.

(2) A Commission infraction does not include a violation of a watershed regulation declared by law to be a criminal offense.

(3) The Commission may:

(i) establish a schedule of preset fines for each conviction of a Commission infraction under this section;

(ii) impose a preset fine not to exceed $150 for each conviction of a Commission infraction under this section; and

(iii) impose a preset fine not to exceed $300 for a repeat offense.

(4) The recipient of a citation for a Commission infraction shall pay the fine to the Commission within 20 calendar days after the receipt of the citation.

(b) (1) (i) A Commission police officer may issue a citation to any person charged with committing a Commission infraction.

(ii) The Commission shall:

1. retain a copy of the citation; and

2. include on the citation a certification attesting to the truth of the matter specified in the citation.

(2) The citation also shall contain:

(i) the name and address of the person charged;

(ii) the nature of the Commission infraction;

(iii) the location and time that the Commission infraction occurred;

(iv) the amount of the civil fine assessed for the Commission infraction;

(v) the manner, location, and time in which the fine may be paid to the Commission; and

(vi) notice of the person's right to a trial for the Commission infraction.

(c) (1) A person who receives a citation for a Commission infraction under this section may elect to stand trial by filing with the Commission a notice of the person's intent to stand trial.

(2) The notice of intent to stand trial shall be given at least 5 days before the payment due date specified in the citation.

(3) On receipt of the notice of intent to stand trial, the Commission shall forward to the District Court having venue a copy of the citation and a copy of the notice of intent to stand trial that was filed by the person who received the citation.

(4) On receipt of the citation and the notice of intent to stand trial, the District Court shall schedule the case for trial and notify the defendant of the trial date.

(5) The District Court shall remit to the Commission all fines, penalties, or forfeitures the Court collects for Commission infractions.

(d) (1) If a person who receives a citation for a Commission infraction fails to pay the fine by the payment due date specified in the citation and fails to file a notice of the person's intent to stand trial for the offense, the Commission shall send a notice of the Commission infraction to the person's last known address.

(2) A person who fails to pay the fine within 15 days after the date of the notice is liable for an additional fine not to exceed twice the original fine.

(3) (i) If the fine is not paid within 35 days after the date of the notice, the Commission may request adjudication of the case through the District Court, which may include the filing of a demand for judgment on affidavit.

(ii) On receipt of the request for adjudication, the District Court promptly shall schedule the case for trial and summon the defendant to appear.

(4) If the defendant fails to respond to the summons and the Commission has made a proper demand for judgment on affidavit, the District Court shall enter judgment against the defendant in favor of the Commission in the amount then due.

(e) A person found by the District Court to have committed a Commission infraction shall pay a fine not to exceed:

(1) $150 for a first offense; or

(2) $300 for a repeat offense.

(f) (1) For the purpose of this section, a Commission infraction is a civil offense.

(2) The adjudication of a Commission infraction:

(i) is not a criminal conviction; and

(ii) does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

(g) In a proceeding for a Commission infraction before the District Court, the violation shall be prosecuted in the same manner and to the same extent provided for municipal infractions under §§ 6–108 through 6–110, 6–112, and 6–114 of the Local Government Article.

§29–103.

(a) In this section, "Commission Pretreatment Program" means any program adopted under the authority of § 9–332 of the Environment Article and § 17–403 of this article to:

(1) meet national and local pretreatment requirements; and

(2) eliminate the contribution of each pollutant discharged from an industrial user into a publicly owned treatment works that:

(i) causes pass through or interference with the publicly owned treatment works; or

(ii) contaminates sewage sludge.

(b) (1) The Commission may issue a written complaint if the Commission has reasonable grounds to believe that a person has violated a provision of the Commission Pretreatment Program.

(2) A complaint issued under this subsection shall:

(i) specify the provision of the Commission Pretreatment Program that allegedly has been violated; and

(ii) state the alleged facts that constitute the violation.

(c) (1) After or concurrently with service of a complaint under this section, the Commission may issue an administrative order that requires the person to whom the order is directed to:

(i) take corrective action within a time set in the order;

(ii) file with the Commission a written report about the alleged violation;

(iii) appear at a hearing before the Commission at a time and place the Commission sets to answer the charges in the order; or

(iv) file a written report and appear at a hearing before the Commission at a time and place the Commission sets to answer the charges in the order.

(2) Any order issued under this subsection is effective immediately when it is served.

(d) (1) A complaint or order issued by the Commission under this section shall be served on the person to whom the complaint or order is directed:

(i) personally; or

(ii) by certified mail, return receipt requested to the person's last known address as shown on the Commission's records.

(2) If service is made by certified mail, the person who mails the document shall file with the Commission verified proof of mailing.

(3) If the Commission is unable with due diligence to serve process under paragraph (1) of this subsection, a complaint or order shall be served by publication reasonably tailored to provide actual notice to the person to whom the complaint or order is directed.

(4) An order issued under this section that requires filing of a report, attendance at a hearing, or both shall be served at least 10 days before the earlier of:

(i) the time set for the hearing, if any; or

(ii) the time set for the filing of the report, if any.

(e) (1) Within 10 days after being served with an order under subsection (c)(1)(i) or (ii) of this section, the person served may request in writing a hearing before the Commission.

(2) The Commission shall give notice and hold a hearing under this section in accordance with the Administrative Procedure Act.

(3) In connection with a hearing conducted under this section, the Commission, on its own initiative or at the request of the person to whom the complaint or order is directed, may:

(i) subpoena any person or evidence that is essential for proper consideration at the hearing; and

(ii) order a witness to give evidence.

(4) If a person fails to comply with a subpoena or order issued under this subsection, on petition of the Commission or the person to whom the complaint or order is directed, a circuit court may compel:

(i) obedience to the order or subpoena; or

(ii) testimony or the production of evidence.

(f) The Commission may designate a hearing officer to conduct a hearing required under this section and issue the final order and decision of the Commission.

(g) (1) Unless the person served with a corrective action order under subsection (c)(1)(i) of this section makes a request for a hearing in accordance with

subsection (e)(1) of this section, the order is a final order.

(2) If the person served with a corrective action order under subsection (c)(1)(i) of this section makes a request for a hearing in accordance with subsection (e)(1) of this section, the order becomes a final corrective order in accordance with the decision of the Commission following the hearing.

(3) If the Commission issues an order under subsection (c)(1)(ii), (iii), or (iv) of this section, the Commission may not issue an order that requires corrective action until after the later of:

(i) the conclusion of the hearing, if any; or

(ii) the review of the report, if any.

(4) After the time provided in paragraph (3) of this subsection, if the Commission finds that a violation of the Commission Pretreatment Program has occurred, the Commission shall issue an order that requires correction of the violation within the time set in the order.

(5) An order issued under paragraph (4) of this subsection is a final corrective order and the person to whom the order is directed is not entitled to a hearing before the Commission as a result of the order.

(6) If the terms of the final corrective order are violated or if a violation is not corrected within the time set in the order, the Commission shall take action to secure compliance with a final corrective order, including filing suit to require correction of the violation.

(h) In an action for an injunction under § 29–104 of this title to enforce the compliance with or restrain the violation of a provision of the Commission Pretreatment Program or an administrative order issued under this section:

(1) a finding of the Commission after a hearing is prima facie evidence of each fact the Commission determines; and

(2) on a showing that a person is violating or is about to violate a provision of the Commission Pretreatment Program or an administrative order issued under this subsection, the court shall grant the injunction without requiring a showing of a lack of an adequate remedy at law.

(i) (1) In addition to any other judicial remedy and after an opportunity for a hearing, the Commission may impose a penalty for a violation of a provision of the Commission Pretreatment Program stated in the complaint or an administrative order issued under this section.

(2) The Commission shall provide the person subject to a penalty under paragraph (1) of this subsection a written notice stating that:

(i) the Commission intends to assess a penalty against the person;

(ii) the person may request in writing a hearing before the Commission no later than 10 days after receipt of the notice; and

(iii) the failure to file a written request for a hearing no later than 10 days after receipt of the notice shall be considered a waiver of the right to a hearing.

(3) The penalty imposed on a person under this subsection:

(i) may not exceed $1,000 for each violation or $50,000 total; and

(ii) shall be assessed with consideration given to:

1. the extent to which the existence of the violation was known to but uncorrected by the violator and the extent to which the violator exercised reasonable care;

2. any actual or potential harm to human health or to the environment, including injury to or impairment of the Commission sewage collection and treatment systems or the natural resources of the State;

3. the degree of interference with or injury to the general welfare, health, or property rights of the public;

4. the extent to which the geographic location of the system creates the potential for harm to the environment or to human health or safety;

5. the cost of cleanup and restoration of natural resources;

6. the available technology for controlling, reducing, or eliminating the conditions that caused the violation; and

7. the extent to which the current violation is part of a recurrent pattern of the same or similar type of violation committed by the violator.

(4) Each day a violation continues is a separate violation under this subsection.

(5) A penalty imposed under this subsection is:

(i) payable to the Commission; and

(ii) collectible in any manner provided at law for the collection of debts.

(6) If a person who is liable to pay a penalty imposed under this subsection fails to pay it after demand, the amount, together with interest and any costs that may accrue, shall be:

(i) a lien in favor of the Commission on any property, real or personal, of the person; and

(ii) recorded in the office of the clerk of court for the county in which the property is located.

(j) A person aggrieved by a final decision of the Commission in connection with an order issued under this section may seek judicial review as provided for in the Administrative Procedure Act.

§29–104.

(a) On application of the Commission that is verified by oath of a member or employee of the Commission, the circuit court of a county, by injunction, may:

(1) require the compliance with or restrain the violation of any order, notice, or regulation of the Commission under this division;

(2) require compliance with or restrain the violation or attempted violation of a provision of this division; or

(3) require the entry of an employee or agent of the Commission within a designated area on the private premises and into any building in the sanitary district where the Commission shows a violation of this division.

(b) The court may not require the Commission to post a bond.

(c) If the respondent in a petition for injunction under this section is a nonresident of the State, service of process shall be made in accordance with the Maryland Rules.

(d) As to §§ 27–101(a) and (b), 27–102, and 27–103 of this article:

(1) Montgomery County may apply the provisions of this section if an application is verified by oath of an employee of Montgomery County; and

(2) the court may not require Montgomery County to post a bond.

§29–105.

Except as provided in regulations adopted by the Commission, a person may not use, handle, tamper with, obstruct, interfere with, deface, or destroy any property owned or used by the Commission in the construction or operation of the Commission's systems.

§29–106.

(a) A person may not leave unburied for a period longer than 24 hours a dead animal or fecal matter in the sanitary district or on a watershed from which the

Commission gets its water supply.

(b) The Commission may bury a dead animal or fecal matter left unburied more than 24 hours and charge the cost of the burial to the owner or the person on whose property the dead animal or fecal matter was found.

§29–107.

(a) A person who violates any of the following provisions is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 30 days or a fine not exceeding $1,000 or both:

(1) § 17–403 of this article (Commission regulations, except for those specified in subsection (c) of this section and §§ 29–101(b) and 29–102(a) of this title);

(2) Title 22, Subtitle 1 of this article (general obligation bonds and notes);

(3) § 23–102(a) of this article (construction of private or municipal systems);

(4) § 23–202 of this article (service connections);

(5) § 26–103 of this article (tampering with Commission system in Anne Arundel County);

(6) § 26–205 of this article (tampering with Commission system in Howard County);

(7) §§ 27–101(c) and 27–108 of this article (public utilities construction);

(8) § 29–105 of this title (unlawful use of Commission property, except for the regulations governing publicly owned watershed property); or

(9) § 29–106 of this title (leaving dead animals or fecal matter unburied).

(b) A person who violates the provisions of Title 20, Subtitle 2 of this article as they relate to the minority business enterprise utilization program by committing a prohibited act listed under § 14–308 of the State Finance and Procurement Article, on conviction, is subject to the penalties provided under that section.

(c) A person who violates emergency water use restrictions adopted in accordance with § 17–403 of this article is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500.

(d) A person who violates Title 18, Subtitle 1 of this article (Personnel Management) is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500.

(e) A person who violates § 19–102(b) of this article (ethics) is guilty of a

misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $1,000 or both.

(f) A person may be convicted of a second or subsequent violation of a provision of this Division II or a regulation adopted under this Division II.