

SENATE BILL 1

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1998 Regular Session
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(PRE-FILED)

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

Requested: July 1, 1997

Introduced and read first time: January 14, 1998

Assigned to: Finance

Committee Report: Favorable

Senate action: Adopted

Read second time: February 17, 1998

CHAPTER _____

1 AN ACT concerning

2 **Public Utility Companies**

3 FOR the purpose of adding a new article to the Annotated Code of Maryland, to be
4 designated and known as the "Public Utility Companies Article", to revise,
5 restate, and recodify the laws of the State relating and pertaining to: the Public
6 Service Commission, the Office of People's Counsel, administrative and judicial
7 proceedings before and concerning the Commission, rate regulation of public
8 service companies and certain other entities, powers, duties, and prohibitions of
9 and relating to public service companies and their agents and employees,
10 franchises of and condemnation by public service companies, business structure,
11 financing, and reporting requirements, powers and duties of gas and electric
12 companies, electric generation facility planning, gas master meter operation,
13 energy conservation building standards, powers and duties of telephone and
14 telegraph companies including easement acquisition, telephone and telegraph
15 service requirements, common carriers, motor carrier companies, railroads,
16 for-hire driving services and taxicabs, liquefied gas facilities, underground
17 facilities, conversion of overhead utilities, and criminal and civil liability for
18 violations of certain provisions relating to public utility laws; defining certain
19 terms; revising, restating, and recodifying certain provisions relating to: crimes
20 and prohibited acts involving the personnel of or the property or equipment
21 owned or used by certain public utility companies, the handling and disposition
22 of certain baggage and property transported by certain entities, certain
23 requirements concerning telephone equipment, railroad safety and health, and
24 the Commissioner of Labor and Industry; transferring certain provisions to the
25 Session Laws; providing for the construction and application of this Act;
26 providing for the continuity of the terms of certain officials, the status of certain
27 transactions and employees, rights, titles, and interests, licenses, registrations,

1 certifications, and permits; and generally relating to public utility company laws
2 of the State.

3 BY repealing

4 Article 23 - Miscellaneous Companies
5 Section 139 and the subheading "Payment of Wages"; 166, 167, 193, 195 through
6 200, 202, 203, 205, 206, 212 through 217, 226, 227 through 229, 229A, 230,
7 231, 232, 234, 236, 237, 249 through 255; 317 through 320, 322, 323, 324,
8 325, 326, 326A, 326B, and 327 and the subheading "Telegraph and
9 Telephone Companies"; 328 through 330 and the subheading "Turnpike,
10 Plank Road and Passenger Railway Companies"; 333, 339, 340, 341, and
11 341A
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 1997 Supplement)

14 BY repealing

15 Article 27 - Crimes and Punishments
16 Section 118, 192 through 194, 194B, 200, 320, 453 through 460, 556, 557, and
17 557A
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1997 Supplement)

20 BY repealing

21 Article 78 - Public Service Commission Law
22 In its entirety
23 Annotated Code of Maryland
24 (1995 Replacement Volume and 1997 Supplement)

25 BY repealing

26 Article 89 - Miscellaneous Business, Work, and Safety Provisions
27 Section 82 through 103 and the subheading "Railroad Safety and Health"
28 Annotated Code of Maryland
29 (1995 Replacement Volume and 1997 Supplement)

30 BY adding

31 New Article - Public Utility Companies
32 Annotated Code of Maryland

33 BY repealing and reenacting, with amendments,

34 Article 1 - Rules of Interpretation
35 Section 25
36 Annotated Code of Maryland
37 (1996 Replacement Volume and 1997 Supplement)

38 BY adding to

1 Article 27 - Crimes and Punishments
2 Section 118, 192, 194, 194B, 200, 453, 453A, 455, 456, 458, 460, 556, and 557A
3 Annotated Code of Maryland
4 (1996 Replacement Volume and 1997 Supplement)

5 BY adding to
6 Article - Business Regulation
7 Section 19-102
8 Annotated Code of Maryland
9 (1992 Volume and 1997 Supplement)

10 BY adding to
11 Article - Commercial Law
12 Section 14-25A-01 to be under the new subtitle "Subtitle 25A. Hearing Aids
13 and Telephones"
14 Annotated Code of Maryland
15 (1990 Replacement Volume and 1997 Supplement)

16 BY adding to
17 Article - Labor and Employment
18 Section 5.5-101 through 5.5-123, inclusive, to be under the new title "Title 5.5.
19 Railroad Safety and Health"
20 Annotated Code of Maryland
21 (1991 Volume and 1997 Supplement)

22 BY repealing and reenacting, with amendments, and transferring to the Session
23 Laws
24 Article 23 - Miscellaneous Companies
25 Section 168 through 178, 207 through 210, and 321
26 Annotated Code of Maryland
27 (1996 Replacement Volume and 1997 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
29 MARYLAND, That the following Section(s) of the Annotated Code of Maryland be
30 repealed:

31 Article 23 - Miscellaneous Companies
32 Section 139 and the subheading "Payment of Wages"; 166, 167, 193, 195 through
33 200, 202, 203, 205, 206, 212 through 217, 226, 227 through 229, 229A, 230,
34 231, 232, 234, 236, 237, 249 through 255; 317 through 320, 322, 323, 324,
35 325, 326, 326A, 326B, and 327 and the subheading "Telegraph and
36 Telephone Companies"; 328 through 330 and the subheading "Turnpike,
37 Plank Road and Passenger Railway Companies"; 333, 339, 340, 341, and
38 341A

39 Article 27 - Crimes and Punishments

1 Section 118, 192 through 194, 194B, 200, 320, 453 through 460, 556, 557, and
2 557A

3 Article 78 - Public Service Commission Law
4 In its entirety

5 Article 89 - Miscellaneous Business, Work, and Safety Provisions
6 Section 82 through 103 and the subheading "Railroad Safety and Health"

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

9 **ARTICLE - PUBLIC UTILITY COMPANIES**

10 **TITLE 1. DEFINITIONS.**

11 **1-101. DEFINITIONS.**

12 **(A) IN GENERAL.**

13 **IN THIS ARTICLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

14 REVISOR'S NOTE: This subsection is new language derived without
15 substantive change from former Art. 78, § 2(a).

16 In this subsection, the reference to this "article" is retained. Although this
17 article contains material outside the scope of former Art. 78, the terms
18 defined here do not generally alter the meanings of terms used in material
19 derived from other articles. In instances where use of a term defined in
20 "this article" would constitute a substantive change, the revision alters the
21 scope of the term.

22 The former qualifications, "such variants thereof as may be due to
23 requirements of grammar and syntax" and "unless the context clearly
24 otherwise requires", are deleted as unnecessary statements of standard
25 rules of statutory construction that apply to all definitions.

26 **(B) COMMISSION.**

27 **"COMMISSION" MEANS THE PUBLIC SERVICE COMMISSION.**

28 REVISOR'S NOTE: This subsection formerly was Art. 78, § 2(b).

29 No changes are made.

30 **(C) COMMON CARRIER.**

31 **(1) "COMMON CARRIER" MEANS A PERSON, PUBLIC AUTHORITY, OR**
32 **FEDERAL, STATE, DISTRICT, OR MUNICIPAL TRANSPORTATION UNIT THAT IS**
33 **ENGAGED IN THE PUBLIC TRANSPORTATION OF PERSONS FOR HIRE, BY LAND,**
34 **WATER, AIR, OR ANY COMBINATION OF THEM.**

1 (2) "COMMON CARRIER" INCLUDES:

2 (I) AN AIRLINE COMPANY;

3 (II) A CAR COMPANY, MOTOR VEHICLE COMPANY, AUTOMOBILE
4 COMPANY, OR MOTOR BUS COMPANY;

5 (III) A POWER BOAT COMPANY, VESSEL-BOAT COMPANY,
6 STEAMBOAT COMPANY, OR FERRY COMPANY;

7 (IV) A RAILROAD COMPANY, STREET RAILROAD COMPANY, OR
8 SLEEPING CAR COMPANY;

9 (V) A TAXICAB COMPANY;

10 (VI) A TOLL BRIDGE COMPANY; AND

11 (VII) A TRANSIT COMPANY.

12 (3) "COMMON CARRIER" DOES NOT INCLUDE:

13 (I) A COUNTY REVENUE AUTHORITY;

14 (II) A TOLL BRIDGE OR OTHER FACILITY OWNED AND OPERATED BY
15 A COUNTY REVENUE AUTHORITY; OR

16 (III) A VANPOOL OR LAUNCH SERVICE.

17 REVISOR'S NOTE: This subsection is new language derived without
18 substantive change from former Art. 78, § 2(c).

19 In paragraph (1) of this subsection, the word "unit" is substituted for the
20 former word "agency". See General Revisor's Note to this article.

21 In paragraph (2) of this subsection, the former limitation "but is not
22 limited to", which formerly modified "includes", is deleted as unnecessary.
23 See Art. 1, § 30 of the Code.

24 In paragraph (3) of this subsection, the former qualification, "[a]ny
25 provisions of this article to the contrary", is deleted as unnecessary in light
26 of subsection (a) of this section, which applies the defined terms in this
27 section to the entire article.

28 Defined terms: "Company" § 1-101

29 "Launch service" § 1-101

30 "Person" § 1-101

31 "Railroad" § 1-101

32 "Street railroad" § 1-101

33 "Taxicab" § 1-101

34 "Toll bridge" § 1-101

35 "Transportation of persons for hire" § 1-101

1 (D) COMPANY.

2 "COMPANY", AS A DESIGNATION FOR A TYPE OF ENTERPRISE, INCLUDES A
3 PERSON THAT OWNS A COMPANY INDIVIDUALLY OR AS AN AGENT, TRUSTEE, OR
4 RECEIVER OF A COMPANY.

5 REVISOR'S NOTE: This subsection is new language derived without
6 substantive change from former Art. 78, § 2(d).

7 Defined term: "Person" § 1-101

8 (E) COUNTY.

9 "COUNTY" MEANS A COUNTY OF THE STATE OR BALTIMORE CITY.

10 REVISOR'S NOTE: This subsection is new language added to indicate that a
11 reference in this article to a "county" includes Baltimore City, unless the
12 reference specifically provides otherwise.

13 Article 1, § 14(a) of the Code provides that "county" includes Baltimore
14 City "unless such construction would be unreasonable". Since the word
15 "unreasonable" in that section has been interpreted in various ways, the
16 Public Utility Companies Article Review Committee decided that an
17 explicit definition of "county" should be included in this article.

18 (F) ELECTRIC COMPANY.

19 (1) "ELECTRIC COMPANY" MEANS A PUBLIC SERVICE COMPANY THAT:

20 (I) OWNS AN ELECTRIC PLANT AND TRANSMITS, SELLS, OR
21 DISTRIBUTES ELECTRICITY;

22 (II) GENERATES ELECTRICITY FOR DISTRIBUTION OR SALE; OR

23 (III) IS AUTHORIZED TO INSTALL OR MAINTAIN FACILITIES IN,
24 OVER, OR UNDER STREETS FOR FURNISHING OR DISTRIBUTING ELECTRICITY.

25 (2) "ELECTRIC COMPANY" INCLUDES A MUNICIPAL CORPORATION THAT
26 IS IN THE BUSINESS OF SUPPLYING ELECTRICITY FOR OTHER THAN MUNICIPAL
27 PURPOSES.

28 (3) "ELECTRIC COMPANY" DOES NOT INCLUDE A COMPANY THAT
29 GENERATES OR TRANSMITS ELECTRICITY EXCLUSIVELY FOR ITS OWN USE.

30 REVISOR'S NOTE: This subsection is new language derived without
31 substantive change from former Art. 78, § 2(e).

32 In paragraph (1)(iii) of this subsection, the reference to "install[ing] or
33 maintain[ing] facilities" is substituted for the former reference to
34 "erect[ing], lay[ing] down, or maintain[ing] wires, pipes, conduits, ducts or
35 other fixtures" for brevity.

1 Also in paragraph (1)(iii) of this subsection, the former reference to
2 "maintain[ing] underground conduits or ducts for electrical conductors" is
3 deleted as included in the reference to "maintain[ing] facilities ... for
4 furnishing or distributing electricity".

5 Defined terms: "Company" § 1-101

6 "Electric plant" § 1-101

7 "Public service company" § 1-101

8 (G) ELECTRIC PLANT.

9 "ELECTRIC PLANT" MEANS THE MATERIAL, EQUIPMENT, AND PROPERTY
10 OWNED BY AN ELECTRIC COMPANY.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from former Art. 78, § 2(f).

13 In this subsection, the reference to "the material, equipment, and
14 property" of an electric company is substituted for the former reference to
15 the company's "plant" and "batteries, boilers, buildings, cables, conduits,
16 converters, dams, ducts (or other devices for containing or carrying
17 electrical conductors), dynamos, easements, lamps, meters, motors, poles,
18 power stations, real estate, services, transformers, waterfalls, water plant
19 and water property" for brevity, accuracy, and consistency within this title.

20 Defined term: "Electric company" § 1-101

21 (H) GAS COMPANY.

22 (1) "GAS COMPANY" MEANS A PUBLIC SERVICE COMPANY THAT:

23 (I) IS AUTHORIZED TO INSTALL OR MAINTAIN FACILITIES IN,
24 OVER, OR UNDER STREETS FOR FURNISHING OR DISTRIBUTING GAS; OR

25 (II) OWNS A GAS PLANT AND:

26 1. TRANSMITS, SELLS, SUPPLIES, OR DISTRIBUTES
27 ARTIFICIAL OR NATURAL GAS; OR

28 2. MANUFACTURES GAS FOR DISTRIBUTION OR SALE.

29 (2) "GAS COMPANY" INCLUDES A MUNICIPAL CORPORATION THAT IS IN
30 THE BUSINESS OF SUPPLYING GAS FOR OTHER THAN MUNICIPAL PURPOSES.

31 REVISOR'S NOTE: This subsection is new language derived without
32 substantive change from former Art. 78, § 2(g).

33 In paragraph (1)(i) of this subsection, the reference to "facilities" is
34 substituted for the former reference to "pipes, conduits, ducts or other
35 fixtures" for consistency with other definitions in this section.

1 Defined terms: "Gas plant" § 1-101

2 "Public service company" § 1-101

3 (I) GAS MASTER METER OPERATOR.

4 "GAS MASTER METER OPERATOR" MEANS A PERSON THAT OWNS OR OPERATES
5 A PIPELINE SYSTEM, OTHER THAN PIPING WITHIN A BUILDING:

6 (1) THAT DISTRIBUTES GAS WITHIN, BUT NOT LIMITED TO, A
7 DEFINABLE AREA, SUCH AS A MOBILE HOME PARK, HOUSING PROJECT, OR
8 APARTMENT COMPLEX;

9 (2) FOR WHICH THE PERSON PURCHASES METERED, ARTIFICIAL, OR
10 NATURAL GAS FROM AN OUTSIDE SOURCE FOR RESALE THROUGH THE PIPELINE
11 SYSTEM; AND

12 (3) THAT SUPPLIES THE ULTIMATE CONSUMER, WHO PURCHASES THE
13 GAS DIRECTLY THROUGH A METER OR BY OTHER MEANS, SUCH AS BY RENT.

14 REVISOR'S NOTE: This subsection is new language derived without
15 substantive change from former Art. 78, § 2(kk).

16 In paragraph (2) of this subsection, the former reference to "gas
17 distribution" is deleted as implicit in the term "pipeline system".

18 Defined term: "Person" § 1-101

19 (J) GAS PLANT.

20 "GAS PLANT" MEANS THE MATERIAL, EQUIPMENT, AND PROPERTY OWNED BY A
21 GAS COMPANY.

22 REVISOR'S NOTE: This subsection is new language derived without
23 substantive change from former Art. 78, § 2(h).

24 In this subsection, the reference to "the material, equipment, and
25 property" of a gas company is substituted for the former reference to the
26 company's "plant" and "boilers, buildings, condensers, easements,
27 extensions, holders, lamps, mains, meters, pipes, pipe galleries, purifiers,
28 retorts, real estate, scrubbers, services, and water gas sets" for brevity,
29 accuracy, and consistency within this title.

30 Defined term: "Gas company" § 1-101

31 (K) LAUNCH SERVICE.

32 "LAUNCH SERVICE" MEANS A POWER BOAT COMPANY THAT TRANSPORTS
33 PASSENGERS OR FREIGHT BETWEEN THE SHORE AND VESSELS ON A BODY OF
34 WATER IN THE STATE.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 78, § 2(ii).

3 Defined term: "Company" § 1-101

4 (L) OWN.

5 "OWN" INCLUDES OWN, OPERATE, LEASE TO OR FROM, MANAGE, OR CONTROL.

6 REVISOR'S NOTE: This subsection is new language derived without
7 substantive change from former Art. 78, § 2(i).

8 (M) PERSON.

9 "PERSON" MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, PERSONAL
10 REPRESENTATIVE, FIDUCIARY, OR REPRESENTATIVE OF ANY KIND AND ANY
11 PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY.

12 REVISOR'S NOTE: This subsection is new language derived without
13 substantive change from former Art. 78, § 2(j). It is revised to conform to
14 the standard definition of "person" used in other revised articles of the
15 Code.

16 (N) PLANT.

17 "PLANT" INCLUDES ALL MATERIAL, EQUIPMENT, AND PROPERTY OWNED BY A
18 PUBLIC SERVICE COMPANY AND USED OR TO BE USED FOR OR IN CONNECTION WITH
19 A PUBLIC UTILITY SERVICE.

20 REVISOR'S NOTE: This subsection is new language derived without
21 substantive change from former Art. 78, § 2(l).

22 In this subsection, the former reference to "gas plant, electric plant,
23 railroad, street railroad, telegraph lines, telephone lines, [and] water
24 plant" is deleted as included in the reference to "all material, equipment,
25 and property" of a public service company.

26 Also in this subsection, the former references to "apparatus" and "devices"
27 are deleted in light of the comprehensive reference to "equipment".

28 Also in this subsection, the former reference to property "of every kind" is
29 deleted as surplusage.

30 Also in this subsection, the former reference to property used "in
31 furtherance of" a public utility service is deleted as included in the
32 reference to property used "for or in connection with" a public utility
33 service.

34 Defined term: "Public service company" § 1-101

35 (O) PROCEEDING.

1 "PROCEEDING" INCLUDES AN ACTION, COMPLAINT, HEARING, INVESTIGATION,
2 TRIAL, APPEAL, ORDER, OR SIMILAR MATTER PENDING BEFORE, MADE, OR
3 CONDUCTED BY AN OFFICIAL BODY.

4 REVISOR'S NOTE: This subsection is new language derived without
5 substantive change from former Art. 78, § 2(m).

6 (P) PUBLIC SERVICE COMPANY.

7 "PUBLIC SERVICE COMPANY" MEANS A COMMON CARRIER COMPANY, ELECTRIC
8 COMPANY, GAS COMPANY, SEWAGE DISPOSAL COMPANY, STEAM HEATING COMPANY,
9 TELEGRAPH COMPANY, TELEPHONE COMPANY, WATER COMPANY, OR ANY
10 COMBINATION OF PUBLIC SERVICE COMPANIES.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from the first sentence of former Art. 78, § 2(n).

13 Defined terms: "Common carrier" § 1-101

14 "Company" § 1-101

15 "Electric company" § 1-101

16 "Gas company" § 1-101

17 "Sewage disposal company" § 1-101

18 "Steam heating company" § 1-101

19 "Telegraph company" § 1-101

20 "Telephone company" § 1-101

21 "Water company" § 1-101

22 (Q) RAILROAD.

23 (1) "RAILROAD" MEANS A COMMON CARRIER BY RAIL POWERED IN ANY
24 MANNER.

25 (2) "RAILROAD" INCLUDES BRANCHES, BRIDGES, CARS, EXTENSIONS,
26 FERRIES, PLANT, SPURS, STATIONS, SUBWAYS, SWITCHES, TERMINAL FACILITIES,
27 TRACKS, TUNNELS, AND EQUIPMENT USED ON OR IN CONNECTION WITH A
28 RAILROAD.

29 REVISOR'S NOTE: This subsection is new language derived without
30 substantive change from former Art. 78, § 2(o).

31 Defined terms: "Common carrier" § 1-101

32 "Plant" § 1-101

33 (R) RATE.

34 (1) "RATE" MEANS A TOLL, FARE, TARIFF, FEE, PRICE, OR OTHER
35 CHARGE, OR A COMBINATION OF THESE ITEMS, BY A PUBLIC SERVICE COMPANY FOR
36 PUBLIC UTILITY SERVICE.

1 (2) "RATE" INCLUDES A SCHEDULE, REGULATION, CLASSIFICATION, OR
2 PRACTICE OF A PUBLIC SERVICE COMPANY THAT AFFECTS:

3 (I) THE AMOUNT OF A CHARGE; OR

4 (II) THE NATURE AND VALUE OF THE SERVICE RENDERED FOR THE
5 CHARGE.

6 REVISOR'S NOTE: This subsection is new language derived without
7 substantive change from former Art. 78, § 2(p).

8 Defined term: "Public service company" § 1-101

9 (S) RECORD.

10 (1) "RECORD" MEANS THE ORIGINAL OR A COPY OF ANY DOCUMENTARY
11 MATERIAL.

12 (2) "RECORD" INCLUDES AN ACCOUNT, BOOK, CHART, CONTRACT,
13 DOCUMENT, FILE, MAP, PAPER, PROFILE, REPORT, OR SCHEDULE.

14 REVISOR'S NOTE: Paragraph (1) of this subsection is new language added for
15 clarity.

16 Paragraph (2) of this subsection is new language derived without
17 substantive change from former Art. 78, § 2(q).

18 Also in paragraph (2) of this subsection, the former reference to "any other
19 records" is deleted as implicit in the use of the term "includes". See Art. 1,
20 § 30 of the Code.

21 (T) SEWAGE DISPOSAL COMPANY.

22 "SEWAGE DISPOSAL COMPANY" MEANS A PRIVATELY-OWNED PUBLIC SERVICE
23 COMPANY THAT OWNS OR MAINTAINS FACILITIES FOR THE DISPOSAL OF SEWAGE.

24 REVISOR'S NOTE: This subsection is new language derived without
25 substantive change from former Art. 78, § 2(r).

26 The former reference to "pipes or other fixtures" is deleted in light of the
27 reference to "facilities".

28 The former reference to the "disposition of" household, animal, and human
29 waste, is deleted in light of the reference to "disposal" of that waste.

30 The former reference to the disposal of "household, animal and human
31 waste, refuse and slops" is deleted in light of the reference to "sewage".

32 Defined term: "Public service company" § 1-101

33 (U) SMALL RURAL ELECTRIC COOPERATIVE.

1 "SMALL RURAL ELECTRIC COOPERATIVE" MEANS AN ELECTRIC COMPANY THAT:

2 (1) SERVES ONLY THE CONSUMERS THAT EXCLUSIVELY OWN AND
3 CONTROL THE COMPANY;

4 (2) CONDUCTS ITS BUSINESS ON A NOT-FOR-PROFIT BASIS; AND

5 (3) SUPPLIES ELECTRICITY TO LESS THAN 1,000 ELECTRIC METERS IN
6 THE STATE.

7 REVISOR'S NOTE: This subsection is new language derived without
8 substantive change from former Art. 78, § 2(jj).

9 In item (2) of this subsection, the term "not-for-profit" is substituted for
10 the former reference to "nonprofit" for clarity and consistency.

11 Defined term: "Electric company" § 1-101

12 (V) STATE.

13 "STATE" MEANS:

14 (1) A STATE, POSSESSION, TERRITORY, OR COMMONWEALTH OF THE
15 UNITED STATES; OR

16 (2) THE DISTRICT OF COLUMBIA.

17 REVISOR'S NOTE: This subsection is new language added to conform to the
18 standard definition of "state" used in other revised articles of the Code.

19 (W) STEAM HEATING COMPANY.

20 "STEAM HEATING COMPANY" MEANS A PUBLIC SERVICE COMPANY THAT
21 MANUFACTURES, SELLS, OR DISTRIBUTES STEAM FOR USE, SALE, OR DISTRIBUTION.

22 REVISOR'S NOTE: This subsection is new language derived without
23 substantive change from former Art. 78, § 2(s).

24 Defined term: "Public service company" § 1-101

25 (X) STREET RAILROAD.

26 "STREET RAILROAD" MEANS A RAILROAD:

27 (1) THAT IS NOT PART OF A TRUNK LINE RAILWAY SYSTEM; AND

28 (2) WHOSE ROUTES ARE MAINLY WITHIN BALTIMORE CITY OR A
29 MUNICIPAL CORPORATION WITH A POPULATION OF AT LEAST 2,000.

30 REVISOR'S NOTE: This subsection is new language derived without
31 substantive change from former Art. 78, § 2(u).

1 In this subsection, the former reference to the "corporate limits" is deleted
2 as redundant in light of the reference to routes "within" Baltimore City or
3 a municipal corporation.

4 Also in this subsection, the former reference to "people" is deleted as
5 redundant in light of the use of the term "population".

6 Defined term: "Railroad" § 1-101

7 (Y) TAXICAB.

8 (1) "TAXICAB" MEANS A MOTOR VEHICLE FOR HIRE THAT:

9 (I) IS DESIGNED TO CARRY SEVEN OR FEWER INDIVIDUALS,
10 INCLUDING THE DRIVER; AND

11 (II) IS USED TO ACCEPT OR SOLICIT PASSENGERS FOR
12 TRANSPORTATION BETWEEN POINTS ALONG PUBLIC STREETS AS THE PASSENGERS
13 REQUEST.

14 (2) "TAXICAB" DOES NOT INCLUDE A MOTOR VEHICLE OPERATED ON A
15 REGULAR SCHEDULE AND BETWEEN FIXED POINTS WITH THE APPROVAL OF THE
16 COMMISSION AS DEFINED IN TITLE 11 OF THE TRANSPORTATION ARTICLE.

17 REVISOR'S NOTE: This subsection is new language derived without
18 substantive change from former Art. 78, § 2(v).

19 In paragraph (1)(ii) of this subsection, the former references to
20 transportation "for hire" and between "those" points are deleted as
21 unnecessary.

22 Also in paragraph (1)(ii) of this subsection, the word "passengers" is
23 substituted for the former reference to "members of the public" for clarity.

24 In paragraph (2) of this subsection, the reference to a "motor" vehicle is
25 added for clarity.

26 Defined term: "Commission" § 1-101

27 (Z) TELEGRAPH COMPANY.

28 "TELEGRAPH COMPANY" MEANS A PUBLIC SERVICE COMPANY THAT:

29 (1) OWNS TELEGRAPH LINES TO RECEIVE, TRANSMIT, OR
30 COMMUNICATE TELEGRAPHIC COMMUNICATIONS; OR

31 (2) LEASES, LICENSES, OR SELLS TELEGRAPHIC COMMUNICATIONS.

32 REVISOR'S NOTE: This subsection is new language derived without
33 substantive change from former Art. 78, § 2(w).

1 In paragraph (1) of this subsection, the reference to "telegraph lines" is
2 substituted for the former reference to "telephone lines" for clarity.

3 Defined terms: "Public service company" § 1-101

4 "Telegraph lines" § 1-101

5 (AA) TELEGRAPH LINES.

6 "TELEGRAPH LINES" MEANS THE MATERIAL, EQUIPMENT, AND PROPERTY
7 OWNED BY A TELEGRAPH COMPANY.

8 REVISOR'S NOTE: This subsection is new language derived without
9 substantive change from former Art. 78, § 2(x).

10 In this subsection, the former reference to a telegraph company's
11 "appliances, buildings, crossbars, easements, instruments, machines,
12 poles, real estate and wires" is deleted as included in the reference to
13 "material, equipment, and property".

14 Defined term: "Telegraph company" § 1-101

15 (BB) TELEPHONE COMPANY.

16 (1) "TELEPHONE COMPANY" MEANS A PUBLIC SERVICE COMPANY THAT:

17 (I) OWNS TELEPHONE LINES TO RECEIVE, TRANSMIT, OR
18 COMMUNICATE TELEPHONE OR TELETYPE COMMUNICATIONS; OR

19 (II) LEASES, LICENSES, OR SELLS TELEPHONE OR TELETYPE
20 COMMUNICATIONS.

21 (2) "TELEPHONE COMPANY" DOES NOT INCLUDE A CELLULAR
22 TELEPHONE COMPANY.

23 REVISOR'S NOTE: This subsection is new language derived without
24 substantive change from former Art. 78, § 2(y).

25 Defined terms: "Public service company" § 1-101

26 "Telephone lines" § 1-101

27 (CC) TELEPHONE LINES.

28 "TELEPHONE LINES" MEANS THE MATERIAL, EQUIPMENT, AND PROPERTY
29 OWNED BY A TELEPHONE COMPANY.

30 REVISOR'S NOTE: This subsection is new language derived without
31 substantive change from former Art. 78, § 2(z).

32 In this subsection, the reference to "the material, equipment, and
33 property" of a telephone company is substituted for the former references
34 to the "plant" and the "appliances, buildings, crossbars, easements,

1 instruments, machines, poles, real estate, receivers, transmitters and
2 wires" for brevity, accuracy, and consistency within this title.

3 Defined term: "Telephone company" § 1-101

4 (DD) TOLL BRIDGE.

5 "TOLL BRIDGE" MEANS A BRIDGE OPERATED BY A PERSON AUTHORIZED BY THE
6 COMMISSION TO CHARGE AND COLLECT TOLL FROM TRAFFIC USING THE BRIDGE.

7 REVISOR'S NOTE: This subsection is new language derived without
8 substantive change from former Art. 78, § 2(aa).

9 In this subsection, the reference to the granting of authority "by the
10 Commission" to charge and collect a toll is added for clarity.

11 Defined terms: "Commission" § 1-101

12 "Person" § 1-101

13 (EE) TRANSPORTATION OF PERSONS FOR HIRE.

14 (1) "TRANSPORTATION OF PERSONS FOR HIRE" MEANS THE
15 TRANSPORTATION OF PERSONS BY:

16 (I) REGULARLY SCHEDULED OPERATIONS;

17 (II) CHARTER OR CONTRACT OPERATIONS; OR

18 (III) TOUR OR SIGHTSEEING OPERATIONS.

19 (2) "TRANSPORTATION OF PERSONS FOR HIRE" INCLUDES THE
20 TRANSPORTATION OF PERSONS, WHETHER ON THE COOPERATIVE PLAN, CARRIED BY
21 A CORPORATION, GROUP, OR ASSOCIATION ENGAGED IN THE TRANSPORTATION OF
22 ITS STOCKHOLDERS, SHAREHOLDERS, OR MEMBERS.

23 REVISOR'S NOTE: This subsection is new language derived without
24 substantive change from former Art. 78, § 2(hh).

25 The word "persons", in the defined term, is substituted for the former
26 reference to "passengers" for clarity.

27 In paragraph (2) of this subsection, the former limitation "but not limited
28 to" is deleted as unnecessary. See Art. 1, § 30 of the Code.

29 Also in paragraph (2) of this subsection, the former reference to
30 transportation of persons' "property or freight" is deleted as implicit.

31 (FF) WATER COMPANY.

32 "WATER COMPANY" MEANS A PUBLIC SERVICE COMPANY THAT OWNS A WATER
33 PLANT AND SELLS OR DISTRIBUTES WATER FOR GAIN.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 78, § 2(cc).

3 In this subsection, the former reference to a water company "supply[ing]"
4 water is deleted in light of the reference to "distribut[ing]" water.

5 Defined terms: "Public service company" § 1-101

6 "Water plant" § 1-101

7 (GG) WATER PLANT.

8 "WATER PLANT" MEANS THE MATERIAL, EQUIPMENT, AND PROPERTY OWNED
9 BY A WATER COMPANY.

10 REVISOR'S NOTE: This subsection is new language derived without
11 substantive change from former Art. 78, § 2(dd).

12 In this subsection, the reference to "material, equipment, and property" is
13 substituted for the former references to "plant" and "canals, dams, ...
14 waterfalls, water power station or water supply" for consistency with other
15 definitions revised in this section.

16 Defined term: "Water company" § 1-101

17 GENERAL REVISOR'S NOTE TO TITLE:

18 Former Art. 78, § 2(t), which defined "street", is deleted as surplusage.

19 Former Art. 78, § 2(ee), which defined "radio common carrier", is deleted as
20 obsolete. See Ch. 377, Acts of 1988, which repealed the jurisdiction of the Commission
21 over radio common carriers.

22 Former Art. 78, § 2(k), (ff), and (gg), which defined "personnel of the
23 Commission", "family", and "relative", respectively, in the context of ethics provisions
24 relating to the Commission and the Office of People's Counsel, are revised within
25 those provisions. See §§ 2-301, 2-302, 2-303, and 2-307 of this article.

26 The second sentence of former Art. 78, § 2(n), relating to classes of public service
27 companies, is revised in the substantive provision that applies to those classes. See §
28 6-202 of this article.

29 Former Art. 78, § 2(bb), which defined "violating any of the provisions of this
30 article", is revised as a scope provision in the substantive provisions relating to
31 violations subject to the jurisdiction of the Commission. See §§ 13-101 and 13-201 of
32 this article.

1 TITLE 2. PUBLIC SERVICE COMMISSION AND PEOPLE'S COUNSEL.

2 SUBTITLE 1. PUBLIC SERVICE COMMISSION.

3 2-101. ESTABLISHED; PURPOSE.

4 (A) ESTABLISHED.

5 THERE IS A PUBLIC SERVICE COMMISSION.

6 (B) INDEPENDENT UNIT.

7 THE COMMISSION IS AN INDEPENDENT UNIT IN THE EXECUTIVE BRANCH OF
8 STATE GOVERNMENT.

9 (C) PURPOSE.

10 THE COMMISSION SHALL CARRY OUT THE FUNCTIONS ASSIGNED TO IT BY LAW.

11 REVISOR'S NOTE: Subsections (a) and (c) of this section are new language
12 derived without substantive change from former Art. 78, § 3.

13 Subsection (b) of this section is new language added for clarity and
14 consistency. See, e.g., FI § 13-702, which establishes the stadium
15 authority.

16 In subsection (c) of this section, the former reference to carrying out the
17 functions of the Commission "fully and effectually" is deleted as
18 surplusage.

19 Also in subsection (c) of this section, the former reference to administering
20 "this article" is deleted as unnecessary in light of the broad reference to
21 carrying out "the functions assigned to it by law".

22 Defined term: "Commission" § 1-101

23 2-102. MEMBERSHIP.

24 (A) COMPOSITION; APPOINTMENT.

25 THE COMMISSION CONSISTS OF FIVE COMMISSIONERS, APPOINTED BY THE
26 GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

27 (B) QUALIFICATIONS.

28 (1) EACH COMMISSIONER SHALL BE A REGISTERED VOTER OF THE
29 STATE.

30 (2) THE COMMISSION SHALL BE BROADLY REPRESENTATIVE OF THE
31 PUBLIC INTEREST AND SHALL BE COMPOSED OF INDIVIDUALS WITH DIVERSE
32 TRAINING AND EXPERIENCE.

1 (C) FULL TIME DUTY.

2 EACH COMMISSIONER SHALL DEVOTE FULL TIME TO THE DUTIES OF OFFICE.

3 (D) TENURE; VACANCIES.

4 (1) THE TERM OF A COMMISSIONER IS 5 YEARS AND BEGINS ON JULY 1.

5 (2) THE TERMS OF COMMISSIONERS ARE STAGGERED AS REQUIRED BY
6 THE TERMS IN EFFECT FOR COMMISSIONERS ON OCTOBER 1, 1998.

7 (3) AT THE END OF A TERM, A COMMISSIONER CONTINUES TO SERVE
8 UNTIL A SUCCESSOR QUALIFIES.

9 (4) A COMMISSIONER WHO IS APPOINTED AFTER A TERM HAS BEGUN
10 SERVES FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR QUALIFIES.

11 (E) OATH.

12 BEFORE TAKING OFFICE, EACH APPOINTEE TO THE COMMISSION SHALL TAKE
13 THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

14 (F) REMOVAL.

15 THE GOVERNOR MAY REMOVE A COMMISSIONER FOR INCOMPETENCE OR
16 MISCONDUCT IN ACCORDANCE WITH ARTICLE 41, §§ 2-501 THROUGH 2-504 OF THE
17 CODE.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 78, § 8 and, as they referred to commissioners of
20 the Commission, §§ 4, 5, and 6.

21 In subsection (b) of this section, the former provision that commissioners of
22 the Commission "are eligible for reappointment" is deleted since there is no
23 contrary provision and thus no reason to believe this is not the case.

24 In subsection (b)(1) of this section, the former reference to being a
25 "resident" of the State is deleted in light of the requirement that a
26 commissioner be a "registered voter". See Art. 33, § 3-4(b)(3).

27 Subsection (c) of this section is revised to conform to similar provisions in
28 other revised articles of the Code. See, e.g., BR § 8-205(b) and SG §
29 5-104(a).

30 Subsection (d) of this section is rephrased in standard language for clarity.
31 The terms of the commissioners serving on October 1, 1998, end as follows:
32 1 in 1999, 1 in 2000, 1 in 2001, 1 in 2002, and 1 in 2003.

33 In subsection (e) of this section, the reference to "Article I, § 9 of the
34 Maryland Constitution" is added for clarity.

1 Also in subsection (e) of this section, the reference to each "appointee to the
2 Commission" is substituted for the former reference to each
3 "commissioner" for clarity.

4 As to subsection (f) of this section, for other provisions on removal, see: Md.
5 Constitution, Art. XV, § 2, on suspension and removal for crimes, and SG §
6 8-501, on removal for failure to attend meetings.

7 Defined term: "Commission" § 1-101

8 2-103. CHAIRMAN.

9 (A) APPOINTMENT.

10 WITH THE ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR SHALL
11 DESIGNATE A CHAIRMAN FROM AMONG THE COMMISSIONERS.

12 (B) TERM.

13 (1) THE TERM OF THE CHAIRMAN IS 5 YEARS AND BEGINS ON JULY 1.

14 (2) AT THE END OF A TERM, THE CHAIRMAN CONTINUES TO SERVE
15 UNTIL A SUCCESSOR QUALIFIES.

16 (3) A CHAIRMAN WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
17 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR QUALIFIES.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 78, §§ 5 and 6 as they relate to the Chairman of
20 the Commission.

21 Subsection (b) of this section is rephrased in standard language for clarity.

22 In subsection (b) of this section, the former reference to the initial
23 Chairman is deleted as obsolete.

24 Also in subsection (b) of this section, the former reference to filling the
25 office of Chairman "upon an earlier vacancy" is deleted as unnecessary in
26 light of the requirement that the Governor "designate" the Chairman.

27 2-104. EXECUTIVE SECRETARY.

28 (A) APPOINTMENT.

29 THE COMMISSION SHALL APPOINT AN EXECUTIVE SECRETARY.

30 (B) TERM.

31 THE EXECUTIVE SECRETARY SERVES AT THE PLEASURE OF THE COMMISSION.

32 (C) DUTIES.

1 THE EXECUTIVE SECRETARY SHALL:

2 (1) KEEP THE RECORDS OF THE COMMISSION, INCLUDING A RECORD OF
3 PROCEEDINGS, ALL DOCUMENTS REQUIRED TO BE FILED WITH THE COMMISSION,
4 ALL ORDERS, REGULATIONS, AND DECISIONS OF THE COMMISSION, AND ALL
5 DOCKETS AND FILES;

6 (2) CERTIFY TRUE COPIES OF THOSE MATERIALS;

7 (3) DESIGNATE AN EMPLOYEE OF THE COMMISSION TO PERFORM THE
8 DUTIES OF EXECUTIVE SECRETARY WHEN THE EXECUTIVE SECRETARY IS ABSENT;
9 AND

10 (4) PERFORM THE OTHER DUTIES THAT THE COMMISSION PRESCRIBES.

11 (D) DOCUMENT RETENTION.

12 WITH THE APPROVAL OF THE COMMISSION AND IN CONFORMITY WITH TITLE
13 10, SUBTITLE 6, PART V OF THE STATE GOVERNMENT ARTICLE, THE EXECUTIVE
14 SECRETARY MAY DESTROY ANY RECORD OR DOCUMENT THAT THE COMMISSION
15 POSSESSES, INCLUDING A RECORD OR DOCUMENT REQUIRED BY LAW TO BE FILED
16 WITH THE COMMISSION, IF:

17 (1) THE RECORD OR DOCUMENT HAS BEEN ON FILE FOR AT LEAST 3
18 YEARS; AND

19 (2) THE EXECUTIVE SECRETARY CONSIDERS THE DOCUMENT TO BE
20 OBSOLETE.

21 REVISOR'S NOTE: Subsections (a), (c), and (d) of this section are new language
22 derived without substantive change from former Art. 78, §§ 10, 11, and, as
23 it provided for appointment of the Executive Secretary, § 9.

24 In this section, and throughout this article, the references to the
25 "Executive Secretary" are substituted for the former references to the
26 "Secretary" for clarity.

27 Subsection (b) of this section is new language added for clarity reflecting
28 the transfer of the Executive Secretary to the Executive Pay Plan.

29 In subsection (c)(1) of this section, the former reference to documents
30 required to be filed "by law or ordered filed by the Commission" is deleted
31 as surplusage.

32 Also in subsection (c)(1) of this section, the former reference to "rulings" of
33 the Commission is deleted in light of the comprehensive reference to
34 "orders ... decisions".

35 Also in subsection (c)(1) of this section, the former reference to "rules" is
36 deleted. See General Revisor's Note to this article.

1 In subsection (c)(4) of this section, the former reference to a "full and true"
2 record of the proceedings of the Commission is deleted as surplusage.

3 In subsection (d)(2) of this section, the former authority to destroy a
4 document that is of "no further use in carrying out the powers and duties of
5 the Commission" is deleted in light of the authority to delete a document
6 that is "obsolete".

7 Defined terms: "Commission" § 1-101

8 "Proceeding" § 1-101

9 "Record" § 1-101

10 2-105. EXECUTIVE DIRECTOR.

11 (A) APPOINTMENT.

12 THE COMMISSION SHALL APPOINT AN EXECUTIVE DIRECTOR.

13 (B) TERM.

14 THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE COMMISSION.

15 (C) DUTIES.

16 THE EXECUTIVE DIRECTOR SHALL:

17 (1) DIRECT AND COORDINATE THE TECHNICAL STAFF, EXCEPT HEARING
18 EXAMINERS, OF THE COMMISSION; AND

19 (2) PERFORM THE OTHER DUTIES THAT THE COMMISSION PRESCRIBES.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 78, § 11B and, as it provided for appointment and
22 term, § 11A.

23 In subsection (c)(1) of this section, the former reference to directing the
24 staff "in the performance of all of its functions" is deleted as surplusage.

25 Defined term: "Commission" § 1-101

26 2-106. GENERAL COUNSEL.

27 (A) APPOINTMENT.

28 THE COMMISSION SHALL APPOINT A GENERAL COUNSEL.

29 (B) QUALIFICATION.

30 THE GENERAL COUNSEL SHALL HAVE BEEN ADMITTED TO PRACTICE LAW IN
31 THE STATE.

1 (C) OATH.

2 BEFORE TAKING OFFICE, THE GENERAL COUNSEL SHALL TAKE THE OATH
3 REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

4 (D) TERM.

5 THE GENERAL COUNSEL SERVES AT THE PLEASURE OF THE COMMISSION.

6 (E) DUTIES.

7 AS THE COMMISSION DIRECTS, THE GENERAL COUNSEL SHALL:

8 (1) REPRESENT THE COMMISSION IN A PROCEEDING IF THE
9 COMMISSION IS A PARTY TO OR DESIRES TO INTERVENE IN THE PROCEEDING, IF THE
10 PROCEEDING INVOLVES A QUESTION UNDER THIS ARTICLE, OR IF THE PROCEEDING
11 INVOLVES AN ACT OR ORDER OF THE COMMISSION;

12 (2) ADVISE THE COMMISSION, ON REQUEST, ON ANY LEGAL QUESTION
13 THAT REQUIRES INTERPRETATION OF A PROVISION OF LAW ABOUT THE
14 JURISDICTION, RIGHTS, DUTIES, OR POWERS OF THE COMMISSION; AND

15 (3) ACT AS ATTORNEY TO THE COMMISSION AS THE COMMISSION
16 REASONABLY REQUIRES.

17 (F) SUBSTITUTION.

18 THE COMMISSION MAY SUBSTITUTE ANY OTHER AGENT FOR THE GENERAL
19 COUNSEL.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 78, § 13, the first sentence of § 12, and, as it
22 related to the General Counsel, § 4.

23 In subsection (b) of this section, the reference to being "admitted to
24 practice law in the State" is substituted for the former reference to being
25 "an attorney-at-law of this State" for clarity and conformity with similar
26 provisions in other revised articles of the Code.

27 In subsection (c) of this section, the reference to "Article I, § 9 of the
28 Maryland Constitution" is added for clarity.

29 In the introductory language of subsection (e) of this section, the reference
30 to acting "[a]s the Commission directs" is substituted for the former
31 reference to acting "subject to the order of the Commission" for clarity.

32 In subsection (e)(1) of this section, the former reference to representing the
33 Commission in a proceeding that involves "any ... proceeding" of the
34 Commission is deleted in light of the broad reference to an "act or order" of
35 the Commission.

1 Also in subsection (e)(1) of this section, the former reference to
2 representing the Commission in a proceeding that involves a question
3 "under this article" is retained. Although "this article" formerly referred
4 only to Art. 78, and this article is derived, in part, from provisions outside
5 of former Art. 78, retaining that reference does not comprise a substantive
6 change. The General Counsel is obligated, in any case, to "advise the
7 Commission ... on any legal question" and to represent the Commission in
8 "a proceeding ... if the proceeding involves the ... Commission".

9 In subsection (e)(3) of this section, the former requirement that the
10 General Counsel act as the "counsel" to the Commission is deleted in light
11 of the requirement that the General Counsel act as the "attorney" to the
12 Commission.

13 In subsection (f) of this section, the former reference to substituting
14 another "instrumentality" for the General Counsel is deleted in light of the
15 authority to substitute "any other agent".

16 Defined terms: "Commission" § 1-101

17 "Proceeding" § 1-101

18 2-107. COMPENSATION.

19 (A) IN GENERAL.

20 EACH COMMISSIONER, THE CHAIRMAN OF THE COMMISSION, THE GENERAL
21 COUNSEL, THE EXECUTIVE SECRETARY, AND THE EXECUTIVE DIRECTOR ARE
22 ENTITLED TO COMPENSATION AS PROVIDED IN THE STATE BUDGET.

23 (B) MINIMUM SALARY.

24 (1) THE SALARY OF THE CHAIRMAN OF THE COMMISSION SHALL BE AT
25 LEAST \$40,000 A YEAR.

26 (2) THE SALARY OF EACH COMMISSIONER SHALL BE AT LEAST \$35,000 A
27 YEAR.

28 (C) REIMBURSEMENT FOR EXPENSES.

29 A COMMISSIONER AND OTHER COMMISSION PERSONNEL ARE ENTITLED TO
30 REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL
31 REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 78, § 7, the second sentence of § 12, and, as they
34 related to compensation, § 9, and the first sentence of § 11A.

35 In subsection (b)(2) of this section, the former reference to the other
36 "full-time" commissioners is deleted as unnecessary in light of the
37 requirement that all commissioners serve full-time. See, § 2-102(c) of this

1 title.

2 In subsection (c) of this section, the former reference to expenses incurred
3 "while engaged in the performance of their duties" is deleted as included in
4 the reference to reimbursement "under the Standard State Travel
5 Regulations".

6 Also in subsection (c) of this section, the reference to "other Commission
7 personnel" is added for clarity.

8 Defined term: "Commission" § 1-101

9 2-108. OFFICE; MEETINGS; SEAL; STAFF.

10 (A) OFFICE.

11 (1) THE PRINCIPAL OFFICE OF THE COMMISSION SHALL BE IN
12 BALTIMORE CITY AT THE PLACE THAT THE COMMISSION SELECTS.

13 (2) EXCEPT FOR LEGAL HOLIDAYS, THE OFFICES OF THE COMMISSION
14 SHALL BE OPEN FOR BUSINESS DURING REGULAR BUSINESS HOURS FROM MONDAY
15 THROUGH FRIDAY AND AT OTHER TIMES AS THE COMMISSION CONSIDERS
16 NECESSARY.

17 (B) MEETINGS.

18 THE COMMISSION SHALL MEET AT THE TIMES AND PLACES IN THE STATE AS
19 THE COMMISSION CONSIDERS NECESSARY.

20 (C) SEAL.

21 THE COMMISSION SHALL HAVE A SEAL.

22 (D) STAFF.

23 (1) THE STATE BUDGET SHALL PROVIDE SUFFICIENT MONEY FOR THE
24 COMMISSION TO HIRE, DEVELOP, AND ORGANIZE A STAFF TO PERFORM THE
25 FUNCTIONS OF THE COMMISSION, INCLUDING ANALYZING DATA SUBMITTED TO THE
26 COMMISSION AND PARTICIPATING IN PROCEEDINGS AS PROVIDED IN § 3-104 OF THIS
27 ARTICLE.

28 (2) AS THE COMMISSION CONSIDERS NECESSARY, THE COMMISSION
29 SHALL HIRE EXPERTS INCLUDING ECONOMISTS, COST OF CAPITAL EXPERTS, RATE
30 DESIGN EXPERTS, ACCOUNTANTS, ENGINEERS, TRANSPORTATION SPECIALISTS, AND
31 LAWYERS.

32 (3) THE COMMISSION MAY RETAIN ON A CASE BY CASE BASIS
33 ADDITIONAL EXPERTS AS REQUIRED FOR A PARTICULAR MATTER.

34 (4) THE LAWYERS WHO REPRESENT THE COMMISSION STAFF IN
35 PROCEEDINGS BEFORE THE COMMISSION SHALL BE APPOINTED BY THE

1 COMMISSION AND SHALL BE ORGANIZED AND OPERATE INDEPENDENTLY OF THE
2 OFFICE OF GENERAL COUNSEL.

3 (5) (I) AS REQUIRED, THE COMMISSION SHALL HIRE HEARING
4 EXAMINERS.

5 (II) HEARING EXAMINERS ARE A SEPARATE ORGANIZATIONAL UNIT
6 AND SHALL REPORT DIRECTLY TO THE COMMISSION.

7 (6) THE COMMISSION SHALL HIRE PERSONAL STAFF MEMBERS FOR
8 EACH COMMISSIONER AS REQUIRED TO PROVIDE ADVICE, DRAFT PROPOSED ORDERS
9 AND RULINGS, AND PERFORM OTHER PERSONAL STAFF FUNCTIONS.

10 (7) SUBJECT TO § 3-104 OF THIS ARTICLE, THE COMMISSION MAY
11 DELEGATE TO A COMMISSIONER OR PERSONNEL THE AUTHORITY TO PERFORM AN
12 ADMINISTRATIVE FUNCTION NECESSARY TO CARRY OUT A DUTY OF THE
13 COMMISSION.

14 (8) (I) EXCEPT AS PROVIDED IN PARAGRAPH (II) OF THIS ITEM OR
15 OTHERWISE BY LAW, ALL PERSONNEL OF THE COMMISSION ARE SUBJECT TO THE
16 PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

17 (II) THE FOLLOWING ARE IN THE EXECUTIVE SERVICE,
18 MANAGEMENT SERVICE, OR ARE SPECIAL APPOINTMENTS IN THE STATE PERSONNEL
19 MANAGEMENT SYSTEM:

- 20 1. EACH COMMISSIONER OF THE COMMISSION;
- 21 2. THE EXECUTIVE DIRECTOR;
- 22 3. THE GENERAL COUNSEL AND EACH ASSISTANT GENERAL
23 COUNSEL;
- 24 4. THE PEOPLE'S COUNSEL;
- 25 5. THE COMMISSIONERS' PERSONAL STAFF MEMBERS; AND
- 26 6. EACH LICENSE HEARING OFFICER.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 78, §§ 16, 17, 18, and 19.

29 In subsections (a)(1) and (d)(3) of this section, the former reference to the
30 Commission selecting a place for its office and retaining experts "from time
31 to time" is deleted as inherent in the authority to perform those activities.

32 In subsection (c) of this section, the word "official", which formerly
33 modified "seal", is deleted as surplusage.

34 In subsection (d)(1) and (7) of this section, the former reference to
35 performing and delegating functions "under this article" is deleted. The

1 Commission's staff performs the functions of the Commission wherever
2 codified.

3 In subsection (d)(2) of this section, the former reference to hiring experts
4 "to meet the needs" of the Commission is deleted in light of the broad
5 authority of the Commission to hire experts "as ... necessary".

6 In subsection (d)(8)(ii) of this section, the former reference to the
7 "[s]horthand reporter of the Commission" is deleted as obsolete.

8 In subsection (d)(8)(ii)6 of this section, the reference to each "license
9 hearing officer" is substituted for the former reference to the "[t]axicab
10 license hearing officer" to reflect the current title used by the Commission.
11 See also, § 10-110 of this article.

12 Defined terms: "Commission" § 1-101

13 "Proceeding" § 1-101

14 "Rate" § 1-101

15 2-109. RECORDS.

16 (A) COPIES OF DOCUMENTS.

17 (1) ON REQUEST OF THE COMMISSION, A PUBLIC OFFICER SHALL GIVE
18 TO THE COMMISSION, WITHOUT CHARGE, A CERTIFIED COPY OF A DOCUMENT OR
19 PART OF A DOCUMENT ON FILE WITH THE OFFICER.

20 (2) WITHOUT CHARGE, A PUBLIC OFFICER SHALL ACCEPT FROM THE
21 COMMISSION ANY DOCUMENT AUTHORIZED OR REQUIRED TO BE FILED WITH THE
22 OFFICER AND SHALL ENTER, FILE, DOCKET, OR RECORD THE DOCUMENT.

23 (B) PUBLIC RECORDS.

24 EACH RECORD OF THE COMMISSION IS A PUBLIC RECORD AND SHALL BE MADE
25 AVAILABLE TO THE PUBLIC AT REASONABLE TIMES.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 78, § 22(a) and, as it related to records, (b).

28 For additional provisions on the inspection of public records, see SG §§
29 10-611 through 10-628.

30 Defined terms: "Commission" § 1-101

31 "Record" § 1-101

32 2-110. COMMISSION EXPENSES.

33 (A) PAYMENT OF EXPENSES.

1 (1) (I) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION,
2 THE COSTS AND EXPENSES OF THE COMMISSION SHALL BE BORNE BY THE PUBLIC
3 SERVICE COMPANIES THAT ARE SUBJECT TO THE COMMISSION'S JURISDICTION.

4 (II) THE COSTS AND EXPENSES SHALL BE ASSESSED AS PROVIDED
5 IN THIS SECTION.

6 (2) AN APPROPRIATION FOR THE COSTS AND EXPENSES OF THE
7 COMMISSION SHALL BE INCLUDED IN THE STATE BUDGET AND PAID FROM THE
8 STATE TREASURY.

9 (3) THE STATE TREASURY SHALL BE REIMBURSED FROM THE MONEY
10 COLLECTED UNDER THIS SECTION.

11 (B) COMMISSION COSTS REIMBURSED.

12 (1) (I) BEFORE EACH STATE FISCAL YEAR, THE CHAIRMAN OF THE
13 COMMISSION SHALL ESTIMATE THE COMMISSION'S TOTAL COSTS AND EXPENSES,
14 INCLUDING:

15 1. THE COMPENSATION AND EXPENSES OF THE
16 COMMISSION, ITS OFFICERS, AGENTS, AND PERSONNEL;

17 2. THE COST OF RETIREMENT CONTRIBUTIONS, SOCIAL
18 SECURITY, HEALTH INSURANCE, AND OTHER BENEFITS REQUIRED TO BE PAID BY
19 THE STATE FOR THE PERSONNEL OF THE COMMISSION;

20 3. ALL OTHER MAINTENANCE AND OPERATION EXPENSES;
21 AND

22 4. ALL OTHER DIRECT AND INDIRECT COSTS.

23 (II) THE ESTIMATE SHALL EXCLUDE THE COSTS OF MAINTAINING
24 TESTING EQUIPMENT REIMBURSABLE UNDER § 2-111(A) OF THIS SUBTITLE.

25 (2) BASED ON THE ESTIMATE, THE CHAIRMAN SHALL DETERMINE THE
26 AMOUNT TO BE PAID BY EACH PUBLIC SERVICE COMPANY.

27 (3) THE COMMISSION SHALL SEND A BILL TO EACH PUBLIC SERVICE
28 COMPANY ON OR BEFORE MAY 1ST OF EACH YEAR.

29 (4) THE BILL SHALL EQUAL THE PRODUCT OF:

30 (I) THE ESTIMATED TOTAL COSTS AND EXPENSES OF THE
31 COMMISSION DURING THE NEXT FISCAL YEAR; MULTIPLIED BY

32 (II) THE RATIO OF THE GROSS OPERATING REVENUES FOR THE
33 PUBLIC SERVICE COMPANY DERIVED FROM INTRASTATE UTILITY OPERATIONS IN
34 THE PRECEDING CALENDAR YEAR, OR OTHER 12-MONTH PERIOD AS THE CHAIRMAN
35 DETERMINES, TO THE TOTAL OF THE GROSS OPERATING REVENUES DERIVED FROM

1 INTRASTATE UTILITY OPERATIONS FOR ALL PUBLIC SERVICE COMPANIES THAT ARE
2 BILLED UNDER THIS SECTION OVER THAT PERIOD.

3 (5) THE MINIMUM BILL FOR A PUBLIC SERVICE COMPANY SHALL BE \$10.

4 (6) THE PUBLIC SERVICE COMPANY:

5 (I) SHALL PAY THE BILL ON OR BEFORE THE NEXT JULY 15TH; OR

6 (II) MAY ELECT TO MAKE PARTIAL PAYMENTS ON THE 15TH DAYS
7 OF JULY, OCTOBER, JANUARY, AND APRIL.

8 (7) A PARTIAL PAYMENT SHALL EQUAL 25% OF THE BILL AND MAY NOT
9 BE LESS THAN \$10.

10 (8) DURING ANY STATE FISCAL YEAR, THE CHAIRMAN MAY CHANGE THE
11 ESTIMATE OF COSTS AND EXPENSES OF THE COMMISSION.

12 (9) (I) IF THE ESTIMATE IS CHANGED, THE COMMISSION SHALL SEND
13 A REVISED BILL TO EACH PUBLIC SERVICE COMPANY THAT HAS ELECTED TO MAKE
14 PARTIAL PAYMENTS.

15 (II) THE CHANGE SHALL BE APPORTIONED EQUALLY AGAINST THE
16 REMAINING PAYMENTS FOR THE FISCAL YEAR.

17 (10) (I) ON OR BEFORE SEPTEMBER 15TH OF EACH YEAR, THE
18 CHAIRMAN SHALL COMPUTE THE ACTUAL COSTS AND EXPENSES OF THE
19 COMMISSION FOR THE PRECEDING FISCAL YEAR.

20 (II) AFTER DEDUCTING THE AMOUNTS RECOVERED UNDER §
21 2-111(A) OF THIS SUBTITLE, ON OR BEFORE OCTOBER 15TH, THE CHAIRMAN SHALL
22 SEND TO ANY PUBLIC SERVICE COMPANY THAT IS AFFECTED A STATEMENT THAT
23 SHOWS THE AMOUNT DUE OR THE AMOUNT TO THE CREDIT OF THE PUBLIC SERVICE
24 COMPANY.

25 (11) (I) A PUBLIC SERVICE COMPANY SHALL PAY AN AMOUNT DUE
26 WITHIN 30 DAYS AFTER THE STATEMENT IS RECEIVED.

27 (II) AT THE OPTION OF THE PUBLIC SERVICE COMPANY, AN
28 AMOUNT TO THE CREDIT OF A PUBLIC SERVICE COMPANY SHALL BE REFUNDED OR
29 APPLIED AGAINST ANY SUCCEEDING PAYMENT DUE.

30 (12) THE TOTAL AMOUNT THAT MAY BE CHARGED TO A PUBLIC SERVICE
31 COMPANY UNDER THIS SECTION FOR A STATE FISCAL YEAR MAY NOT EXCEED:

32 (I) 0.17% OF THE PUBLIC SERVICE COMPANY'S GROSS OPERATING
33 REVENUES DERIVED FROM INTRASTATE UTILITY OPERATIONS IN THE PRECEDING
34 CALENDAR YEAR, OR OTHER 12-MONTH PERIOD THAT THE CHAIRMAN DETERMINES,
35 FOR THE COSTS AND EXPENSES OF THE COMMISSION OTHER THAN THAT OF THE
36 OFFICE OF PEOPLE'S COUNSEL; PLUS

1 (II) 0.05% OF THOSE REVENUES FOR THE COSTS AND EXPENSES OF
2 THE OFFICE OF PEOPLE'S COUNSEL.

3 (C) DISPUTED OR UNPAID BILLS.

4 (1) WITHIN 30 DAYS AFTER THE COMMISSION ISSUES A BILL UNDER
5 SUBSECTION (B) OF THIS SECTION THE PARTY BILLED MAY REQUEST A HEARING AS
6 TO THE AMOUNT OF THE BILL.

7 (2) ANY AMOUNT OF A BILL THAT IS NOT PAID WITHIN 30 DAYS AFTER
8 THE DATE OF DETERMINATION ON A HEARING OR, IF A HEARING IS NOT REQUESTED,
9 ON THE DATE WHEN PAYMENT IS DUE, SHALL BEAR ANNUAL INTEREST AT A RATE,
10 NOT LESS THAN 6%, THAT THE COMMISSION SETS BY REGULATION.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 78, § 88(a), (b), and (d).

13 In subsection (a)(2) of this section, the former reference to making a
14 payment for costs and expenses "in the first instance" is deleted since each
15 cost and expense is only paid once.

16 In subsection (a)(3) of this section, the former reference to reimbursement
17 "therefor" is deleted as implicit in the notion of reimbursement.

18 In subsection (b)(1)(i) of this section, the reference to "the Commission's"
19 costs and expenses is added for clarity.

20 In subsection (b)(1)(i)1 of this section, the reference to the Commission's
21 "personnel" is substituted for the former reference to the Commission's
22 "employees" for consistency within this title.

23 In subsection (b)(3) of this section, the reference to "the Commission" is
24 added to clarify who must send the bill.

25 In subsection (b)(4)(i) and (10)(i) of this section, the former reference to the
26 "State" fiscal year is deleted as unnecessary since this provision only
27 covers activities of the Commission.

28 Also in subsection (b)(4)(i) of this section, the former reference to
29 "conducting the Commission's total operations" is deleted in light of the
30 comprehensive reference to "the total costs and expenses of the
31 Commission".

32 In subsection (b)(4)(ii) and (5) of this section, the references to companies
33 "billed" under this section and a minimum "bill" are substituted for the
34 former reference to companies "assessed" and "assessments" for
35 consistency. Similarly, in subsection (b)(7) of this section, the reference to
36 "the bill" is substituted for the former reference to "the estimate of costs
37 and expenses to be assessed against the public service company under the
38 provisions of this section".

1 In subsection (b)(4)(ii) of this section, the former reference to public service
2 companies "in the State" is deleted in light of the reference to "public
3 service companies that are billed under this section".

4 In subsection (b)(6)(i) of this section, the former reference to making
5 payment "to the Commission" is deleted as implicit in the structure of this
6 section.

7 In subsection (b)(8) and (9)(ii) of this section, the references to "chang[ing]"
8 an estimate are substituted for the former references to "increas[ing] or
9 decreas[ing]" the estimate for brevity.

10 In subsection (b)(9)(i) of this section, the reference to "the Commission" is
11 added to clarify who sends the bill.

12 In subsection (b)(11)(ii) of this section, the former reference to a refund "by
13 the Commission" is deleted as implicit in the notion of a refund under this
14 provision.

15 In subsection (b)(12)(i) and (ii) of this section, the references to "costs and
16 expenses" are substituted for the former reference to "operations" for
17 consistency within subsection (b) of this section.

18 In subsection (b)(12)(ii) of this section, the former reference to a rate for
19 "fiscal year 1983" is deleted as obsolete. Similarly, the specific reference to
20 "years beginning with fiscal year 1984" is deleted.

21 Defined terms: "Commission" § 1-101

22 "Public service company" § 1-101

23 2-111. FEES.

24 (A) EQUIPMENT TESTING.

25 (1) THE COMMISSION SHALL MAINTAIN TESTING EQUIPMENT TO
26 CALIBRATE THE MASTER STANDARD WATT-HOUR METERS THAT ARE USED BY
27 PUBLIC SERVICE COMPANIES FURNISHING ELECTRICITY.

28 (2) A PUBLIC SERVICE COMPANY THAT USES THE TESTING EQUIPMENT
29 SHALL PAY TO THE COMMISSION THE FEES THAT THE COMMISSION SETS BY ORDER.

30 (3) IN SETTING THE FEES, THE COMMISSION SHALL CONSIDER THE
31 ESTIMATED EXPENSES ASSOCIATED WITH MAINTAINING THE TESTING EQUIPMENT.

32 (B) FEES FOR DOCUMENTS.

33 THE COMMISSION MAY CHARGE REASONABLE FEES FOR COPIES OF
34 COMMISSION DOCUMENTS.

35 (C) FEES FOR TAXICAB LICENSES.

1 THE COMMISSION MAY CHARGE \$1 TO ISSUE OR RENEW A TAXICAB DRIVER
2 LICENSE AND \$2 TO ISSUE A DUPLICATE TAXICAB DRIVER LICENSE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 78, § 88(c) and (e).

5 In subsection (a)(2) of this section, the phrase "from time to time", which
6 formerly modified "fees fixed ... by order of the Commission", is deleted as
7 unnecessary in light of the Commission's absolute authority to set fees.

8 In subsection (b) of this section, the former introductory clause, "[i]n
9 addition to the fees provided for in this section", is deleted as unnecessary.

10 Also in subsection (b) of this section, the former reference to "papers" is
11 deleted in light of the comprehensive reference to "documents".

12 In subsection (c) of this section, the reference to "collect[ing]" the fee is
13 deleted as implicit in the authority to charge the fee.

14 Defined terms: "Commission" § 1-101

15 "Public service company" § 1-101

16 "Taxicab" § 1-101

17 2-112. JURISDICTION; GENERAL POWERS.

18 (A) JURISDICTION.

19 TO THE FULL EXTENT THAT THE CONSTITUTION AND LAWS OF THE UNITED
20 STATES ALLOW, THE COMMISSION HAS JURISDICTION OVER EACH PUBLIC SERVICE
21 COMPANY THAT ENGAGES IN OR OPERATES A UTILITY BUSINESS IN THE STATE AND
22 OVER MOTOR CARRIER COMPANIES AS PROVIDED IN TITLE 9 OF THIS ARTICLE.

23 (B) GENERAL POWERS.

24 (1) THE COMMISSION HAS THE POWERS SPECIFICALLY CONFERRED BY
25 LAW.

26 (2) THE COMMISSION HAS THE IMPLIED AND INCIDENTAL POWERS
27 NEEDED OR PROPER TO CARRY OUT ITS FUNCTIONS UNDER THIS ARTICLE.

28 (C) LIBERAL CONSTRUCTION.

29 THE POWERS OF THE COMMISSION SHALL BE CONSTRUED LIBERALLY.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 78, § 1.

32 In subsection (a) of this section, the phrase "as hereinafter defined", which
33 formerly modified "public service companies", is deleted as unnecessary
34 since that term is used in this revision only as defined. See § 1-101 of this
35 article.

1 Also in subsection (a) of this section, the reference to jurisdiction over
2 "motor carrier companies as provided in Title 9 of this article" is
3 substituted for the former reference to jurisdiction over "certain additional
4 motor carriers, as hereinafter provided" for clarity.

5 In subsection (b)(1) of this section, the former reference to powers
6 "conferred by this article" is deleted in light of the comprehensive reference
7 to powers "conferred by law".

8 In subsection (b)(2) of this section, the reference to "this article" is
9 retained. Although "this article" formerly referred only to Art. 78, and this
10 article is derived, in part, from provisions outside of former Art. 78,
11 retaining that reference does not comprise a substantive change. The
12 Commission has the authority to carry out its duties wherever codified.

13 Also in subsection (b)(2) of this section, the reference to the "functions" of
14 the Commission is added for clarity.

15 Also in subsection (b)(2) of this section, the former reference to carrying out
16 this article "effectually" is deleted as surplusage.

17 Defined terms: "Commission" § 1-101

18 "Public service company" § 1-101

19 2-113. SUPERVISORY AND REGULATORY POWER.

20 (A) IN GENERAL.

21 (1) THE COMMISSION SHALL:

22 (I) SUPERVISE AND REGULATE THE PUBLIC SERVICE COMPANIES
23 SUBJECT TO THE JURISDICTION OF THE COMMISSION TO:

24 1. ENSURE THEIR OPERATION IN THE INTEREST OF THE
25 PUBLIC; AND

26 2. PROMOTE ADEQUATE, ECONOMICAL, AND EFFICIENT
27 DELIVERY OF UTILITY SERVICES IN THE STATE WITHOUT UNJUST DISCRIMINATION;
28 AND

29 (II) ENFORCE COMPLIANCE WITH THE REQUIREMENTS OF LAW BY
30 PUBLIC SERVICE COMPANIES, INCLUDING REQUIREMENTS WITH RESPECT TO
31 FINANCIAL CONDITION, CAPITALIZATION, FRANCHISES, PLANT, MANNER OF
32 OPERATION, RATES, AND SERVICE.

33 (2) IN SUPERVISING AND REGULATING PUBLIC SERVICE COMPANIES,
34 THE COMMISSION SHALL CONSIDER THE PUBLIC SAFETY, THE ECONOMY OF THE
35 STATE, THE CONSERVATION OF NATURAL RESOURCES, AND THE PRESERVATION OF
36 ENVIRONMENTAL QUALITY.

1 (B) CONSTRUCTION.

2 THE POWERS AND DUTIES LISTED IN THIS TITLE DO NOT LIMIT THE SCOPE OF
3 THE GENERAL POWERS AND DUTIES OF THE COMMISSION PROVIDED FOR BY THIS
4 ARTICLE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 78, § 56.

7 In subsection (a)(1)(ii) of this section, the phrase "but not limited to", which
8 formerly modified "including", is deleted in light of Art. 1, § 30 to the same
9 effect.

10 In subsection (b) of this section, the former reference to "this article" is
11 retained. Although "this article" formerly referred only to Art. 78, and this
12 article is derived, in part, from provisions outside of former Art. 78,
13 retaining that reference does not comprise a substantive change. This
14 section does not limit any of the powers or duties of the Commission
15 wherever codified. Similarly, the reference to the powers and duties listed
16 in "this title" is substituted for the former reference to those listed in "this
17 subtitle" -- now §§ 2-113 through 2-115 of this title and § 3-104 of this
18 article.

19 Defined terms: "Commission" § 1-101

20 "Plant" § 1-101

21 "Public service company" § 1-101

22 "Rate" § 1-101

23 2-114. PLANT INSPECTION.

24 TO INSPECT A PLANT OF A PUBLIC SERVICE COMPANY, THE COMMISSION MAY:

25 (1) HAVE ACCESS TO THE PLANT;

26 (2) SET UP AND USE EQUIPMENT IN THE PLANT AS NEEDED; AND

27 (3) OCCUPY SPACE IN THE PLANT AS THE COMMISSION CONSIDERS
28 REASONABLY NECESSARY TO INSPECT OR TEST.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 78, § 61.

31 The former reference to "carrying out its duties under this article" is
32 deleted as implicit in the organizational scheme of this revision, and in
33 light of the powers of the Commission stated in §§ 2-113 and 2-115 of this
34 title.

35 The former reference to "examin[ing]" a plant is deleted in light of the
36 reference to "inspect[ing]" the plant. Similarly, in item (3) of this section,
37 the former reference to "examinations" is deleted.

1 In item (2) of this section, the reference to using "equipment" is substituted
2 for the former reference to "apparatus or appliances" for brevity.

3 Defined terms: "Commission" § 1-101

4 "Plant" § 1-101

5 "Public service company" § 1-101

6 2-115. INVESTIGATIONS.

7 (A) REQUIRED.

8 THE COMMISSION SHALL INITIATE AND CONDUCT ANY INVESTIGATION
9 NECESSARY TO EXECUTE ITS POWERS OR PERFORM ITS DUTIES UNDER THIS
10 ARTICLE.

11 (B) POWERS.

12 THE COMMISSION MAY:

13 (1) EXAMINE THE RECORDS OF A PUBLIC SERVICE COMPANY;

14 (2) COMPEL PRODUCTION OF THE RECORDS BY SUBPOENA; AND

15 (3) REQUIRE VERIFIED COPIES OF THE RECORDS TO BE FILED WITH THE
16 COMMISSION.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 78, §§ 62A and 63.

19 In subsection (a) of this section, the former reference to conducting
20 investigations "under this article" is retained. Although "this article"
21 formerly referred only to Art. 78, and this article is derived, in part, from
22 provisions outside of former Art. 78, retaining that reference does not
23 comprise a substantive change. The Commission must conduct
24 investigations to exercise its duties wherever those duties are codified.

25 In subsection (b)(2) of this section, the former reference to "subpoena duces
26 tecum" is deleted as obsolete.

27 In subsection (b)(3) of this section, the reference to "verified" copies is
28 substituted for the former reference to "sworn" copies for clarity and
29 consistency with other revised articles of the Code.

30 Defined terms: "Commission" § 1-101

31 "Public service company" § 1-101

32 "Record" § 1-101

33 2-116. LEGISLATION.

34 (A) IN GENERAL.

1 (1) AS IT CONSIDERS DESIRABLE, THE COMMISSION MAY CONDUCT
2 PROCEEDINGS ON PROPOSED AMENDMENTS TO ANY LAW THAT, IN THE JUDGMENT
3 OF THE COMMISSION, WOULD AFFECT THE PUBLIC INTEREST IN ANY ASPECT OF THE
4 BUSINESS OF A PUBLIC SERVICE COMPANY.

5 (2) ON REQUEST OF THE GOVERNOR, THE GENERAL ASSEMBLY, OR
6 EITHER HOUSE OF THE GENERAL ASSEMBLY, THE COMMISSION SHALL CONDUCT
7 PROCEEDINGS ON PROPOSED AMENDMENTS TO ANY LAW THAT, IN THE JUDGMENT
8 OF THE COMMISSION, WOULD AFFECT THE PUBLIC INTEREST IN ANY ASPECT OF THE
9 BUSINESS OF A PUBLIC SERVICE COMPANY.

10 (B) CONCLUSIONS.

11 (1) THE COMMISSION MAY RECOMMEND OR PREPARE LEGISLATION ON
12 ANY MATTER WITHIN OR RELATED TO THE JURISDICTION OF THE COMMISSION.

13 (2) IF A PROCEEDING UNDER THIS SECTION WAS HELD ON REQUEST,
14 SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE COMMISSION
15 SHALL REPORT ITS CONCLUSIONS TO THE PERSON OR BODY WHO REQUESTED THE
16 PROCEEDING.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 78, § 60.

19 Defined terms: "Commission" § 1-101

20 "Person" § 1-101

21 "Proceeding" § 1-101

22 "Public service company" § 1-101

23 2-117. ENFORCEMENT POWER.

24 (A) PROCEEDING FOR ENFORCEMENT.

25 (1) IF THE COMMISSION BELIEVES THAT A PUBLIC SERVICE COMPANY
26 OR GAS MASTER METER OPERATOR THAT IS SUBJECT TO THE COMMISSION'S
27 JURISDICTION IS VIOLATING OR WILL VIOLATE THIS ARTICLE, THE COMMISSION
28 SHALL BRING AN ACTION IN THE COMMISSION'S NAME FOR INJUNCTION OR OTHER
29 APPROPRIATE ACTION IN THE CIRCUIT COURT OF A COUNTY WHERE THE PUBLIC
30 SERVICE COMPANY OR GAS MASTER METER OPERATOR DOES BUSINESS OR HAS ITS
31 PRINCIPAL PLACE OF BUSINESS.

32 (2) THE COURT:

33 (I) SHALL ALLOW A PERIOD NOT EXCEEDING 20 DAYS FOR THE
34 DEFENDANT TO SHOW CAUSE WHY THE RELIEF SOUGHT SHOULD NOT BE GRANTED;

35 (II) AFTER THE PERIOD, SHALL INQUIRE IMMEDIATELY INTO THE
36 MERITS OF THE CASE, WITHOUT OTHER OR FORMAL PLEADINGS AND WITHOUT
37 RESPECT TO ANY TECHNICAL REQUIREMENT;

1 (III) MAY JOIN AS PARTIES ANY PERSONS AS IS NECESSARY OR
2 PROPER TO MAKE A JUDGMENT OR PROCESS EFFECTIVE; AND

3 (IV) SHALL ISSUE A FINAL ORDER THAT GRANTS APPROPRIATE
4 RELIEF.

5 (B) PROCEEDING TO RECOVER FORFEITURE.

6 (1) THE COMMISSION SHALL BRING AN ACTION TO RECOVER A
7 FORFEITURE UNDER THIS ARTICLE IN THE NAME OF THE STATE IN A CIVIL COURT OF
8 COMPETENT JURISDICTION IN ANY COUNTY WHERE THE DEFENDANT DOES
9 BUSINESS.

10 (2) IN AN ACTION UNDER THIS SUBSECTION, ALL FORFEITURES
11 INCURRED BEFORE FINAL JUDGMENT IS RENDERED MAY BE RECOVERED.

12 (3) AN ACTION TO RECOVER A PARTICULAR FORFEITURE IS NOT A
13 WAIVER OF OTHER FORFEITURES THAT HAVE ACCRUED OR WILL ACCRUE.

14 (C) ACTION AGAINST VEHICLE REGISTRATION.

15 (1) THE COMMISSION SHALL NOTIFY AN OFFENDER TO APPEAR AND
16 ANSWER CHARGES ON COMPLAINT FILED BY A CARRIER OR ON DISCOVERY OF A
17 VIOLATION OR INFRINGEMENT BY THE COMMISSION'S OWN INVESTIGATION THAT:

18 (I) THE OFFENDER IS OR HAS BEEN INFRINGING ON OR
19 VIOLATING A PERMIT GRANTED TO THE CARRIER BY THE COMMISSION;

20 (II) THE OFFENDER, WITHOUT A PERMIT, IS EXERCISING OR USING
21 A RIGHT GRANTED IN A PERMIT;

22 (III) A RIGHT GRANTED IN A PERMIT IS BEING SUBJECTED TO
23 UNRESTRICTED OR UNREGULATED COMPETITION; OR

24 (IV) THE OFFENDER, WITHOUT A PERMIT, IS SERVING, WHOLLY OR
25 PARTLY, DIRECTLY OR INDIRECTLY, A ROUTE SET FORTH IN A GRANTED PERMIT.

26 (2) THE NOTICE SHALL BE SENT TO OR SERVED ON THE OFFENDER AS
27 PROVIDED BY § 3-103 OF THIS ARTICLE.

28 (3) IF THE COMMISSION FINDS THAT THE OFFENDER IS VIOLATING OR
29 INFRINGING, OR HAS VIOLATED OR INFRINGED ON THE RIGHTS OF A CARRIER, THE
30 COMMISSION SHALL ORDER THE OFFENDER TO STOP THE OPERATIONS THAT LED TO
31 THE VIOLATION OR INFRINGEMENT.

32 (4) IF THE OFFENDER DOES NOT OBEY THE ORDER OF THE
33 COMMISSION, THE COMMISSION SHALL NOTIFY THE OFFENDER TO SHOW CAUSE
34 WITHIN 10 DAYS AFTER THE NOTICE IS MAILED OR SERVED WHY THE REGISTRATION
35 CERTIFICATE FOR EACH VEHICLE INVOLVED IN THE OPERATIONS SHOULD NOT BE
36 SUSPENDED OR REVOKED.

1 (5) IF CAUSE IS NOT SHOWN OR IF, AFTER HEARING, THE COMMISSION
2 FINDS THAT CAUSE IS NOT SHOWN, THE COMMISSION SHALL CERTIFY TO THE
3 MOTOR VEHICLE ADMINISTRATION:

4 (I) THAT THE REGISTRATION CERTIFICATE OF EACH VEHICLE
5 INVOLVED IN THE OPERATIONS SHALL BE SUSPENDED OR REVOKED;

6 (II) THE CONDITION OF THE SUSPENSION OR REVOCATION; AND

7 (III) IF POSSIBLE, THE LICENSE NUMBER OF EACH VEHICLE FOR
8 WHICH THE CERTIFICATE OF REGISTRATION IS TO BE SUSPENDED OR REVOKED.

9 (6) ON RECEIPT OF THE CERTIFICATION, THE MOTOR VEHICLE
10 ADMINISTRATION AUTOMATICALLY SHALL SUSPEND OR REVOKE EACH
11 CERTIFICATE OF REGISTRATION IN ACCORDANCE WITH THE CONDITIONS
12 CONTAINED IN THE CERTIFICATION.

13 (7) THE ACTION OF THE MOTOR VEHICLE ADMINISTRATION MAY NOT BE
14 APPEALED BUT JUDICIAL REVIEW OF AN ORDER OR CERTIFICATION OF THE
15 COMMISSION MAY BE SOUGHT AS PROVIDED IN TITLE 3, SUBTITLE 2 OF THIS
16 ARTICLE.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 78, §§ 99, 100, and 100A.

19 In subsection (a)(1) of this section, the reference to "appropriate action" is
20 substituted for the former reference to "mandamus", which is applicable
21 only to officials. See Criminal Injuries Comp. Bd. v. Gould, 273 Md. 486,
22 514 (1975).

23 Also in subsection (a)(1) of this section, the former reference to violating
24 "this article" is retained. Although "this article" formerly referred only to
25 Art. 78, and this article is derived, in part, from provisions outside of
26 former Art. 78, retaining that reference does not comprise a substantive
27 change. The Commission must enforce provisions in its jurisdiction
28 wherever codified. Correspondingly, in subsection (b)(1) of this section, the
29 reference to recovering forfeitures "under this article" is retained.

30 In subsection (a)(2)(i) of this section, the reference to "the defendant" is
31 added to clarify who may "show cause why the relief sought should not be
32 granted".

33 In subsection (a)(2)(ii) of this section, the reference to the merits "of the
34 case" is added for clarity.

35 In subsection (b)(1) of this section, the reference to a "defendant" is
36 substituted for the former reference to a "company" for clarity.

37 In the introductory language of subsection (c)(1) of this section, the former
38 reference to filing a complaint "with the Public Service Commission" is

1 deleted as implicit. Similarly, in subsection (c)(1) of this section, the former
2 requirement that an offender appear "before it" is deleted.

3 In subsection (c)(1)(ii) and (iv), (2), (3), and (4) of this section, the
4 references to an "offender" are substituted for the former references to
5 "some other carrier", "the offending carrier", and "the carrier complained
6 of" for consistency and conformity with subsection (c)(1) of this section.

7 In subsection (c)(5)(i) of this section, the reference to "operations" is
8 substituted for the former reference to a "violation or infringement" for
9 consistency and conformity with subsection (c)(3) of this section.

10 Defined terms: "Commission" § 1-101

11 "County" § 1-101

12 "Gas master meter operator" § 1-101

13 "Person" § 1-101

14 "Public service company" § 1-101

15 2-118. LONG-RANGE SERVICE PLANS.

16 (A) SCOPE OF SECTION.

17 THIS SECTION DOES NOT APPLY TO TAXICABS, POWER BOAT COMPANIES, TOLL
18 BRIDGES, OR TOWING AND LIGHTERING COMPANIES.

19 (B) IN GENERAL.

20 THE COMMISSION SHALL REQUIRE EACH PUBLIC SERVICE COMPANY SUBJECT
21 TO ITS JURISDICTION TO FORMULATE AND, AFTER APPROVAL BY THE COMMISSION,
22 TO IMPLEMENT LONG-RANGE PLANS TO PROVIDE SERVICE.

23 (C) ENERGY CONSERVATION.

24 THE COMMISSION SHALL REQUIRE EACH ELECTRIC COMPANY IN THE STATE TO
25 INCLUDE IN THE LONG-RANGE PLAN ADEQUATE PROVISIONS TO PROMOTE ENERGY
26 CONSERVATION TO DECREASE OR MODERATE ELECTRIC AND, AS APPROPRIATE,
27 NATURAL GAS DEMAND FROM CUSTOMERS.

28 (D) REVIEW OF PLANS.

29 (1) THE COMMISSION SHALL REVIEW EACH PLAN FOR ADEQUACY
30 UNDER THE CRITERIA OF § 2-113 OF THIS SUBTITLE, GIVING ATTENTION TO THE
31 INTERRELATIONSHIP OF SERVICES OF OTHER PUBLIC SERVICE COMPANIES AND TO
32 PROVISIONS FOR RESEARCH AND DEVELOPMENT TO ENSURE ADEQUATE SERVICE.

33 (2) AS PART OF THE REVIEW, AND SUBJECT TO ANY APPLICABLE
34 FREEDOM OF INFORMATION ACT, THE COMMISSION SHALL CONSULT WITH OTHER
35 STATE UNITS AND PROVIDE AN OPPORTUNITY FOR PUBLIC COMMENT.

1 (3) THE COMMISSION SHALL REQUIRE THE REVISIONS TO A PLAN THAT
 2 THE COMMISSION CONSIDERS APPROPRIATE UNLESS THE AUTHORITY TO REVIEW
 3 AND APPROVE A PLAN HAS BEEN GRANTED TO ANOTHER STATE UNIT BY OTHER LAW.

4 REVISOR'S NOTE: This section is new language derived without substantive
 5 change from former Art. 78, § 59A.

6 In subsection (a) of this section, the former reference to "radio common
 7 carriers" is deleted as obsolete. See Ch. 377, Acts of 1988, which repealed
 8 the jurisdiction of the Commission over radio common carriers.

9 In subsection (d)(1) of this section, the reference to "criteria" is substituted
 10 for the former reference to "general standards" for clarity and consistency.

11 In subsection (d)(2) of this section, the former reference to a consultation
 12 being subject to any "exceptions provided in" a freedom of information act
 13 is deleted as unnecessary in light of the statement that the consultation is
 14 "subject to any applicable freedom of information act".

15 In subsection (d)(2) and (3) of this section, the reference to other State
 16 "units" is substituted for the former reference to "agencies". See General
 17 Revisor's Note to this article.

18 Defined terms: "Commission" § 1-101

19 "Company" § 1-101

20 "Electric company" § 1-101

21 "Public service company" § 1-101

22 "Taxicab" § 1-101

23 "Toll bridge" § 1-101

24 2-119. INTERSTATE COMMERCE.

25 AS THE INTERESTS OF THE PEOPLE OF THIS STATE ARE AFFECTED, THE
 26 COMMISSION:

27 (1) SHALL STUDY THE RATES AND SERVICE OF PUBLIC SERVICE
 28 COMPANIES IN INTERSTATE COMMERCE BEYOND THE JURISDICTION OF THE
 29 COMMISSION; AND

30 (2) MAY APPLY TO AND APPEAR BEFORE APPROPRIATE FEDERAL UNITS
 31 TO PROTECT THOSE INTERESTS.

32 REVISOR'S NOTE: This section is new language derived without substantive
 33 change from former Art. 78, § 58.

34 In item (2) of this section, the reference to "federal units" is substituted for
 35 the former reference to "agencies of the federal government". See General
 36 Revisor's Note to this article.

1 Defined terms: "Commission" § 1-101

2 "Public service company" § 1-101

3 "Rate" § 1-101

4 2-120. JOINT ACTION.

5 UNDER INTERSTATE COMPACTS OR AGREEMENTS OR UNDER THE
6 CONCURRENT POWER OF STATES TO REGULATE INTERSTATE COMMERCE, OR AS AN
7 AGENCY OF THE FEDERAL GOVERNMENT, OR OTHERWISE, THE COMMISSION MAY
8 ACT JOINTLY OR CONCURRENTLY WITH AN OFFICIAL BOARD OR COMMISSION OF
9 THE UNITED STATES OR A STATE IN A PROCEEDING RELATING TO THE REGULATION
10 OF A PUBLIC SERVICE COMPANY.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 78, § 59.

13 Defined terms: "Commission" § 1-101

14 "Public service company" § 1-101

15 "State" § 1-101

16 2-121. REGULATIONS.

17 THE COMMISSION MAY ADOPT REASONABLE REGULATIONS AS NECESSARY TO
18 CARRY OUT ANY LAW THAT RELATES TO THE COMMISSION.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 78, § 64.

21 The former reference to "rules" is deleted as unnecessary in light of the
22 reference to "regulations". See General Revisor's Note to this article.

23 The former reference to "the provisions of this article" is deleted as
24 unnecessary in light of the comprehensive reference to "any law that
25 relates to the Commission".

26 Defined term: "Commission" § 1-101

27 2-122. REPORTS.

28 (A) ANNUAL REPORT.

29 (1) ON OR BEFORE THE THIRD WEDNESDAY OF MARCH OF EACH YEAR,
30 THE COMMISSION SHALL PUBLISH AN ANNUAL REPORT THAT SUMMARIZES THE
31 ACTIVITIES OF THE COMMISSION THAT INCLUDES:

32 (I) A SUMMARY OF EACH REGULATION, OPINION, OR ORDER THAT
33 THE COMMISSION ADOPTED, ENTERED, OR PASSED DURING THE YEAR; AND

34 (II) ANY OTHER INFORMATION THAT THE COMMISSION CONSIDERS
35 OF VALUE.

1 (2) THE COMMISSION SHALL SEND A COPY OF THE REPORT TO THE
2 GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE
3 GENERAL ASSEMBLY.

4 (B) ENERGY CONSERVATION REPORT.

5 EACH YEAR, THE COMMISSION SHALL PUBLISH A REPORT THAT INCLUDES:

6 (1) THE PROGRESS OF THE RESIDENTIAL CONSERVATION SERVICE
7 PLAN;

8 (2) COMMISSION ACTIVITIES TO MODERATE PEAK ELECTRIC DEMAND;
9 AND

10 (3) ENERGY CONSERVATION MEASURES TAKEN BY GAS COMPANIES
11 AND ELECTRIC COMPANIES IN THE STATE TO REDUCE ELECTRICAL AND NATURAL
12 GAS DEMAND.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 78, § 57. It is revised to conform to the
15 long-standing practice of the Commission. See Ch. 462, Acts of 1982.

16 In subsection (a)(1) of this section, the former reference to "mak[ing]" an
17 annual report is deleted as unnecessary in light of the requirement to
18 "publish" the report.

19 In subsection (a)(1)(i) of this section, the former reference to "rules" is
20 deleted as unnecessary in light of the reference to "regulation[s]". See
21 General Revisor's Note to this article.

22 Also in subsection (a)(1)(i) of this section, the reference to a "summary" of
23 each regulation, opinion, or order of the Commission is added for clarity.

24 Defined terms: "Commission" § 1-101

25 "Electric company" § 1-101

26 "Gas company" § 1-101

27 SUBTITLE 2. PEOPLE'S COUNSEL.

28 2-201. "RESIDENTIAL AND NONCOMMERCIAL USERS" DEFINED.

29 IN THIS SUBTITLE, "RESIDENTIAL AND NONCOMMERCIAL USERS" MEANS:

30 (1) RESIDENTIAL USERS OF GAS, ELECTRICITY, TELEPHONES, OR WATER
31 AND SEWERAGE; AND

32 (2) NONCOMMERCIAL USERS OF OTHER SERVICES REGULATED BY THE
33 COMMISSION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from the first sentence of former Art. 78, § 15(a) as it defined
3 "residential and noncommercial users".

4 In item (2) of this section, the reference to services regulated by "the
5 Commission" is added for clarity.

6 Defined term: "Commission" § 1-101

7 2-202. APPOINTMENT.

8 (A) APPOINTMENT.

9 WITH THE ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR SHALL
10 APPOINT THE PEOPLE'S COUNSEL.

11 (B) TERM.

12 THE PEOPLE'S COUNSEL SERVES AT THE PLEASURE OF THE GOVERNOR.

13 (C) QUALIFICATION.

14 THE PEOPLE'S COUNSEL SHALL HAVE BEEN ADMITTED TO PRACTICE LAW IN
15 THE STATE.

16 (D) OATH.

17 BEFORE TAKING OFFICE, THE PEOPLE'S COUNSEL SHALL TAKE THE OATH
18 REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

19 (E) FULL TIME DUTY.

20 THE PEOPLE'S COUNSEL SHALL DEVOTE FULL TIME TO THE DUTIES OF OFFICE.

21 (F) COMPENSATION.

22 THE PEOPLE'S COUNSEL IS ENTITLED TO A SALARY OF AT LEAST \$35,000 A YEAR
23 AS PROVIDED IN THE STATE BUDGET.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from the first through fourth sentences of former Art. 78, § 14 and
26 as it required the People's Counsel to take an oath, § 4.

27 In subsection (d) of this section, the reference to "Article I, § 9 of the
28 Maryland Constitution" is added for clarity.

29 2-203. STAFF.

30 (A) IN GENERAL.

1 THE STATE BUDGET SHALL PROVIDE SUFFICIENT MONEY FOR THE OFFICE OF
2 PEOPLE'S COUNSEL TO HIRE NECESSARY STAFF IN ADDITION TO THE STAFF
3 ASSISTANCE THAT IS PROVIDED UNDER § 2-205(C)(2) OF THIS SUBTITLE.

4 (B) EXPERTS.

5 THE OFFICE OF PEOPLE'S COUNSEL MAY RETAIN AS NECESSARY FOR A
6 PARTICULAR MATTER OR HIRE EXPERTS IN THE FIELD OF UTILITY REGULATION,
7 INCLUDING COST OF CAPITAL EXPERTS, RATE DESIGN EXPERTS, ACCOUNTANTS,
8 ECONOMISTS, ENGINEERS, TRANSPORTATION SPECIALISTS, AND LAWYERS.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from the first and second sentences of former Art. 78, § 15B.

11 In subsection (a) of this section, the former reference to "perform[ing] its
12 duties" is deleted as implicit in the reference to "staff assistance".

13 In subsection (b) of this section, the former reference to "any other experts"
14 is deleted in light of Art. 1, § 30, which defines "including" to mean "by way
15 of illustration and not by way of limitation". Accordingly, the phrase "but
16 not limited to" is also deleted.

17 Defined term: "Rate" § 1-101

18 2-204. DUTIES.

19 (A) PROTECTING INTERESTS OF RESIDENTIAL AND NONCOMMERCIAL USERS.

20 (1) THE OFFICE OF PEOPLE'S COUNSEL SHALL EVALUATE EACH MATTER
21 PENDING BEFORE THE COMMISSION TO DETERMINE IF THE INTERESTS OF
22 RESIDENTIAL AND NONCOMMERCIAL USERS ARE AFFECTED.

23 (2) IF THE OFFICE OF PEOPLE'S COUNSEL CONSIDERS THE INTEREST OF
24 RESIDENTIAL AND NONCOMMERCIAL USERS TO BE AFFECTED, THE OFFICE OF
25 PEOPLE'S COUNSEL SHALL APPEAR BEFORE THE COMMISSION AND COURTS ON
26 BEHALF OF RESIDENTIAL AND NONCOMMERCIAL USERS IN EACH MATTER OR
27 PROCEEDING OVER WHICH THE COMMISSION HAS ORIGINAL JURISDICTION,
28 INCLUDING A PROCEEDING ON THE RATES, SERVICE, OR PRACTICES OF A PUBLIC
29 SERVICE COMPANY OR ON A VIOLATION OF THIS ARTICLE.

30 (3) AS THE OFFICE OF PEOPLE'S COUNSEL CONSIDERS NECESSARY, THE
31 OFFICE OF PEOPLE'S COUNSEL SHALL CONDUCT INVESTIGATIONS AND REQUEST
32 THE COMMISSION TO INITIATE PROCEEDINGS TO PROTECT THE INTERESTS OF
33 RESIDENTIAL AND NONCOMMERCIAL USERS.

34 (B) ADMINISTER OFFICE.

35 THE PEOPLE'S COUNSEL SHALL ADMINISTER AND OPERATE THE OFFICE OF
36 PEOPLE'S COUNSEL.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 78, § 15(b), the first and second sentences of (a)
3 and the fifth sentence of § 14.

4 Subsection (b) of this section is rephrased in standard language to conform
5 to similar provisions in other revised articles of the Code.

6 In subsection (a)(2) of this section, the reference to "affected" interests is
7 substituted for the former reference to interests that are "involved" for
8 clarity.

9 Also in subsection (a)(2) of this section, the former reference to violations
10 "of this article" is retained. Although "this article" formerly referred only to
11 Art. 78, and this article is derived, in part, from provisions outside of
12 former Art. 78, retaining that reference does not comprise a substantive
13 change. The People's Counsel is required to act on behalf of residential and
14 noncommercial users in each proceeding over which the Commission has
15 original jurisdiction, whether or not the proceeding involves a violation of
16 this or any other article.

17 Defined terms: "Commission" § 1-101

18 "Proceeding" § 1-101

19 "Public service company" § 1-101

20 "Rate" § 1-101

21 "Residential and noncommercial users" § 2-201

22 2-205. POWERS.

23 (A) RIGHTS.

24 IN APPEARANCES BEFORE THE COMMISSION AND COURTS ON BEHALF OF
25 RESIDENTIAL AND NONCOMMERCIAL USERS, THE OFFICE OF PEOPLE'S COUNSEL
26 HAS THE RIGHTS OF COUNSEL FOR A PARTY TO THE PROCEEDING, INCLUDING
27 THOSE RIGHTS SPECIFIED IN § 3-107 OF THIS ARTICLE.

28 (B) JURISDICTION.

29 THE OFFICE OF PEOPLE'S COUNSEL MAY APPEAR BEFORE ANY FEDERAL OR
30 STATE UNIT TO PROTECT THE INTERESTS OF RESIDENTIAL AND NONCOMMERCIAL
31 USERS.

32 (C) ACCESS TO COMMISSION.

33 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE AND
34 CONSISTENT WITH ANY APPLICABLE FREEDOM OF INFORMATION ACT, THE OFFICE
35 OF PEOPLE'S COUNSEL SHALL HAVE FULL ACCESS TO THE COMMISSION'S RECORDS
36 AND SHALL HAVE THE BENEFIT OF ALL OTHER FACILITIES OR INFORMATION OF THE
37 COMMISSION.

1 (2) THE OFFICE OF PEOPLE'S COUNSEL IS ENTITLED TO THE
2 ASSISTANCE OF THE COMMISSION'S STAFF, IF THE STAFF DETERMINES THAT THE
3 ASSISTANCE IS CONSISTENT WITH THE STAFF'S RESPONSIBILITIES AND IF THE
4 STAFF AND THE OFFICE OF PEOPLE'S COUNSEL AGREE THAT THE ASSISTANCE, IN A
5 PARTICULAR MATTER, IS CONSISTENT WITH THEIR RESPECTIVE INTERESTS.

6 (D) LEGISLATION.

7 IF THE OFFICE OF PEOPLE'S COUNSEL CONSIDERS THAT THE LEGISLATION
8 WOULD AFFECT THE INTERESTS OF RESIDENTIAL AND NONCOMMERCIAL USERS,
9 THE OFFICE OF PEOPLE'S COUNSEL MAY RECOMMEND TO THE GENERAL ASSEMBLY
10 LEGISLATION ON ANY MATTER RELATED TO THE COMMISSION'S JURISDICTION.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 78, § 15(c), (d), and the third and fourth sentences
13 of (a).

14 In subsection (b) of this section, the reference to the "Office of" People's
15 Counsel is added for clarity and consistency.

16 Also in subsection (b) of this section, the reference to a federal or State
17 "unit" is substituted for the former reference to an "agency". See General
18 Revisor's Note to this article.

19 Also in subsection (b) of this section, the former reference to appearing
20 before any federal or State agency "as necessary" is deleted as surplusage.

21 In subsection (c)(1) of this section, the former reference to the People's
22 Counsel having the benefits of the facilities or information of the
23 Commission in "carrying out ... duties" is deleted as surplusage.

24 In subsection (c)(2) of this section, the reference to agreeing about the need
25 for "assistance" is substituted for the former reference to agreeing that
26 "sharing" is needed for clarity.

27 In subsection (d) of this section, the defined term "residential and
28 noncommercial users" is substituted for the former term "noncommercial
29 or residential users" for clarity.

30 Also in subsection (d) of this section, the former reference to a matter
31 "within" the jurisdiction of the Commission is deleted as unnecessary in
32 light of the broad reference to matters "related to" the Commission's
33 jurisdiction.

34 Former Art. 78, § 15A, which stated that the People's Counsel has the
35 powers and duties stated in Title 7, Subtitle 5 of the Transportation
36 Article, is deleted as unnecessary. The provisions of the Transportation
37 Article apply whether or not they are referred to here.

1 Defined terms: "Commission" § 1-101

2 "Proceeding" § 1-101

3 "Record" § 1-101

4 "Residential and noncommercial users" § 2-201

5 2-206. BUDGET SHORTFALL.

6 IF THE BUDGET FOR THE OFFICE OF PEOPLE'S COUNSEL IS INSUFFICIENT TO
7 ALLOW IT TO PERFORM ITS DUTIES, THE OFFICE OF PEOPLE'S COUNSEL MAY APPLY
8 TO THE BOARD OF PUBLIC WORKS FOR ADDITIONAL MONEY FROM THE GENERAL
9 EMERGENCY FUND.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from the third sentence of former Art. 78, § 15B.

12 The reference to the "budget" for the Office of People's Counsel is
13 substituted for the former reference to a "budgetary appropriation" for
14 clarity.

15 SUBTITLE 3. ETHICS.

16 2-301. "RELATIVE" DEFINED.

17 IN THIS SUBTITLE, "RELATIVE" MEANS AN INDIVIDUAL RELATED BY BLOOD OR
18 MARRIAGE.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 78, § 2(gg).

21 2-302. SCOPE OF SUBTITLE.

22 THIS SUBTITLE APPLIES TO COMMISSIONERS, THE GENERAL COUNSEL, THE
23 PEOPLE'S COUNSEL, OFFICERS AND EMPLOYEES OF THE OFFICE OF PEOPLE'S
24 COUNSEL, AND THE OFFICERS AND EMPLOYEES OF THE COMMISSION.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 78, § 2(k) and the references to the personnel of
27 the Commission and Office of People's Counsel in § 16A(a) through (e) and
28 (g).

29 The reference to the "People's Counsel" is added for clarity.

30 Defined term: "Commission" § 1-101

31 2-303. RELATIONSHIP WITH PUBLIC SERVICE COMPANY.

32 (A) SCOPE.

33 THIS SECTION APPLIES TO EACH INDIVIDUAL SUBJECT TO § 2-302 OF THIS
34 SUBTITLE AND TO:

1 (1) EACH SPOUSE, DEPENDENT CHILD, PARENT, BROTHER, OR SISTER OF
2 EACH COMMISSIONER, THE PEOPLE'S COUNSEL, THE GENERAL COUNSEL, AND A
3 HEARING EXAMINER; AND

4 (2) EACH SPOUSE OR DEPENDENT CHILD OF EACH OTHER OFFICER OR
5 EMPLOYEE OF THE COMMISSION OR OFFICE OF PEOPLE'S COUNSEL.

6 (B) RELATIONSHIP PROHIBITED.

7 AN INDIVIDUAL SUBJECT TO THIS SECTION MAY NOT:

8 (1) HOLD AN OFFICIAL RELATION TO OR CONNECTION WITH A PUBLIC
9 SERVICE COMPANY; OR

10 (2) HAVE A PECUNIARY INTEREST IN A PUBLIC SERVICE COMPANY AS
11 THE HOLDER OF STOCK OR OTHER SECURITIES OR OTHERWISE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 78, §§ 2(ff) and 16A(a).

14 In this section and throughout this subtitle, references to individuals
15 "subject to § 2-302 of this subtitle" are added to distinguish
16 commissioners, the People's Counsel, and their officers and employees
17 from specified family members who are subject only to §§ 2-303 and 2-307
18 of this subtitle.

19 Defined terms: "Commission" § 1-101

20 "Public service company" § 1-101

21 2-304. HOLDING INCOMPATIBLE POSITION.

22 AN INDIVIDUAL SUBJECT TO § 2-302 OF THIS SUBTITLE MAY NOT HOLD AN
23 OFFICE OR POSITION OR ENGAGE IN A BUSINESS OR AVOCATION THAT IS
24 INCOMPATIBLE WITH THE DUTIES OF OFFICE OR SERVICE WITH THE COMMISSION
25 OR OFFICE OF PEOPLE'S COUNSEL.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 78, § 16A(b).

28 The reference to "service" is substituted for the former reference to
29 "employment" for consistency within this subtitle.

30 The reference to office or service with the "Office of People's Counsel" is
31 added for clarity.

32 Defined term: "Commission" § 1-101

33 2-305. SOLICITING APPOINTMENT.

34 AN INDIVIDUAL SUBJECT TO § 2-302 OF THIS SUBTITLE MAY NOT SOLICIT,
35 SUGGEST, REQUEST, OR RECOMMEND DIRECTLY OR INDIRECTLY TO A PUBLIC

1 SERVICE COMPANY THAT A PERSON BE APPOINTED TO AN OFFICE OR PLACE OF
2 EMPLOYMENT.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from the first sentence of former Art. 78, § 16A(c).

5 Defined terms: "Person" § 1-101

6 "Public service company" § 1-101

7 2-306. ACTIVITIES AFTER SERVICE.

8 (A) COMMISSIONER; PEOPLE'S COUNSEL.

9 UNTIL AT LEAST 2 YEARS HAVE PASSED AFTER LEAVING SERVICE AS A
10 COMMISSIONER OR THE PEOPLE'S COUNSEL, AN INDIVIDUAL MAY NOT:

11 (1) REPRESENT A PUBLIC SERVICE COMPANY BEFORE THE
12 COMMISSION;

13 (2) APPEAR BEFORE THE COMMISSION ON BEHALF OF A PARTY TO A
14 COMMISSION PROCEEDING; OR

15 (3) APPEAR BEFORE THE COMMISSION ON A MATTER WITHIN THE
16 JURISDICTION OF THE COMMISSION.

17 (B) GENERAL COUNSEL; HEARING EXAMINER.

18 UNTIL AT LEAST 1 YEAR HAS PASSED AFTER LEAVING SERVICE WITH THE
19 COMMISSION AS THE GENERAL COUNSEL OR A HEARING EXAMINER, AN INDIVIDUAL
20 MAY NOT:

21 (1) REPRESENT A PUBLIC SERVICE COMPANY BEFORE THE
22 COMMISSION;

23 (2) APPEAR BEFORE THE COMMISSION ON BEHALF OF A PARTY TO A
24 COMMISSION PROCEEDING; OR

25 (3) APPEAR BEFORE THE COMMISSION ON A MATTER WITHIN THE
26 JURISDICTION OF THE COMMISSION.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from the second and third sentences of former Art. 78, § 16A(c).

29 In subsections (a) and (b) of this section, the references to "service" are
30 substituted for the former references to "employment" for consistency
31 within this section.

32 Also in subsections (a) and (b) of this section, the former references to
33 representing a company "in any way" are deleted as surplusage.

1 Defined terms: "Commission" § 1-101

2 "Proceeding" § 1-101

3 "Public service company" § 1-101

4 2-307. ACCEPTING GIFTS.

5 (A) SCOPE.

6 THIS SECTION APPLIES TO EACH INDIVIDUAL SUBJECT TO § 2-302 OF THIS
7 SUBTITLE AND TO:

8 (1) EACH SPOUSE, DEPENDENT CHILD, PARENT, BROTHER, OR SISTER OF
9 EACH COMMISSIONER, THE PEOPLE'S COUNSEL, THE GENERAL COUNSEL, AND A
10 HEARING EXAMINER; AND

11 (2) EACH SPOUSE OR DEPENDENT CHILD OF EACH OTHER OFFICER OR
12 EMPLOYEE OF THE COMMISSION OR OFFICE OF PEOPLE'S COUNSEL.

13 (B) PROHIBITED ACTIVITY.

14 (1) AN INDIVIDUAL SUBJECT TO THIS SECTION MAY NOT ACCEPT FROM
15 A PUBLIC SERVICE COMPANY OR ITS OFFICERS, AGENTS, OR EMPLOYEES, A GIFT,
16 GRATUITY, OR SPECIAL CONSIDERATION.

17 (2) THIS SUBSECTION DOES NOT PRECLUDE AN INDIVIDUAL FROM
18 ACCEPTING A GIFT FROM A RELATIVE.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 78, §§ 2(ff) and 16A(d) and (f).

21 In subsection (b)(1) of this section, the former reference to accepting a gift,
22 gratuity, or special consideration "of any kind whatsoever" is deleted as
23 surplusage. Similarly, the former prohibition against accepting a "present"
24 is deleted in light of the prohibitions against accepting a "gift, gratuity, or
25 special consideration".

26 Defined terms: "Commission" § 1-101

27 "Public service company" § 1-101

28 "Relative" § 2-301

29 2-308. OFFERING GIFTS.

30 (A) SCOPE.

31 THIS SECTION APPLIES TO EACH INDIVIDUAL SUBJECT TO § 2-302 OF THIS
32 SUBTITLE AND TO:

33 (1) EACH SPOUSE, DEPENDENT CHILD, PARENT, BROTHER, OR SISTER OF
34 EACH COMMISSIONER, THE PEOPLE'S COUNSEL, THE GENERAL COUNSEL, AND A
35 HEARING EXAMINER; AND

1 (2) EACH SPOUSE OR DEPENDENT CHILD OF EACH OTHER OFFICER OR
2 EMPLOYEE OF THE COMMISSION OR OFFICE OF PEOPLE'S COUNSEL.

3 (B) PROHIBITED ACTIVITY.

4 (1) A PUBLIC SERVICE COMPANY OR ITS OFFICER, AGENT, OR EMPLOYEE
5 MAY NOT OFFER A GIFT, GRATUITY, OR SPECIAL CONSIDERATION TO AN INDIVIDUAL
6 SUBJECT TO THIS SECTION.

7 (2) THIS SECTION DOES NOT PRECLUDE AN INDIVIDUAL FROM
8 OFFERING A GIFT TO A RELATIVE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 78, §§ 25 and 2(ff).

11 In subsection (b)(1) of this section, the former reference to offering a gift,
12 gratuity, or special consideration "of any kind whatsoever" is deleted as
13 surplusage. Similarly, the former prohibition against offering a "present" is
14 deleted in light of the prohibitions against offering a "gift, gratuity, or
15 special consideration".

16 Defined terms: "Commission" § 1-101

17 "Public service company" § 1-101

18 "Relative" § 2-301

19 2-309. DIVULGING INFORMATION.

20 EXCEPT AS DIRECTED BY THE COMMISSION OR A COURT OR AS AUTHORIZED BY
21 LAW, AN INDIVIDUAL SUBJECT TO § 2-302 OF THIS SUBTITLE MAY NOT DIVULGE
22 INFORMATION LEARNED WHILE INSPECTING THE PLANT OR EXAMINING THE
23 RECORDS OF A PUBLIC SERVICE COMPANY.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 78, § 16A(e).

26 The former reference to information divulged "to any person" is deleted as
27 implicit in the notion of divulging information.

28 Also in this section, the former reference to a "fact" is deleted in light of the
29 comprehensive reference to "information".

30 Defined terms: "Commission" § 1-101

31 "Plant" § 1-101

32 "Public service company" § 1-101

33 "Record" § 1-101

34 2-310. VIOLATING ARTICLE.

35 AN INDIVIDUAL SUBJECT TO § 2-302 OF THIS SUBTITLE MAY NOT VIOLATE THIS
36 ARTICLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 78, § 16A(g).

3 The former reference to violations of "this article" is retained. Although
4 "this article" formerly referred only to Art. 78, and this article is derived, in
5 part, from provisions outside of former Art. 78, retaining that reference
6 does not comprise a substantive change - an individual subject to this
7 subtitle may not violate this or any other article of the Code.

8 TITLE 3. ADMINISTRATIVE AND JUDICIAL PROCEDURE.

9 SUBTITLE 1. PROCEDURE BEFORE COMMISSION.

10 3-101. COMMISSION PROCEEDINGS GENERALLY.

11 (A) REGULATIONS OF THE COMMISSION.

12 A PROCEEDING BEFORE THE COMMISSION SHALL BE GOVERNED BY THE
13 REGULATIONS AND PRACTICES OF THE COMMISSION IN CONFORMITY WITH THIS
14 TITLE.

15 (B) COMMISSION PROCEDURES.

16 THE COMMISSION IS NOT BOUND BY THE RULES OF EVIDENCE OR PROCEDURE
17 OF ANY COURT.

18 (C) VALIDITY OF OFFICIAL ACTS.

19 AN OFFICIAL ACT OF THE COMMISSION:

20 (1) IS VALID IF IT SUBSTANTIALLY COMPLIES WITH THE
21 REQUIREMENTS OF THIS ARTICLE; AND

22 (2) MAY NOT BE VITIATED BY ANY TECHNICAL DEFICIENCY.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 78, § 76.

25 The substitution of the words "regulations and practices" for the former
26 word "rules" in subsection (a) of this section is consistent with the practice
27 of the Commission, as the word "rule" in the practice of the Commission
28 may refer to a decision of the Commission in an individual case.

29 Also in subsection (a) of this section, the reference to conformity with "this
30 title" is substituted for the former reference to conformity with "the
31 provisions of this article", to reflect the consolidation of all procedural
32 statutory provisions from former Art. 78 in this title.

33 In subsection (b) of this section, the former reference to "technical" in the
34 phrase "rules of evidence or procedure" is deleted as surplusage.

1 In subsection (c) of this section, the former reference to complying with the
2 requirements of "this article" is retained. Although this article formerly
3 referred only to Art. 78, and this article is derived, in part, from provisions
4 outside of former Art. 78, retaining that reference does not comprise a
5 substantive change. The provisions of this article relating to the
6 Commission's jurisdiction and procedure are unchanged.

7 Defined terms: "Commission" § 1-101

8 "Proceeding" § 1-101

9 3-102. COMPLAINT; COMMENCEMENT OF PROCEEDINGS.

10 (A) IN GENERAL.

11 (1) ANY PERSON MAY FILE A COMPLAINT WITH THE COMMISSION.

12 (2) THE COMPLAINT SHALL BE IN WRITING AND SET FORTH
13 CIRCUMSTANCES THAT ALLEGE A VIOLATION OF THIS ARTICLE BY A PUBLIC
14 SERVICE COMPANY.

15 (B) EXPLANATION FOR COMPLAINT.

16 IF A COMPLAINT FILED UNDER SUBSECTION (A) OF THIS SECTION STATES ON
17 ITS FACE A VIOLATION OF THIS ARTICLE OR IF THE COMMISSION DETERMINES THAT
18 THE COMPLAINT DESERVES AN EXPLANATION, THE COMMISSION SHALL:

19 (1) SERVE A COPY OF THE COMPLAINT ON THE PUBLIC SERVICE
20 COMPANY; AND

21 (2) ISSUE AN ORDER THAT REQUIRES THE PUBLIC SERVICE COMPANY
22 TO SATISFY OR ANSWER THE COMPLAINT IN WRITING WITHIN A SPECIFIED TIME.

23 (C) RIGHT TO HEARING.

24 A PERSON THAT IS THE SUBJECT OF A COMPLAINT FILED BY ANY PERSON OR
25 THE COMMISSION IS ENTITLED TO A HEARING IN A CONTESTED CASE THAT RESULTS
26 FROM THE COMPLAINT.

27 (D) COMPLAINT -- MATTERS REQUIRING INVESTIGATION.

28 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION
29 MUST CONDUCT AN INVESTIGATION OF THE MATTERS IN A COMPLAINT FILED
30 UNDER THIS SECTION IF THE COMPLAINT CONCERNS THE FOLLOWING:

31 (I) THE QUALITY OR RELIABILITY OF GAS SUPPLY OR ELECTRIC
32 POWER SUPPLY; OR

33 (II) THE PRICE OF GAS OR ELECTRICITY.

34 (2) IN ORDER TO BE ENTITLED TO AN INVESTIGATION UNDER
35 PARAGRAPH (1) OF THIS SUBSECTION, THE COMPLAINT SHALL BE SIGNED BY:

1 (I) THE PEOPLE'S COUNSEL;

2 (II) THE CHIEF EXECUTIVE OR LOCAL LEGISLATIVE BODY OF A
3 MUNICIPAL CORPORATION OR COUNTY IN WHICH A GAS OR ELECTRIC COMPANY IS
4 AUTHORIZED TO OPERATE; OR

5 (III) NOT LESS THAN 100 CUSTOMERS OF THE GAS COMPANY OR
6 ELECTRIC COMPANY, WITH THE NAMES AND ADDRESSES OF THE CUSTOMERS SET
7 OUT IN THE COMPLAINT.

8 (E) COMPLAINT FILED BY COMMISSION.

9 (1) THE COMMISSION SHALL BEGIN PROCEEDINGS ON ITS OWN MOTION
10 AGAINST A PERSON BY FILING A COMPLAINT.

11 (2) THE COMPLAINT FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION
12 SHALL BE SERVED ON THE PERSON THAT IS THE SUBJECT OF THE COMPLAINT
13 BEFORE ANY HEARING ON THE MATTER.

14 (F) FINAL ACTION BY ORDER.

15 UNLESS A COMPLAINT IS VOLUNTARILY SATISFIED, THE COMMISSION SHALL
16 TAKE FINAL ACTION ON EACH COMPLAINT BY ISSUING AN ORDER THAT:

17 (1) DISMISSES THE COMPLAINT;

18 (2) DIRECTS FULL OR PARTIAL SATISFACTION OF THE COMPLAINT; OR

19 (3) DIRECTS ANY ACTION THAT THE COMMISSION CONSIDERS TO BE
20 WARRANTED.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 78, §§ 77 and 79.

23 Subsection (a) of this section is revised to state explicitly that a person may
24 file a complaint with the Commission, which was implicit in former Art.
25 78, § 77(a) in the requirement that the Commission accept complaints in
26 specific circumstances. The purpose of the change is to provide greater
27 clarity since the complainant has the burden to meet the complaint
28 requirements.

29 In subsection (c) of this section, the reference to a "contested case" is not a
30 case subject to the Administrative Procedure Act, Title 10, Subtitle 2 of the
31 State Government Article. See SG § 10-203(a)(3)(vi).

32 The Public Utility Companies Article Review Committee notes, for
33 consideration by the General Assembly, that in subsection (d)(1)(i) of this
34 section, the reference to "quality or reliability of gas supply or electric
35 power supply" is substituted for the former references to "illuminating
36 power, purity or pressure of gas" and "initial efficiency" and "regulation of

1 the voltage" for clarity. No substantive changes are intended by this
2 substitution.

3 Also in subsection (d)(1)(i) of this section, the term "electric power supply"
4 is substituted for the former term "electric incandescent lamp supply" for
5 clarity.

6 In subsection (d)(2) of this section, the signature requirement for
7 compelling investigation of a complaint by the Commission is revised as a
8 prerequisite to entitlement to an investigation.

9 In subsection (e)(1) of this section, the phrase "against a person" is added
10 for clarity.

11 Defined terms: "Commission" § 1-101

12 "County" § 1-101

13 "Electric company" § 1-101

14 "Gas company" § 1-101

15 "Person" § 1-101

16 "Proceeding" § 1-101

17 "Public service company" § 1-101

18 3-103. SERVICE OF PROCESS OR DOCUMENTS.

19 (A) SERVICE OF DOCUMENT OR NOTICE.

20 THE SERVICE OF A DOCUMENT OR NOTICE RELATING TO A PROCEEDING
21 BEFORE THE COMMISSION UNDER THIS ARTICLE SHALL BE SUFFICIENT:

22 (1) IF MADE PERSONALLY THROUGH THE SHERIFF'S OFFICE IN THE
23 COUNTY IN WHICH SERVICE MAY BE MADE, OR BY AN ADULT; OR

24 (2) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION,
25 IF MAILED BY FIRST CLASS MAIL, POSTAGE PREPAID, TO THE LAST KNOWN ADDRESS
26 OF THE PERSON TO BE SERVED.

27 (B) SERVICE OF COMPLAINTS.

28 SERVICE OF COMPLAINTS AND ACCOMPANYING DOCUMENTS SHALL BE
29 SUFFICIENT IF THEY ARE MAILED BY REGISTERED FIRST CLASS MAIL, POSTAGE
30 PREPAID, TO THE LAST KNOWN ADDRESS OF THE PERSON TO BE SERVED.

31 (C) SERVICE OF SUBPOENAS.

32 SERVICE OF SUBPOENAS SHALL BE SUFFICIENT ONLY IF MADE PERSONALLY
33 THROUGH THE SHERIFF'S OFFICE IN THE COUNTY IN WHICH SERVICE MAY BE MADE,
34 OR BY AN ADULT.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 78, § 78.

1 In subsection (a)(1) of this section, the term "adult" is substituted for the
2 former phrase "person eighteen years of age or more" for consistency. See
3 Art. 1, § 24 of the Code.

4 In subsection (b) of this section, the reference to "registered first class
5 mail" includes certified first class mail. See Art. 1, § 20 of the Code.

6 Defined terms: "Commission" § 1-101

7 "County" § 1-101

8 "Person" § 1-101

9 "Proceeding" § 1-101

10 3-104. PROCEEDINGS.

11 (A) IN GENERAL.

12 (1) THE COMMISSION SHALL INSTITUTE AND CONDUCT PROCEEDINGS
13 REASONABLY NECESSARY AND PROPER TO THE EXERCISE OF ITS POWERS OR THE
14 PERFORMANCE OF ITS DUTIES.

15 (2) THE COMMISSION SHALL CONDUCT ITS PROCEEDINGS EN BANC OR
16 IN PANELS OF:

17 (I) AT LEAST THREE COMMISSIONERS; OR

18 (II) ONE HEARING EXAMINER AND AT LEAST TWO
19 COMMISSIONERS.

20 (3) A QUORUM CONSISTS OF A MAJORITY OF THE COMMISSION OR A
21 MAJORITY OF A PANEL.

22 (B) CONDUCT OF PROCEEDINGS.

23 (1) THE COMMISSION, A COMMISSIONER, OR A HEARING EXAMINER MAY
24 CONDUCT HEARINGS, EXAMINE WITNESSES, ADMINISTER OATHS, AND PERFORM
25 ANY OTHER ACTS NECESSARY TO THE CONDUCT OF PROCEEDINGS.

26 (2) THE EXECUTIVE SECRETARY OF THE COMMISSION MAY ADMINISTER
27 OATHS.

28 (3) EACH RECORD OF A PROCEEDING OF THE COMMISSION IS A PUBLIC
29 RECORD.

30 (C) TIME AND LOCATION OF HEARING.

31 TO THE EXTENT NECESSARY TO RECEIVE PUBLIC COMMENT FOR EACH
32 APPLICATION FOR A RATE INCREASE, THE COMMISSION SHALL HOLD A HEARING AT
33 A CONVENIENT LOCATION AND TIME DURING EVENING HOURS IN THE SERVICE
34 AREA AFFECTED.

35 (D) DELEGATION.

1 (1) THE COMMISSION MAY DELEGATE TO A COMMISSIONER OR TO A
2 HEARING EXAMINER THE AUTHORITY TO CONDUCT A PROCEEDING THAT IS WITHIN
3 THE COMMISSION'S JURISDICTION.

4 (2) IN A DELEGATED PROCEEDING, THE COMMISSIONER OR HEARING
5 EXAMINER SHALL:

6 (I) CONDUCT THE HEARING AND ANY OTHER PROCEEDING THAT
7 THE COMMISSIONER OR HEARING EXAMINER CONSIDERS NECESSARY; AND

8 (II) FILE WITH THE COMMISSION, AND SIMULTANEOUSLY SERVE
9 ON ALL PARTIES, A PROPOSED ORDER AND FINDINGS OF FACT.

10 (3) THE PROPOSED ORDER SHALL BECOME FINAL UNLESS APPEALED AS
11 PROVIDED IN § 3-113(D) OF THIS SUBTITLE.

12 (E) STAFF PARTICIPATION AND ANALYSIS.

13 (1) THIS SUBSECTION APPLIES UNLESS, AFTER CONSIDERING ANY
14 STAFF RECOMMENDATION AS TO THE EXTENT OF STAFF PARTICIPATION, THE
15 COMMISSION DETERMINES THAT THE PUBLIC INTEREST WOULD NOT BE SERVED BY
16 STAFF PARTICIPATION.

17 (2) IN EACH MATTER BEFORE THE COMMISSION, THE STAFF OF THE
18 COMMISSION SHALL:

19 (I) ANALYZE THE DATA SUBMITTED TO THE COMMISSION;

20 (II) PREPARE A STAFF POSITION BASED ON THAT ANALYSIS; AND

21 (III) MAKE AN EVIDENTIARY PRESENTATION SETTING FORTH THE
22 STAFF'S ANALYSIS OF THE ISSUES AND ITS RECOMMENDATIONS.

23 (3) IN MAKING ANALYSES AND RECOMMENDATIONS, THE STAFF IS:

24 (I) GOVERNED BY THE CRITERIA IN § 2-113 OF THIS ARTICLE; AND

25 (II) A PARTY AND HAS THE RIGHTS OF A PARTY TO THE
26 PROCEEDING, INCLUDING THE RIGHTS SPECIFIED IN § 3-107 OF THIS SUBTITLE.

27 (4) THE STAFF SHALL PRESENT DIRECT AND REDIRECT CASES OF ITS
28 OWN, CROSS-EXAMINE, SUBMIT BRIEFS, AND ENGAGE IN ORAL ARGUMENT AS THE
29 STAFF CONSIDERS NECESSARY TO ENSURE THAT THE COMMISSION HAS A
30 COMPLETE RECORD ON ALL RELEVANT ISSUES IN A PARTICULAR CASE.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 78, §§ 62, 82A, and 20(a) and (b) and, as it related
33 to proceedings of the Commission, § 22(b).

34 In subsection (d)(2) of this section, the references to a "commissioner" are
35 added for consistency.

1 In subsection (d)(2)(ii) of this section, the former reference to "prepar[ing]"
2 an order and findings is deleted as implicit in the requirement that the
3 order and findings be filed.

4 In subsection (e)(3)(i) of this section, the reference to "criteria" is
5 substituted for the former reference to "considerations" for consistency
6 with usage elsewhere in this article.

7 In subsection (e)(3)(ii) of this section, the former reference to "discharg[ing]"
8 this responsibility" is deleted as surplusage.

9 Defined terms: "Commission" § 1-101

10 "Rate" § 1-101

11 "Record" § 1-101

12 3-105. PRIORITY IN PROCEEDINGS.

13 THE COMMISSION SHALL GIVE PREFERENTIAL CONSIDERATION TO THE
14 FOLLOWING IN DESCENDING ORDER:

15 (1) THE HEARING AND DECISION OF QUESTIONS INVOLVING THE RATES
16 OF A PUBLIC SERVICE COMPANY;

17 (2) REQUESTS BY A PUBLIC SERVICE COMPANY TO DISCONTINUE OR
18 ABANDON SERVICE UNDER ANY FRANCHISE, RIGHT, OR PERMIT AFTER ITS
19 EXPIRATION DATE; AND

20 (3) ANY OTHER QUESTIONS PENDING BEFORE THE COMMISSION.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 78, § 87.

23 Defined terms: "Commission" § 1-101

24 "Public service company" § 1-101

25 "Rate" § 1-101

26 3-106. SAME -- INTERVENTION.

27 (A) APPLICATION.

28 IF A PERSON TIMELY FILES, THE PERSON MAY APPLY TO INTERVENE IN A
29 PROCEEDING BEFORE THE COMMISSION.

30 (B) DECISION BY COMMISSION.

31 THE COMMISSION SHALL GRANT LEAVE TO INTERVENE UNLESS THE
32 COMMISSION CONCLUDES THAT:

33 (1) THE PARTIES TO THE PROCEEDING ADEQUATELY REPRESENT THE
34 INTEREST OF THE PERSON SEEKING TO INTERVENE; OR

1 (2) THE ISSUES THAT THE PERSON SEEKS TO RAISE ARE IRRELEVANT
2 OR IMMATERIAL.

3 (C) RIGHTS OF INTERVENOR.

4 (1) AN INTERVENOR HAS ALL THE RIGHTS OF A PARTY TO A
5 PROCEEDING.

6 (2) IN A PROCEEDING BEFORE THE COMMISSION, AN INDIVIDUAL WHO
7 IS AN INTERVENOR MAY REPRESENT HIMSELF OR HERSELF.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 78, § 82B.

10 Defined terms: "Commission" § 1-101

11 "Person" § 1-101

12 "Proceeding" § 1-101

13 3-107. PARTIES -- RIGHTS.

14 IN ADDITION TO ANY OTHER RIGHT A PARTY IN A PROCEEDING BEFORE THE
15 COMMISSION MAY BE ENTITLED TO, THE PARTY MAY:

16 (1) SUMMON WITNESSES, PRESENT EVIDENCE, AND PRESENT
17 ARGUMENT;

18 (2) CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE;
19 AND

20 (3) TAKE DEPOSITIONS IN OR OUTSIDE OF THE STATE, SUBJECT TO
21 REGULATION BY THE COMMISSION TO PREVENT UNDUE DELAY, AND IN
22 ACCORDANCE WITH THE PROCEDURE PROVIDED BY LAW OR RULE OF COURT WITH
23 RESPECT TO CIVIL ACTIONS.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 78, § 82.

26 In paragraph (1) of this section, the former phrase "with respect to the
27 issues involved" from former Art. 78, § 82(a) is deleted as surplusage.

28 In paragraph (3) of this section, the reference to "civil actions" is
29 substituted for the former reference to "actions at law", to reflect the
30 merger of law and equity. See Md. Rule 2-301.

31 Defined terms: "Commission" § 1-101

32 "Proceeding" § 1-101

33 3-108. SAME -- EX PARTE CONTACT.

34 UNLESS NOTICE IS PROVIDED TO EACH OTHER PARTY IN A CASE BEFORE THE
35 COMMISSION, A PARTY OR PERSON ACTING ON BEHALF OF A PARTY MAY NOT

1 CONTACT EX PARTE A COMMISSIONER OR A HEARING EXAMINER REGARDING THE
2 MERITS OF THE CASE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 78, § 25A.

5 Defined terms: "Commission" § 1-101

6 "Person" § 1-101

7 3-109. SUBPOENAS.

8 (A) SUBPOENA AT REQUEST OF PARTY.

9 ON THE REQUEST OF A PARTY TO A PROCEEDING IN WHICH A HEARING IS
10 REQUIRED OR HELD, THE COMMISSION SHALL ISSUE SUBPOENAS TO COMPEL THE
11 ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF
12 DOCUMENTS AT A HEARING OR DEPOSITION TO BE TAKEN BY THE PARTY.

13 (B) SUBPOENA BY MOTION OF COMMISSION.

14 ON ITS OWN MOTION, THE COMMISSION MAY ISSUE A SUBPOENA TO COMPEL
15 THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF
16 DOCUMENTS AT A HEARING OR DEPOSITION TO BE TAKEN BY THE COMMISSION.

17 (C) SIGNED BY COMMISSIONER.

18 A SUBPOENA SHALL BE SIGNED AND ISSUED BY A COMMISSIONER OR THE
19 EXECUTIVE SECRETARY OF THE COMMISSION.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 78, § 80.

22 Defined terms: "Commission" § 1-101

23 "Proceeding" § 1-101

24 3-110. WITNESSES.

25 (A) REQUIRED ATTENDANCE AND TESTIMONY.

26 A PERSON SHALL:

27 (1) ATTEND A PROCEEDING BEFORE THE COMMISSION, IF ORDERED BY
28 THE COMMISSION, A COMMISSIONER, OR THE EXECUTIVE SECRETARY OF THE
29 COMMISSION; AND

30 (2) GIVE ANY RELEVANT TESTIMONY OR PRODUCE ANY RELEVANT
31 EVIDENCE, IF ORDERED BY THE COMMISSION, A COMMISSIONER, OR AN
32 AUTHORIZED HEARING EXAMINER.

33 (B) REFUSAL TO COMPLY.

1 (1) IF A PERSON REFUSES WITHOUT VALID CAUSE TO COMPLY WITH AN
2 ORDER ISSUED UNDER SUBSECTION (A) OF THIS SECTION, ON AFFIDAVIT THAT SETS
3 FORTH THE VIOLATION TO A COURT OF GENERAL JURISDICTION, THE COMMISSION
4 OR A COMMISSIONER MAY APPLY FOR AN ORDER TO SHOW CAUSE WHY THE PERSON
5 SHOULD NOT BE HELD IN CONTEMPT.

6 (2) AN ORDER ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION
7 SHALL BE RETURNED TO THE COURT THAT ISSUED THE ORDER, NOT LESS THAN 2
8 DAYS AND NOT MORE THAN 5 DAYS AFTER THE DATE OF ISSUE.

9 (3) ON THE RETURN OF AN ORDER ISSUED UNDER THIS SUBSECTION, IF
10 THE COURT DETERMINES THAT THE PERSON HAS VIOLATED SUBSECTION (A) OF
11 THIS SECTION AND PERSISTS IN THE VIOLATION, THE COURT MAY HOLD THE
12 PERSON IN CONTEMPT.

13 (C) IMMUNITY.

14 (1) A PERSON MAY NOT REFUSE TO COMPLY WITH SUBSECTION (A)(2) OF
15 THIS SECTION ON THE GROUND THAT GIVING TESTIMONY OR PRODUCING EVIDENCE
16 MAY TEND TO INCRIMINATE OR SUBJECT THE PERSON TO PENALTY OR FORFEITURE.

17 (2) EXCEPT FOR PERJURY COMMITTED BY AN INDIVIDUAL GIVING
18 EVIDENCE BEFORE THE COMMISSION, AN INDIVIDUAL MAY NOT BE PROSECUTED,
19 PUNISHED, OR SUBJECTED TO PENALTY OR FORFEITURE FOR PRODUCING ANY
20 EVIDENCE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

21 (D) WITNESS FEES.

22 IN THE SAME MANNER AS OTHER EXPENSES, THE COMMISSION SHALL PAY THE
23 SAME WITNESS FEES THAT ARE ALLOWED BY A COURT OF GENERAL JURISDICTION
24 IN THE COUNTY WHERE THE HEARING IS HELD.

25 REVISOR'S NOTE: Subsections (b) through (d) of this section are new language
26 derived without substantive change from former Art. 78, § 81.

27 Subsection (a) of this section is new language added to state explicitly the
28 language that is implied by former Art. 78, § 81(b) (now subsection (b) of
29 this section), which addresses a refusal of a person to attend a proceeding
30 ordered by the Commission.

31 In subsection (b) of this section, the references to "contempt" are
32 substituted for the former references to being "forthwith commit[ted] ... to
33 jail" for accuracy and clarity.

34 Defined terms: "Commission" § 1-101

35 "County" § 1-101

36 "Person" § 1-101

37 "Proceeding" § 1-101

1 3-111. EVIDENCE; OFFICIAL RECORD.

2 (A) PREPARATION OF OFFICIAL RECORD.

3 IN EACH HEARING, THE COMMISSION SHALL PREPARE AN OFFICIAL RECORD
4 THAT INCLUDES TESTIMONY AND EXHIBITS.

5 (B) EVIDENCE IN RECORD.

6 (1) ANY EVIDENCE, INCLUDING RECORDS POSSESSED BY THE
7 COMMISSION, THAT THE COMMISSION OR A PARTY IN A PROCEEDING BEFORE THE
8 COMMISSION DESIRES TO USE, SHALL BE OFFERED AND MADE PART OF THE
9 RECORD.

10 (2) FACTUAL INFORMATION OR EVIDENCE NOT MADE PART OF THE
11 RECORD MAY NOT BE CONSIDERED IN THE DETERMINATION OF A CASE.

12 (C) COPY OF RECORD.

13 A COPY OF A RECORD FILED WITH OR BY THE COMMISSION THAT IS CERTIFIED
14 BY THE COMMISSION UNDER ITS OFFICIAL SEAL AS A TRUE COPY OF THE ORIGINAL,
15 IS EVIDENCE TO THE SAME EXTENT AS THE ORIGINAL.

16 (D) JUDICIAL NOTICE.

17 (1) THE COMMISSION MAY TAKE NOTICE OF JUDICIALLY COGNIZABLE
18 FACTS AND ALSO OF GENERAL, TECHNICAL, OR SCIENTIFIC FACTS WITHIN ITS
19 SPECIALIZED KNOWLEDGE.

20 (2) THE COMMISSION SHALL NOTIFY EACH PARTY IN AN APPROPRIATE
21 MANNER OF THE MATERIAL NOTICED UNDER PARAGRAPH (1) OF THIS SUBSECTION,
22 AND SHALL PROVIDE EACH PARTY AN OPPORTUNITY TO CONTEST THE NOTICE BY
23 THE COMMISSION.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 78, § 83.

26 In subsection (b)(1) of this section, the phrase "party in a proceeding" is
27 substituted for the former phrase "parties litigant".

28 Also in subsection (b)(1) of this section, the word "use" is substituted for
29 the former word "avail".

30 Defined terms: "Commission" § 1-101

31 "Proceeding" § 1-101

32 "Record" § 1-101

33 3-112. BURDEN OF PROOF.

34 (A) APPLICATION.

1 IN A PROCEEDING BEFORE THE COMMISSION WHERE A PERSON APPLIES FOR
2 THE APPROVAL OF THE COMMISSION UNDER § 5-104, §§ 5-201 THROUGH 5-203, OR §§
3 6-101 AND 6-103 OF THIS ARTICLE, THE PERSON SHALL SHOW BY CLEAR AND
4 SATISFACTORY EVIDENCE THAT GRANTING THE APPLICATION COMPLIES WITH THE
5 REQUIREMENTS OF THIS ARTICLE AND, AS THE CASE MAY BE, IS REQUIRED BY THE
6 PUBLIC INTEREST OR IS CONSISTENT WITH THE PUBLIC INTEREST.

7 (B) RATE CHANGES.

8 IN A PROCEEDING INVOLVING A TEMPORARY OR PERMANENT NEW RATE, OR A
9 TEMPORARY OR PERMANENT CHANGE IN RATE, THE BURDEN OF PROOF IS ON THE
10 PROPONENT OF THE NEW RATE OR CHANGE IN RATE.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 78, § 84.

13 The Public Utility Companies Article Review Committee notes that the
14 standard of proof of "clear and satisfactory" evidence under this section is
15 different from other civil or administrative law standards of proof. This
16 standard has existed since the original legislative enactment of
17 Commission procedures under Chapter 441 of the 1955 Laws of Maryland.

18 Defined terms: "Commission" § 1-101

19 "Person" § 1-101

20 "Proceeding" § 1-101

21 "Rate" § 1-101

22 3-113. DECISIONS; ORDERS.

23 (A) BASIS AND FORM OF ORDERS.

24 A DECISION AND ORDER OF THE COMMISSION IN A CONTESTED PROCEEDING
25 SHALL:

26 (1) BE BASED ON CONSIDERATION OF THE RECORD;

27 (2) BE IN WRITING; AND

28 (3) STATE THE GROUNDS FOR THE CONCLUSIONS OF THE COMMISSION.

29 (B) TERM OF ORDER.

30 AN ORDER OF THE COMMISSION SHALL TAKE EFFECT WITHIN A REASONABLE
31 TIME THAT THE COMMISSION PRESCRIBES, AND SHALL CONTINUE IN FORCE
32 ACCORDING TO THE TERMS OF THE ORDER UNLESS VACATED, SUSPENDED,
33 MODIFIED, OR SUPERSEDED BY FURTHER ORDER OF THE COMMISSION OR BY A
34 COURT OF COMPETENT JURISDICTION.

35 (C) NOTICE REQUIREMENTS.

1 (1) A PERSON SERVED WITH AN ORDER OF THE COMMISSION SHALL
2 PROMPTLY NOTIFY THE COMMISSION IN WRITING OF RECEIPT OF SERVICE.

3 (2) FOR NOTIFICATION BY A CORPORATION UNDER PARAGRAPH (1) OF
4 THIS SUBSECTION, A PERSON AUTHORIZED TO ACCEPT SERVICE FOR THE
5 CORPORATION SHALL SIGN THE NOTICE.

6 (3) THE COMMISSION MAY REQUIRE IN AN ORDER THAT NOTICE BE
7 PROVIDED TO THE COMMISSION:

8 (I) WITHIN THE TIME SPECIFIED IN THE ORDER;

9 (II) IN THE SAME MANNER AS NOTICE PROVIDED IN PARAGRAPH (1)
10 OF THIS SUBSECTION; AND

11 (III) DESCRIBING IF, AND TO WHAT EXTENT, THE ORDER IS
12 ACCEPTED AND WILL BE OBEYED.

13 (D) FINALITY; APPEALS.

14 (1) AN ORDER OF A PANEL CONSTITUTED UNDER § 3-104(A) OF THIS
15 SUBTITLE IS FINAL.

16 (2) A PROPOSED ORDER OF A COMMISSIONER OR HEARING EXAMINER
17 UNDER § 3-104(D) OF THIS SUBTITLE BECOMES FINAL UNLESS A PARTY TO THE
18 PROCEEDING NOTES AN APPEAL WITH THE COMMISSION WITHIN 30 DAYS AFTER
19 THE ORDER IS FILED WITH THE COMMISSION.

20 (3) ON APPEAL, THE COMMISSION PROMPTLY SHALL:

21 (I) CONSIDER THE MATTER ON THE RECORD BEFORE THE
22 COMMISSIONER OR HEARING EXAMINER;

23 (II) CONDUCT ANY FURTHER PROCEEDINGS THAT IT CONSIDERS
24 NECESSARY INCLUDING REQUIRING THE FILING OF BRIEFS AND THE HOLDING OF
25 ORAL ARGUMENT; AND

26 (III) ISSUE A FINAL ORDER.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 78, §§ 85 and 20(c).

29 In subsection (d)(2) and (3)(i) of this section, the references to a
30 "commissioner" are added for consistency.

31 In subsection (d)(2) of this section, the reference to a proposed order "under
32 § 3-104(d) of this subtitle" is added for clarity.

33 Defined terms: "Commission" § 1-101

34 "Person" § 1-101

35 "Proceeding" § 1-101

1 "Record" § 1-101

2 3-114. REHEARING.

3 (A) SCOPE OF REHEARING.

4 ON REHEARING, THE COMMISSION MAY:

5 (1) CONSIDER FACTS NOT PRESENTED IN THE ORIGINAL HEARING,
6 INCLUDING FACTS ARISING AFTER THE DATE OF THE ORIGINAL HEARING; AND

7 (2) ABROGATE, CHANGE, OR MODIFY THE ORIGINAL ORDER BY NEW
8 ORDER.

9 (B) LIMITATIONS ON REHEARING.

10 EXCEPT AS OTHERWISE ORDERED BY THE COMMISSION, THE REHEARING OR
11 APPLICATION FOR THE REHEARING DOES NOT:

12 (1) STAY THE ENFORCEMENT OF AN ORDER OF THE COMMISSION; OR

13 (2) EXCUSE A PERSON AFFECTED BY THE ORDER FROM COMPLYING
14 WITH THE TERMS OF THE ORDER.

15 (C) APPLICATION FOR REHEARING.

16 (1) A PARTY IN INTEREST MAY APPLY TO THE COMMISSION FOR
17 REHEARING WITHIN 30 DAYS AFTER SERVICE OF A FINAL ORDER ON THE PARTY.

18 (2) THE COMMISSION MAY:

19 (I) ACT ON THE APPLICATION; AND

20 (II) REHEAR A FINAL ORDER OR CONDUCT FURTHER PROCEEDINGS
21 ON ITS OWN MOTION AFTER THE FILING OF A PROPOSED ORDER, AS THE
22 COMMISSION CONSIDERS NECESSARY.

23 (3) IF A REHEARING IS GRANTED ON AN APPLICATION UNDER THIS
24 SUBSECTION, THE COMMISSION SHALL DECIDE THE CASE WITHIN 30 DAYS AFTER
25 THE CASE IS FINALLY SUBMITTED ON REHEARING.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 78, § 86.

28 Defined terms: "Commission" § 1-101

29 "Person" § 1-101

30 "Proceeding" § 1-101

SUBTITLE 2. JUDICIAL REVIEW.

3-201. DECLARATORY JUDGMENT ON VALIDITY OF REGULATIONS.

(A) IN GENERAL.

(1) THE VALIDITY OF A REGULATION OF THE COMMISSION MAY BE DETERMINED ON A PETITION FOR DECLARATORY JUDGMENT WHENEVER IT APPEARS THAT THE REGULATION, OR ITS APPLICATION, ACTUALLY OR POTENTIALLY INTERFERES WITH OR IMPAIRS THE LEGAL RIGHTS OR PRIVILEGES OF THE PETITIONER.

(2) A COURT MAY RENDER A DECLARATORY JUDGMENT IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION WHETHER OR NOT THE PETITIONER HAS FIRST ASKED THE COMMISSION TO DETERMINE THE VALIDITY OF THE REGULATION IN QUESTION.

(B) COMMISSION TO BE MADE A PARTY.

THE COMMISSION SHALL BE MADE A PARTY TO A PROCEEDING UNDER THIS SECTION.

(C) PROCEDURE FOR FILING A PETITION.

A PETITION UNDER THIS SECTION SHALL BE FILED IN THE CIRCUIT COURT FOR BALTIMORE CITY OR THE CIRCUIT COURT FOR THE COUNTY WHERE THE PETITIONER HAS ITS PRINCIPAL OFFICE IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 78, § 89.

As to the deletion of the former references to "rule" in subsection (a)(1) of this section, see General Revisor's Note to this article.

Defined terms: "Commission" § 1-101

"County" § 1-101

"Proceeding" § 1-101

3-202. RIGHT TO JUDICIAL REVIEW OF ORDERS AND DECISIONS.

(A) IN GENERAL.

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) SECRETARY OF NATURAL RESOURCES.

THE SECRETARY OF NATURAL RESOURCES MAY SEEK JUDICIAL REVIEW UNDER THIS SUBTITLE OF A FINAL DECISION OR ORDER OF THE COMMISSION MADE UNDER

1 §§ 7-201 THROUGH 7-204, § 7-207, OR § 7-208 OF THIS ARTICLE THAT RELATES TO THE
2 ENVIRONMENTAL ASPECTS OF POWER PLANT SITING.

3 (C) SECRETARY OF THE ENVIRONMENT.

4 THE SECRETARY OF THE ENVIRONMENT MAY SEEK JUDICIAL REVIEW OF A
5 FINAL DECISION OR ORDER OF THE COMMISSION MADE UNDER § 7-205 OF THIS
6 ARTICLE.

7 (D) RESTRICTION ON REVIEW OF ORDER SUSPENDING OR REVOKING
8 REGISTRATION OF MOTOR VEHICLE CARRIER.

9 IF THE MOTOR VEHICLE ADMINISTRATION SUSPENDS OR REVOKES THE
10 REGISTRATION OF A MOTOR VEHICLE CARRIER IN ACCORDANCE WITH AN ORDER OF
11 THE COMMISSION, ONLY THE ORDER OF THE COMMISSION IS SUBJECT TO REVIEW
12 UNDER THIS SECTION.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 78, § 90.

15 In subsection (a) of this section, the former reference to "whether
16 affirmative or negative in form" is deleted as surplusage.

17 Also in subsection (a) of this section, the reference to the staff "of the
18 Commission" is added for clarity.

19 In subsection (b) of this section, the former reference to "[f]or the purposes
20 of this subtitle" is deleted as surplusage.

21 In subsection (d) of this section, the former phrase "and not the action of
22 the Motor Vehicle Administration" is deleted as surplusage.

23 Defined terms: "Commission" § 1-101

24 "Person" § 1-101

25 "Plant" § 1-101

26 3-203. SCOPE OF REVIEW.

27 EVERY FINAL DECISION, ORDER, OR REGULATION OF THE COMMISSION IS
28 PRIMA FACIE CORRECT AND SHALL BE AFFIRMED UNLESS CLEARLY SHOWN TO BE:

29 (1) UNCONSTITUTIONAL;

30 (2) OUTSIDE THE STATUTORY AUTHORITY OR JURISDICTION OF THE
31 COMMISSION;

32 (3) MADE ON UNLAWFUL PROCEDURE;

33 (4) ARBITRARY OR CAPRICIOUS;

34 (5) AFFECTED BY OTHER ERROR OF LAW; OR

1 (6) IF THE SUBJECT OF REVIEW IS AN ORDER ENTERED IN A CONTESTED
2 PROCEEDING AFTER A HEARING, THE ORDER IS UNSUPPORTED BY SUBSTANTIAL
3 EVIDENCE ON THE RECORD CONSIDERED AS A WHOLE.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 78, § 97.

6 In item (6) of this section, the term "contested proceeding" is substituted
7 for the former term "contested case" in order to avoid confusion with the
8 term "contested case" as used in the Administrative Procedure Act, Title 10
9 of the State Government Article. Provisions of that act concerning
10 contested cases do not apply to the Public Service Commission. See, SG §
11 10-203(a)(3)(vi).

12 As to the deletion of the former reference to "rule" in this section, see
13 General Revisor's Note to this article.

14 Defined term: "Commission" § 1-101

15 3-204. PROCEEDINGS FOR REVIEW.

16 (A) WHERE TO FILE.

17 A PROCEEDING FOR REVIEW UNDER § 3-202 OF THIS SUBTITLE SHALL BE
18 INSTITUTED IN:

19 (1) THE CIRCUIT COURT IN EQUITY FOR ANY COUNTY IN WHICH THE
20 PUBLIC SERVICE COMPANY INVOLVED IN THE PROCEEDING OPERATES; OR

21 (2) THE CIRCUIT COURT IN EQUITY FOR BALTIMORE CITY.

22 (B) MULTIPLE PROCEEDINGS; TRANSFER OF PROCEEDINGS.

23 IF MORE THAN ONE PROCEEDING TO REVIEW AN ORDER OR FINAL DECISION OF
24 THE COMMISSION IS INSTITUTED, ON MOTION OF ANY PARTY, THE COURT MAY
25 TRANSFER THE PROCEEDING TO ANOTHER COURT THAT HAS JURISDICTION.

26 (C) DENIAL OF REHEARING APPLICATION.

27 IF A REHEARING BY THE COMMISSION IS APPLIED FOR, A PROCEEDING FOR
28 JUDICIAL REVIEW MAY BE FILED AFTER SERVICE OF THE DECISION OF THE
29 COMMISSION THAT DENIES THE REHEARING.

30 (D) PARTIES.

31 THE COMMISSION MAY BE A PARTY TO AN APPEAL MADE UNDER THIS SECTION.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 78, § 91.

34 In subsection (a)(2) of this section, the reference to the Circuit Court "in

1 equity" for Baltimore City is added for consistency with subsection (a)(1) of
2 this section.

3 In subsection (b) of this section, the reference to "any" party is substituted
4 for the former reference to "either" party because there may be more than
5 two parties.

6 In subsection (c) of this section, the former reference to a rehearing "duly"
7 applied for is deleted as surplusage.

8 Also in subsection (c) of this section, the reference to "rehearing" is
9 substituted for the former reference to "hearing" for accuracy and
10 consistency with other terminology used in this subsection.

11 Defined terms: "Commission" § 1-101

12 "County" § 1-101

13 "Proceeding" § 1-101

14 "Public service company" § 1-101

15 3-205. STAY OF ENFORCEMENT.

16 THE COMMISSION MAY, ON TERMS IT CONSIDERS APPROPRIATE, STAY THE
17 ENFORCEMENT OF A REGULATION OR ORDER THAT IS THE SUBJECT OF A
18 PROCEEDING FOR REVIEW UNDER THIS SUBTITLE.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 78, § 92.

21 In this section, the former reference to "the institution of" proceedings is
22 deleted as surplusage.

23 As to the deletion of the former reference to "rule", see General Revisor's
24 Note to this article.

25 Defined terms: "Commission" § 1-101

26 "Proceeding" § 1-101

27 3-206. TIME OF TRIAL.

28 (A) IN GENERAL.

29 AFTER AN ANSWER HAS BEEN FILED IN A PROCEEDING FOR REVIEW §
30 3-202 OF THIS SUBTITLE, THE MATTER SHALL STAND READY FOR TRIAL ON 15 DAYS'
31 NOTICE BY ANY PARTY.

32 (B) PROCEEDINGS PREFERRED OVER OTHER CIVIL ACTIONS.

33 (1) THIS SUBSECTION DOES NOT APPLY TO PROCEEDINGS BEFORE THE
34 COURT OF SPECIAL APPEALS OR THE COURT OF APPEALS.

1 (2) A COURT SHALL GIVE PREFERENCE TO A PROCEEDING UNDER THIS
2 SUBTITLE OVER ALL OTHER CIVIL ACTIONS EXCEPT ACTIONS CONCERNING
3 ELECTIONS, REGARDLESS OF THE POSITION OF THE OTHER ACTIONS ON THE
4 DOCKET.

5 (3) A COURT SHALL ALWAYS BE OPEN FOR THE TRIAL OF A PROCEEDING
6 UNDER THIS SUBTITLE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 78, § 93.

9 In subsection (a) of this section, the former reference to "[u]pon
10 commencement of a proceeding for review" is deleted as surplusage.

11 Also in subsection (a) of this section, the reference to a "matter" is
12 substituted for the former reference to "case" for consistency with other
13 terminology used in this subtitle.

14 Also in subsection (a) of this section, the reference to "any" is substituted
15 for the former reference to "either" because there may be more than two
16 parties to a proceeding.

17 In subsection (b)(2) of this section, the reference to this "subtitle" is
18 substituted for the former reference to this "article" for clarity. All
19 provisions of former Art. 78 relating to judicial appeal of Commission
20 matters are included in this subtitle.

21 Also in subsection (b)(2) of this section, the former reference to proceedings
22 "including all those prosecuted by the Commission, all those to which the
23 Commission or the people's counsel has become a party, and all those in
24 which any question arises under this article, or which concern any rule,
25 regulation, order or other action of the Commission" is deleted as
26 surplusage.

27 Also in subsection (b)(2) of this section, the reference to "actions" is
28 substituted for the former reference to "causes" for clarity.

29 Defined term: "Proceeding" § 1-101

30 3-207. EXISTING RECORD AND TRANSCRIPT.

31 (A) TRANSCRIPT.

32 (1) (I) BY STIPULATION OF ALL PARTIES TO A PROCEEDING FOR
33 REVIEW UNDER § 3-202 OF THIS SUBTITLE, THE COURT MAY SHORTEN THE RECORD
34 TO BE TRANSMITTED TO THE COURT.

35 (II) IF THE COURT DETERMINES THAT A PARTY'S REFUSAL TO
36 STIPULATE TO LIMIT THE RECORD IS UNREASONABLE, THE COURT MAY ASSESS THE
37 ADDITIONAL COSTS AGAINST THE REFUSING PARTY.

1 (2) THE COURT MAY REQUIRE OR ALLOW CORRECTIONS OF THE RECORD
2 BEFORE THE COMMISSION OR THE CERTIFICATION OF ADDITIONAL PARTS OF THE
3 RECORD AS THE COURT CONSIDERS APPROPRIATE.

4 (B) TIME FOR FILING.

5 NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR RULE OF COURT TO
6 THE CONTRARY, A TRANSCRIPT NEED NOT BE FILED UNTIL AFTER THE EXPIRATION
7 OF THE PERIOD OF TIME FOR THE FILING OF AN ANSWER.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 78, § 94.

10 In subsection (a)(1)(i) of this section, the reference to "the court" shortening
11 the record is added for clarity.

12 In subsection (a)(1)(ii) of this section, the authority of the court to "assess"
13 the additional costs against the refusing party is substituted for the former
14 authority that any party "may be taxed" for accuracy.

15 In subsection (b) of this section, the reference to "any other provision of
16 law" is substituted for the former reference to "the provisions of this
17 subtitle" for accuracy.

18 Also in subsection (b) of this section, the former reference to "a demurrer or
19 similar pleading" is deleted in light of the abolishment by the Court of
20 Appeals of demurrers and other similar pleadings. See Md. Rule 2-302.

21 Defined terms: "Commission" § 1-101

22 "Proceeding" § 1-101

23 "Record" § 1-101

24 3-208. EVIDENCE.

25 (A) NEW EVIDENCE; REFERRAL OF PROCEEDINGS TO COMMISSION.

26 (1) ANY PARTY MAY INTRODUCE NEW EVIDENCE ON JUDICIAL REVIEW.

27 (2) IF THE EVIDENCE PRESENTED ON JUDICIAL REVIEW IS MATERIALLY
28 DIFFERENT FROM THE EVIDENCE PRESENTED AT THE HEARING BEFORE THE
29 COMMISSION, THE COURT SHALL:

30 (I) UNLESS ALL PARTIES STIPULATE IN WRITING TO THE
31 CONTRARY, REFER A TRANSCRIPT OF THE NEW EVIDENCE TO THE COMMISSION; AND

32 (II) STAY THE PROCEEDINGS FOR A PERIOD OF TIME THAT THE
33 COURT CONSIDERS APPROPRIATE.

34 (B) MODIFICATION BY COMMISSION.

1 (1) ON RECEIPT OF A TRANSCRIPT IN ACCORDANCE WITH SUBSECTION
2 (A)(2)(I) OF THIS SECTION, THE COMMISSION MAY MODIFY ITS FINDINGS BASED ON
3 THE NEW EVIDENCE.

4 (2) WITHIN A PERIOD OF TIME THAT THE COURT SPECIFIES, THE
5 COMMISSION SHALL FILE WITH THE COURT A REPORT OF ANY ACTION TAKEN BASED
6 ON THE NEW EVIDENCE.

7 (C) PROCEDURE FOLLOWING REFERRAL.

8 (1) IF, ON REFERRAL, THE COMMISSION RESCINDS THE ACTION ON
9 WHICH THE APPEAL WAS TAKEN, THE COURT SHALL DISMISS THE APPEAL AND ANY
10 MODIFICATION MADE BY THE COMMISSION SHALL STAND IN PLACE OF THE
11 ORIGINAL ACTION.

12 (2) IF, ON REFERRAL, THE COMMISSION DOES NOT RESCIND OR MODIFY
13 THE ORIGINAL ACTION, THE COURT SHALL RENDER JUDGMENT ON THE ORIGINAL
14 ORDER.

15 (D) LIMITATION ON INTRODUCTION OF EVIDENCE.

16 FURTHER EVIDENCE MAY NOT BE INTRODUCED IN THE REVIEWING COURT
17 AFTER REFERRAL TO THE COMMISSION UNDER THIS SECTION UNLESS THE COURT
18 FINDS THAT SERIOUS INJUSTICE WOULD OTHERWISE RESULT FROM THE FAILURE
19 TO ALLOW THE INTRODUCTION OF THE NEW EVIDENCE.

20 (E) INCRIMINATING TESTIMONY.

21 THE PROVISIONS OF § 3-110(C) OF THIS TITLE RELATING TO INCRIMINATING
22 TESTIMONY APPLY TO PROCEEDINGS FOR JUDICIAL REVIEW UNDER THIS SUBTITLE.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 78, § 96.

25 In subsection (b) of this section, the references to "new" evidence are
26 substituted for the former references to "additional" evidence for
27 consistency with language in subsection (a) of this section.

28 In subsection (d) of this section, the phrase "from the failure to allow the
29 introduction of the new evidence" is added for clarity.

30 Defined terms: "Commission" § 1-101

31 "Proceeding" § 1-101

32 3-209. APPEAL TO COURT OF SPECIAL APPEALS.

33 A PARTY AGGRIEVED BY A FINAL JUDGMENT IN ANY PROCEEDING UNDER THIS
34 SUBTITLE MAY APPEAL THE JUDGMENT TO THE COURT OF SPECIAL APPEALS IN THE
35 MANNER PROVIDED BY LAW FOR APPEALS IN OTHER CIVIL CASES.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 78, § 98.

3 The former reference to appeals from "equity courts" is deleted as obsolete
4 in light of the merger of law and equity in Maryland. See Md. Rule 2-301.

5 Defined term: "Proceeding" § 1-101

6 TITLE 4. RATE REGULATION.

7 SUBTITLE 1. GENERAL PROVISIONS.

8 4-101. "JUST AND REASONABLE RATE" DEFINED.

9 IN THIS TITLE, "JUST AND REASONABLE RATE" MEANS A RATE THAT:

10 (1) DOES NOT VIOLATE ANY PROVISION OF THIS ARTICLE;

11 (2) FULLY CONSIDERS AND IS CONSISTENT WITH THE PUBLIC GOOD;
12 AND

13 (3) EXCEPT FOR RATES OF A COMMON CARRIER, WILL RESULT IN AN
14 OPERATING INCOME TO THE PUBLIC SERVICE COMPANY THAT YIELDS, AFTER
15 REASONABLE DEDUCTION FOR DEPRECIATION AND OTHER NECESSARY AND PROPER
16 EXPENSES AND RESERVES, A REASONABLE RETURN ON THE FAIR VALUE OF THE
17 PUBLIC SERVICE COMPANY'S PROPERTY USED AND USEFUL IN PROVIDING SERVICE
18 TO THE PUBLIC.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 78, § 69(a).

21 In item (1) of this section, the reference to a rate that violates any
22 provision of "this article" is retained, although this article is derived, in
23 part, from provisions outside former Art. 78. Because the provisions
24 derived from other articles do not affect rate-setting, no substantive
25 change results.

26 Defined terms: "Common carrier" § 1-101

27 "Public service company" § 1-101

28 "Rate" § 1-101

29 4-102. COMMISSION POWER TO REGULATE RATES.

30 (A) SCOPE.

31 THIS SECTION DOES NOT APPLY TO SMALL RURAL ELECTRIC COOPERATIVES.

32 (B) POWER.

1 THE COMMISSION MAY SET A JUST AND REASONABLE RATE OF A PUBLIC
2 SERVICE COMPANY, AS A MAXIMUM RATE, MINIMUM RATE, OR BOTH.

3 (C) ORDER.

4 (1) THE COMMISSION SHALL ISSUE AN ORDER, INCLUDING THE RATE
5 SET UNDER SUBSECTION (B) OF THIS SECTION.

6 (2) THE COMMISSION SHALL SERVE THE ORDER ON EACH AFFECTED
7 PUBLIC SERVICE COMPANY.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 78, § 68(a).

10 Defined terms: "Commission" § 1-101

11 "Just and reasonable rate" § 4-101

12 "Public service company" § 1-101

13 "Rate" § 1-101

14 "Small rural electric cooperative" § 1-101

15 4-103. SAME -- LIMITATIONS.

16 (A) USE OF EMPLOYEE STOCK OWNERSHIP PLANS.

17 IN SETTING JUST AND REASONABLE RATES UNDER THIS TITLE, THE
18 COMMISSION MAY NOT DISCOURAGE THE USE OF EMPLOYEE STOCK OWNERSHIP
19 PLANS BY PUBLIC SERVICE COMPANIES BY DENYING TO THE PUBLIC SERVICE
20 COMPANIES THE FULL BENEFITS OF INVESTMENT TAX CREDITS PROVIDED IN
21 CONNECTION WITH THESE PLANS BY THE INTERNAL REVENUE CODE.

22 (B) LOBBYING EXPENSES EXCLUDED.

23 A PUBLIC SERVICE COMPANY MAY NOT CHARGE OFF LOBBYING EXPENSES
24 AGAINST ITS RATEPAYERS.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 78, § 69(c) and (d).

27 In subsection (a) of this section, the reference to setting "just and
28 reasonable rates under this title" is substituted for the former reference to
29 "exercise of ... power to prescribe just and reasonable rates" for clarity.

30 Defined terms: "Commission" § 1-101

31 "Just and reasonable rate" § 4-101

32 "Public service company" § 1-101

1 SUBTITLE 2. RATE SETTING PROCEEDINGS.

2 4-201. RATES CHARGED.

3 IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE, A PUBLIC SERVICE
4 COMPANY SHALL CHARGE JUST AND REASONABLE RATES FOR THE UTILITY
5 SERVICES THAT IT RENDERS.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 78, § 28(d).

8 The former reference to "such other duties as may be specifically imposed
9 by this article" is deleted as unnecessary. Any duty imposed under this
10 section would be in addition to, not instead of, any other duty imposed by
11 another provision of this, or any other, article.

12 Defined terms: "Just and reasonable rate" § 4-101

13 "Public service company" § 1-101

14 4-202. TARIFFS.

15 (A) SCHEDULES AND FILING.

16 A PUBLIC SERVICE COMPANY SHALL FILE WITH THE COMMISSION A TARIFF
17 SCHEDULE OF ITS RATES AND CHARGES.

18 (B) SAME -- PRINTING AND AVAILABILITY.

19 AS ORDERED BY THE COMMISSION, A PUBLIC SERVICE COMPANY SHALL:

20 (1) PLAINLY PRINT THE TARIFF SCHEDULE OF ITS RATES AND CHARGES;

21 (2) MAKE AVAILABLE THE TARIFF SCHEDULES FOR PUBLIC
22 INSPECTION; AND

23 (3) POST THE TARIFF SCHEDULES TO MAKE THE TARIFF SCHEDULES
24 READILY ACCESSIBLE TO AND CONVENIENT FOR INSPECTION BY THE PUBLIC.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 78, § 28(a).

27 In subsection (b)(3) of this section, the former reference to posting tariff
28 schedules for inspection "as may be ordered by the Commission" is deleted
29 as surplusage.

30 Defined terms: "Commission" § 1-101

31 "Public service company" § 1-101

32 "Rate" § 1-101

1 4-203. NEW AND CHANGED RATES; NOTICE.

2 (A) NEW AND CHANGED RATES.

3 UNLESS OTHERWISE ORDERED BY THE COMMISSION, A PUBLIC SERVICE
4 COMPANY MAY NOT ESTABLISH A NEW RATE OR CHANGE IN RATE UNLESS THE
5 PUBLIC SERVICE COMPANY:

6 (1) PROVIDES TO THE COMMISSION NOTICE OF THE NEW RATE OR
7 CHANGE IN RATE AT LEAST 30 DAYS BEFORE THE NEW RATE IS ESTABLISHED OR
8 CURRENT RATE IS CHANGED; AND

9 (2) PUBLISHES THE NEW RATE OR CHANGE IN RATE IN ACCORDANCE
10 WITH § 4-202 OF THIS SUBTITLE DURING THE ENTIRE 30 DAY NOTICE PERIOD IN NEW
11 SCHEDULES OR PLAINLY INDICATED AMENDMENTS TO EXISTING SCHEDULES.

12 (B) NOTICE TO PUBLIC.

13 THE PUBLIC SERVICE COMPANY SHALL PLAINLY SET FORTH IN THE NOTICE
14 AND PUBLICATION:

15 (1) THE CHANGES THAT IT PROPOSES TO THE RATE SCHEDULES
16 CURRENTLY IN FORCE; AND

17 (2) THE EFFECTIVE DATE OF THE CHANGES.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 78, § 27(c)(1).

20 In the introductory language of subsection (a) of this section, the reference
21 to "change in rate" is substituted for the former reference to making "any
22 change in any rate" for consistency within the subsection.

23 In subsection (a)(2) of this section, the reference to "the new rate or change
24 in rate" is added for clarity.

25 In subsection (b) of this section, the reference to the "notice and
26 publication" is added for clarity.

27 Defined terms: "Commission" § 1-101

28 "Public service company" § 1-101

29 "Rate" § 1-101

30 4-204. EFFECTIVE DATE OF PROPOSED RATE; SUSPENSION.

31 (A) IN GENERAL.

32 (1) THE COMMISSION MAY SUSPEND, EFFECTIVE IMMEDIATELY AND
33 WITHOUT FORMAL PROCEEDINGS, ANY NEW RATE OR CHANGE IN RATE PROPOSED
34 BY A PUBLIC SERVICE COMPANY.

1 (2) UNLESS SUSPENDED BY THE COMMISSION, AND SUBJECT TO § 4-203
2 OF THIS SUBTITLE, A NEW RATE OR CHANGE IN RATE PROPOSED BY A PUBLIC
3 SERVICE COMPANY TAKES EFFECT ON THE DATE SPECIFIED IN THE RATE
4 APPLICATION.

5 (3) THE COMMISSION SHALL FURNISH TO THE PUBLIC SERVICE
6 COMPANY PROPOSING A RATE A WRITTEN STATEMENT OF THE REASONS FOR THE
7 SUSPENSION.

8 (B) PROCEEDINGS; EXTENSION.

9 (1) THE COMMISSION PROMPTLY SHALL INSTITUTE PROCEEDINGS TO
10 CONSIDER WHETHER THE SUSPENDED RATE IS A JUST AND REASONABLE RATE.

11 (2) THE COMMISSION MAY:

12 (I) SUSPEND THE RATE INITIALLY FOR NOT MORE THAN 150 DAYS
13 AFTER THE PROPOSED EFFECTIVE DATE; AND

14 (II) EXTEND THE SUSPENSION FOR AN ADDITIONAL 30 DAYS IF THE
15 COMMISSION FINDS THAT THE PROCEEDINGS CANNOT BE COMPLETED WITHIN THE
16 INITIAL SUSPENSION PERIOD.

17 (3) SUBJECT TO SUBSECTION (C) OF THIS SECTION, AFTER THE
18 SUSPENSION OR EXTENSION UNDER PARAGRAPH (2) OF THIS SUBSECTION EXPIRES,
19 IF THE COMMISSION HAS NOT ENTERED A FINAL ORDER, THE NEW RATE OR CHANGE
20 IN RATE PROPOSED BY THE PUBLIC SERVICE COMPANY TAKES EFFECT.

21 (C) RATE IN EFFECT BEFORE FINAL ORDER; REFUNDS.

22 (1) IF A PROPOSED NEW RATE OR RATE INCREASE TAKES EFFECT
23 BEFORE THE COMMISSION ENTERS A FINAL ORDER IN THE PROCEEDINGS, IF
24 PRACTICABLE, THE COMMISSION MAY ORDER THE PUBLIC SERVICE COMPANY THAT
25 PROPOSES THE RATE TO KEEP A DETAILED AND ACCURATE ACCOUNT OF:

26 (I) ALL AMOUNTS RECEIVED UNDER THE NEW RATE OR RATE
27 INCREASE; AND

28 (II) THE PERSONS ON WHOSE BEHALF THE AMOUNTS ARE PAID.

29 (2) AFTER THE PROCEEDINGS CONCLUDE, THE COMMISSION MAY
30 REQUIRE THE PUBLIC SERVICE COMPANY TO REFUND WITH INTEREST, TO EACH
31 PERSON LISTED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION, THE PART OF THE
32 NEW RATE OR RATE INCREASE THAT THE COMMISSION FINDS UNJUSTIFIED.

33 (3) IF A REFUND IS NOT PRACTICABLE, THE PUBLIC SERVICE COMPANY
34 SHALL CHARGE OFF AND AMORTIZE THE DIFFERENCE BETWEEN THE OPERATING
35 REVENUES UNDER THE RATE CHARGED AND THE OPERATING REVENUES THAT
36 WOULD HAVE BEEN OBTAINED FROM THE SAME VOLUME OF BUSINESS FROM THE

1 FINAL SET RATE, THROUGH A TEMPORARY RATE DECREASE FOR THE PERIOD THAT
2 THE COMMISSION SETS.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 78, § 70.

5 In subsections (a)(2) and (c)(1) of this section, the references to a "public
6 service company" are substituted for the former references to a
7 "proponent" for clarity.

8 In subsection (a)(2) of this section, the reference to "§ 4-203 of this
9 subtitle" is substituted for the former reference to "§ 27(c) of this article"
10 for accuracy.

11 Also in subsection (a)(2) of this section, the reference to "change in rate" is
12 added for consistency within this subtitle.

13 In subsection (b)(1) of this section, the reference to proceedings "to consider
14 whether the suspended rate is a just and reasonable rate" is substituted
15 for the former reference to proceedings "as to the justice and
16 reasonableness of the rate suspended" for consistency.

17 In subsection (c)(2) of this section, the reference to each person "listed
18 under paragraph (1)(ii) of this subsection" is added for clarity.

19 Defined terms: "Commission" § 1-101

20 "Just and reasonable rate" § 4-101

21 "Person" § 1-101

22 "Proceeding" § 1-101

23 "Public service company" § 1-101

24 "Rate" § 1-101

25 4-205. TEMPORARY RATES.

26 (A) IN GENERAL.

27 THE COMMISSION MAY SET A TEMPORARY RATE FOR ANY PUBLIC SERVICE
28 COMPANY THAT IS HIGHER OR LOWER THAN THE RATE PREVIOUSLY IN EFFECT.

29 (B) REQUIRED FINDINGS.

30 THE COMMISSION MAY SET A TEMPORARY RATE AFTER HEARING ONLY IF THE
31 COMMISSION FINDS THAT:

32 (1) PENDING A FINAL RATE PROCEEDING, THE RATE IN FORCE IS NOT A
33 JUST AND REASONABLE RATE; AND

34 (2) THE TEMPORARY RATE IS NECESSARY IN THE INTEREST OF JUSTICE
35 IN VIEW OF THE LENGTH OF TIME THAT MUST ELAPSE BEFORE A FINAL ORDER MAY
36 BE ENTERED.

1 (C) BOND.

2 IF THE ORDER INVOLVES A TEMPORARY RATE INCREASE, AND REFUND TO THE
3 CONSUMER IS PRACTICABLE, THE PUBLIC SERVICE COMPANY SHALL POST A BOND,
4 WITH SECURITY AND IN AN AMOUNT THAT THE COMMISSION APPROVES, PAYABLE
5 TO THE STATE AND CONDITIONED TO ENSURE PROMPT REFUND WITH INTEREST TO
6 EACH CONSUMER OF EACH AMOUNT RECEIVED BY THE PUBLIC SERVICE COMPANY
7 FROM THE CONSUMER ABOVE THE FINAL RATES THAT THE COMMISSION SETS.

8 (D) LIMITATION.

9 ANY TEMPORARY CHANGE IN RATE SHALL EQUAL THE AMOUNT FOUND BY THE
10 COMMISSION TO BE HIGHER OR LOWER THAN A JUST AND REASONABLE RATE.

11 (E) EFFECTIVE PERIOD; EXTENSION.

12 (1) THE TEMPORARY CHANGE IN RATE UNDER SUBSECTION (D) OF THIS
13 SECTION SHALL REMAIN IN EFFECT FOR AN INITIAL PERIOD OF NOT MORE THAN 9
14 MONTHS.

15 (2) THE COMMISSION MAY ORDER THE TEMPORARY CHANGE TO BE
16 EXTENDED BY NOT MORE THAN 3 MONTHS.

17 (F) ADJUSTMENT AFTER FINAL RATE ADOPTED.

18 (1) IF THE FINAL RATE SET IS HIGHER THAN THE RATE SET IN THE
19 ORDER FOR A TEMPORARY RATE, THE PUBLIC SERVICE COMPANY MAY AMORTIZE
20 AND RECOVER OVER A PERIOD THAT THE COMMISSION SETS, THROUGH A
21 TEMPORARY INCREASE OVER THE FINAL RATE SET, THE DIFFERENCE BETWEEN THE
22 OPERATING REVENUE OBTAINED UNDER THE ORDER FOR A TEMPORARY RATE AND
23 THE OPERATING REVENUE THAT WOULD HAVE BEEN OBTAINED FROM THE SAME
24 VOLUME OF BUSINESS FROM THE FINAL RATE SET.

25 (2) IF THE RATE IN THE ORDER FOR A TEMPORARY RATE IS HIGHER
26 THAN THE FINAL RATE SET, THE COMMISSION SHALL ORDER A REFUND, CHARGE
27 OFF, OR AMORTIZATION UNDER § 4-204(C) OF THIS SUBTITLE.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 78, § 71.

30 In the introductory language of subsection (b) of this section, the reference
31 to a "due" hearing is deleted as surplusage.

32 In subsection (c) of this section, the reference to the "consumer" is
33 substituted for the former reference to each "person" for consistency.

34 In subsection (f)(1) and (2) of this section, the references to an "order for a
35 temporary rate" are substituted for the former references to a "temporary
36 order" and "temporary schedule" for clarity.

1 Defined terms: "Commission" § 1-101

2 "Just and reasonable rate" § 4-101

3 "Proceeding" § 1-101

4 "Public service company" § 1-101

5 "Rate" § 1-101

6 4-206. RATE BASE -- VALUATION.

7 (A) IN GENERAL.

8 AT ANY TIME, THE COMMISSION MAY INVESTIGATE AND DETERMINE THE FAIR
9 VALUE OF THE PROPERTY OF A PUBLIC SERVICE COMPANY USED AND USEFUL IN
10 PROVIDING SERVICE TO THE PUBLIC.

11 (B) FINALITY; PROTEST.

12 (1) THE VALUATION:

13 (I) IS NOT FINAL UNTIL THE COMMISSION:

14 1. SERVES ON THE PUBLIC SERVICE COMPANY A COPY OF
15 THE ORDER SETTING THE PROPOSED VALUATION AND THE METHOD USED TO SET
16 THE VALUATION; AND

17 2. ALLOWS A REASONABLE TIME IN WHICH TO FILE A
18 PROTEST; AND

19 (II) IS FINAL IF A PROTEST IS NOT FILED WITHIN THE TIME
20 SPECIFIED IN THE ORDER.

21 (2) IF A TIMELY PROTEST IS FILED, THE COMMISSION SHALL ENTER A
22 FINAL VALUATION BY ORDER AFTER HEARING.

23 (C) PRIMA FACIE EVIDENCE.

24 ALL FINAL VALUATIONS ARE PRIMA FACIE EVIDENCE OF VALUE IN
25 PROCEEDINGS UNDER THIS ARTICLE.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 78, § 72.

28 In subsection (b)(1)(ii) of this section, the reference to the time specified "in
29 the order" is added for clarity.

30 In subsection (c) of this section, the reference to proceedings under "this
31 article" is retained, although the revised article contains provisions
32 derived from outside former Art. 78. In this instance, since valuations are
33 conducted only under provisions derived from former Art. 78, no
34 substantive change results.

1 Defined terms: "Commission" § 1-101

2 "Proceeding" § 1-101

3 "Public service company" § 1-101

4 4-207. "MAKE WHOLE" RATE PROCEEDINGS.

5 (A) SCOPE.

6 THIS SECTION APPLIES ONLY TO A GAS COMPANY, ELECTRIC COMPANY, OR
7 TELEPHONE COMPANY WHOSE GROSS ANNUAL REVENUES, FOR THE MOST RECENT
8 CALENDAR YEAR FOR WHICH DATA ARE AVAILABLE, ARE LESS THAN 3% OF THE
9 TOTAL GROSS ANNUAL REVENUES OF ALL PUBLIC SERVICE COMPANIES IN THE
10 STATE DURING THE SAME CALENDAR YEAR.

11 (B) REQUIRED PROCEEDINGS; CONSIDERATIONS; FINAL ORDER.

12 (1) WHEN THE COMMISSION SUSPENDS A PROPOSED NEW RATE FOR A
13 COMPANY SUBJECT TO THIS SECTION THAT IS BASED ON THE EXISTING
14 AUTHORIZED FAIR RATE OF RETURN, THE COMMISSION PROMPTLY SHALL
15 INSTITUTE PROCEEDINGS TO DETERMINE IF ADDITIONAL REVENUES ARE REQUIRED
16 TO ALLOW THE COMPANY TO EARN THE EXISTING FAIR RATE OF RETURN
17 AUTHORIZED IN THE PREVIOUS BASE RATE PROCEEDING.

18 (2) THE COMMISSION SHALL:

19 (I) SERVE EACH OF THE PARTIES TO THE PREVIOUS BASE RATE
20 PROCEEDING OF THAT COMPANY WITH A COPY OF THE SUSPENSION ORDER; AND

21 (II) ORDER THE COMPANY TO PUBLISH A DISPLAY
22 ADVERTISEMENT ABOUT THE PROPOSAL IN NEWSPAPERS OF GENERAL
23 CIRCULATION IN ITS SERVICE AREA.

24 (3) PROCEEDINGS UNDER THIS SECTION SHALL:

25 (I) ACCOUNT FOR REVENUES, EXPENSES, AND RATE BASE IN THE
26 SAME MANNER THAT THE COMMISSION EMPLOYED IN DETERMINING A JUST AND
27 REASONABLE RATE IN THE PREVIOUS BASE RATE PROCEEDING; AND

28 (II) EXCLUDE CONSIDERATION OF ANY INCREASE IN THE RATE OF
29 RETURN, ANY CHANGE IN RATE STRUCTURE, OR ANY CHANGE IN AN ACCOUNTING
30 APPROACH TO ANY ITEM PERTAINING TO REVENUES, EXPENSES, OR RATE BASE
31 INCONSISTENT WITH THAT USED BY THE COMMISSION IN DETERMINING A JUST AND
32 REASONABLE RATE IN THE PREVIOUS BASE RATE PROCEEDING ON THE COMPANY.

33 (4) IN PROCEEDINGS UNDER THIS SECTION, THE COMMISSION MAY USE
34 A MORE RECENT PAST TEST PERIOD THAN THAT USED IN THE PREVIOUS BASE RATE
35 PROCEEDING FOR THE COMPANY.

1 (5) THE COMMISSION SHALL ENTER A FINAL ORDER AS TO THE
2 REVENUE REQUIREMENT DETERMINED UNDER THIS SECTION WITHIN 90 DAYS
3 AFTER THE PROPOSED NEW RATE IS FILED.

4 (6) THE FINAL ORDER SHALL:

5 (I) AUTHORIZE A NEW RATE DISTRIBUTING ANY CHANGE IN THE
6 REVENUE REQUIREMENT PROPORTIONALLY AMONG THE RATEPAYERS WITHOUT
7 CHANGE IN THE RATE STRUCTURE; AND

8 (II) STATE WHETHER FURTHER PROCEEDINGS SHALL BE HELD.

9 (7) IF, IN THE FINAL ORDER, THE COMMISSION DECIDES TO CONDUCT
10 FURTHER PROCEEDINGS UNDER SUBSECTION (C) OF THIS SECTION, THE FINAL
11 ORDER MAY PROVIDE FOR REFUND, CONSISTENT WITH THE PROVISIONS OF §
12 4-204(C) OF THIS SUBTITLE, OF ANY DIFFERENCE BETWEEN THE NEW RATE
13 AUTHORIZED UNDER THIS SUBSECTION AND THE RATE THE COMMISSION SETS
14 UNDER SUBSECTION (C) OF THIS SECTION.

15 (C) ADDITIONAL PROCEEDINGS.

16 (1) IF THE COMMISSION DECIDES TO CONDUCT FURTHER PROCEEDINGS
17 UNDER SUBSECTION (B) OF THIS SECTION, THE COMMISSION, AFTER A HEARING,
18 MAY:

19 (I) MODIFY THE RATE STRUCTURE;

20 (II) LOWER THE AUTHORIZED FAIR RATE OF RETURN; OR

21 (III) MODIFY THE ACCOUNTING APPROACH TO AN ITEM THAT
22 PERTAINS TO REVENUES, EXPENSES, OR RATE BASE.

23 (2) THE COMMISSION SHALL TAKE ANY ACTION UNDER THIS
24 SUBSECTION WITHIN 120 DAYS AFTER ENTRY OF A FINAL ORDER UNDER
25 SUBSECTION (B) OF THIS SECTION.

26 (D) LIMITATIONS.

27 (1) THIS SECTION DOES NOT APPLY TO A PROPOSED NEW RATE THAT IS
28 FILED:

29 (I) LESS THAN 1 YEAR AFTER A PREVIOUSLY PROPOSED NEW RATE
30 UNDER THIS SECTION IS FILED; OR

31 (II) WITH A REQUEST FOR TEMPORARY RATES UNDER § 4-205 OF
32 THIS SUBTITLE.

33 (2) (I) A COMPANY MAY NOT FILE A PROPOSED NEW RATE UNDER
34 THIS SUBTITLE IF ANY PROPOSED NEW RATE FILED BY THE COMPANY UNDER THIS
35 SECTION IS PENDING, OR A NEW RATE FILED BY THE COMPANY UNDER THIS
36 SECTION HAS BEEN IN EFFECT FEWER THAN 90 DAYS.

1 (II) THIS PARAGRAPH DOES NOT PRECLUDE A COMPANY FROM
 2 FILING A PROPOSED NEW RATE FOR A NEW SERVICE IF THE PROPOSAL DOES NOT
 3 AFFECT THE AUTHORIZED RATE OF RETURN.

4 (3) UNLESS THE COMMISSION PROVIDES OTHERWISE, THIS SECTION
 5 DOES NOT APPLY TO A PROPOSED NEW RATE THAT IS FILED MORE THAN 3 YEARS
 6 AFTER THE COMMISSION ENTERS A FINAL ORDER AUTHORIZING THE EXISTING FAIR
 7 RATE OF RETURN IN THE PREVIOUS BASE RATE PROCEEDING.

8 REVISOR'S NOTE: This section is new language derived without substantive
 9 change from former Art. 78, § 69B.

10 In subsection (b)(1) of this section, the reference to a "company subject to
 11 this section" is substituted for the former reference to a "gas, electric, or
 12 telephone company" for clarity.

13 In subsection (b)(3) and (4) of this section, the references to proceedings
 14 "under this section" are added for clarity.

15 In subsection (d)(2) of this section, the reference to prohibiting a new rate
 16 filing "under this subtitle" is substituted for the former reference to filing
 17 "under this section or any other section" to reflect the consolidation of rate
 18 filing provisions within this subtitle.

19 In subsection (d)(3) of this section, the reference to the rate of return "in
 20 the previous base rate proceeding" is added for clarity.

21 Defined terms: "Commission" § 1-101

22 "Company" § 1-101

23 "Electric company" § 1-101

24 "Gas company" § 1-101

25 "Just and reasonable rate" § 4-101

26 "Proceeding" § 1-101

27 "Public service company" § 1-101

28 "Rate" § 1-101

29 "Telephone company" § 1-101

30 4-208. COST ALLOCATION MANUAL.

31 (A) SCOPE.

32 THIS SECTION APPLIES TO A PUBLIC SERVICE COMPANY THAT:

33 (1) PROVIDES GAS OR ELECTRIC SERVICES;

34 (2) IS SUBJECT TO A COST ALLOCATION MANUAL APPROVED BY THE
 35 COMMISSION;

36 (3) (I) ENGAGES IN AN UNREGULATED BUSINESS ACTIVITY; OR

1 (II) HAS A SUBSIDIARY THAT ENGAGES IN AN UNREGULATED
2 BUSINESS ACTIVITY; AND

3 (4) DOES NOT MEET THE STANDARDS FOR RATE PROCEEDINGS
4 PROVIDED FOR UNDER § 4-207 OF THIS SUBTITLE.

5 (B) AUDIT REQUIRED.

6 WHEN A PUBLIC SERVICE COMPANY SUBJECT TO THIS SECTION FILES A
7 REQUEST FOR A CHANGE IN ITS BASE RATE UNDER THIS SUBTITLE, OR HAS A MAJOR
8 CHANGE IN ITS CORPORATE ORGANIZATION OR STRUCTURE AS DETERMINED BY THE
9 COMMISSION, THE PUBLIC SERVICE COMPANY SHALL FILE WITH THE REQUEST AN
10 INDEPENDENT AUDIT OPINION PREPARED BY AN ENTITY APPROVED BY THE
11 COMMISSION THAT:

12 (1) CERTIFIES TO THE CONTINUING ACCURACY OF THE PUBLIC SERVICE
13 COMPANY'S COST ALLOCATION MANUAL; OR

14 (2) IDENTIFIES ADJUSTMENTS THAT SHOULD BE MADE TO THE MANUAL
15 CONSISTENT WITH PRIOR COMMISSION RULINGS.

16 (C) LIMITATION.

17 A PUBLIC SERVICE COMPANY MAY NOT BE REQUIRED TO FILE MORE THAN ONE
18 INDEPENDENT AUDIT OPINION UNDER THIS SECTION WITHIN A CONSECUTIVE
19 3-YEAR PERIOD.

20 (D) COST BORNE BY STOCKHOLDERS.

21 THE COST OF THE INDEPENDENT AUDIT OPINION FILED UNDER SUBSECTION
22 (B) OF THIS SECTION SHALL BE BORNE BY THE STOCKHOLDERS OF THE PUBLIC
23 SERVICE COMPANY.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 78, § 27(c)(2).

26 Defined terms: "Commission" § 1-101

27 "Proceeding" § 1-101

28 "Public service company" § 1-101

29 "Rate" § 1-101

30 4-209. ALLOCATION OF COSTS OF RELOCATING UTILITIES UNDERGROUND.

31 (A) APPORTIONMENT OF NET CAPITAL COSTS.

32 WITH RESPECT TO THE NET CAPITAL COSTS ASSOCIATED WITH THE
33 RELOCATION UNDERGROUND OF UTILITY LINES AND FACILITIES IN CONNECTION
34 WITH PROJECTS REQUIRED BY ARTICLE 66B, § 8.16 OF THE CODE, THE COMMISSION
35 SHALL:

1 (1) SET THE AMOUNT OF THE MONTHLY SURCHARGE REQUIRED TO
2 SUPPORT THE COSTS AND DETERMINE WHICH CUSTOMERS OF THE APPLICABLE
3 UTILITY ARE SUBJECT TO THE SURCHARGE;

4 (2) INCLUDE IN THE RATE BASE THE RELATED NET CAPITAL COSTS; OR

5 (3) ADOPT ANOTHER METHOD TO APPORTION THE COSTS
6 APPROPRIATELY.

7 (B) LIMITATION ON COSTS TO UTILITY.

8 A UTILITY MAY NOT BE REQUIRED TO PAY MORE THAN 50% OF THE NET
9 CAPITAL COSTS OF A RELOCATION PROJECT.

10 (C) LOCAL GOVERNMENT APPROPRIATIONS.

11 A COUNTY OR MUNICIPAL CORPORATION MAY APPROPRIATE MONEY FOR A
12 RELOCATION PROJECT FROM APPROPRIATE FEDERAL, STATE, AND LOCAL FUNDS IT
13 RECEIVES FOR THIS PURPOSE.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 78, § 72A.

16 In subsection (c) of this section, the former reference to funds the local
17 government "receives for this purpose" is deleted as implicit in the
18 reference to "appropriate" funds.

19 Defined terms: "Commission" § 1-101

20 "County" § 1-101

21 SUBTITLE 3. SPECIFIC RATE REGIMES.

22 4-301. TELEPHONE COMPANIES -- ALTERNATIVE FORM OF REGULATION.

23 (A) IN GENERAL.

24 NOTWITHSTANDING § 4-102 OF THIS TITLE OR ANY OTHER LAW, THE
25 COMMISSION MAY REGULATE A TELEPHONE COMPANY THROUGH ALTERNATIVE
26 FORMS OF REGULATION.

27 (B) REQUIRED FINDINGS.

28 THE COMMISSION MAY ADOPT AN ALTERNATIVE FORM OF REGULATION UNDER
29 THIS SECTION IF THE COMMISSION FINDS, AFTER NOTICE AND HEARING, THAT THE
30 ALTERNATIVE FORM OF REGULATION:

31 (1) PROTECTS CONSUMERS BY:

32 (I) AT A MINIMUM, PRODUCING AFFORDABLE AND REASONABLY
33 PRICED BASIC LOCAL EXCHANGE SERVICE, AS DEFINED BY THE COMMISSION; AND

1 (II) ENSURING THE QUALITY, AVAILABILITY, AND RELIABILITY OF
2 TELECOMMUNICATIONS SERVICES THROUGHOUT THE STATE;

3 (2) ENCOURAGES THE DEVELOPMENT OF COMPETITION; AND

4 (3) IS IN THE PUBLIC INTEREST.

5 (C) ALTERNATIVE FORMS OF REGULATION.

6 AN ALTERNATIVE FORM OF REGULATION MAY INCLUDE:

7 (1) PRICE REGULATION;

8 (2) REVENUE REGULATION;

9 (3) RANGES OF AUTHORIZED RETURN;

10 (4) RATE OF RETURN;

11 (5) CATEGORIES OF SERVICES; OR

12 (6) PRICE INDEXING.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 78, § 69(e).

15 In subsection (a) of this section, the reference to § 4-102 of this title, the
16 Commission's substantive authority to set just and reasonable rates, is
17 substituted for the former reference to the definition of "just and
18 reasonable rates" in former Art. 78, § 69(a), for clarity.

19 In subsection (c) of this section, the former limitation, "but are not limited
20 to", is deleted as unnecessary. See Art. 1, § 30 of the Code.

21 Defined terms: "Commission" § 1-101

22 "Rate" § 1-101

23 "Telephone company" § 1-101

24 4-302. COMMON CARRIERS.

25 (A) DETERMINATION OF OPERATING RATIO.

26 (1) IN THIS SUBSECTION, "OPERATING RATIO" MEANS THE
27 RELATIONSHIP OF COMMON CARRIER EXPENSES TO COMMON CARRIER OPERATING
28 REVENUES.

29 (2) IN CONSIDERING PROPER REVENUE UNDER SUBSECTION (B)(3) OF
30 THIS SECTION, THE COMMISSION SHALL DETERMINE A FAIR AND EQUITABLE
31 OPERATING RATIO.

32 (B) REQUIRED CONSIDERATIONS.

1 IN SETTING A JUST AND REASONABLE RATE FOR COMMON CARRIERS, AND
2 CLASSIFICATIONS, REGULATIONS, AND PRACTICES RELATING TO COMMON
3 CARRIERS, THE COMMISSION SHALL CONSIDER, AMONG OTHER FACTORS:

4 (1) THE INHERENT ADVANTAGES OF TRANSPORTATION BY COMMON
5 CARRIERS;

6 (2) THE NEED, IN THE PUBLIC INTEREST, OF ADEQUATE AND EFFICIENT
7 TRANSPORTATION SERVICES BY COMMON CARRIERS AT THE LOWEST COST
8 CONSISTENT WITH FURNISHING THESE SERVICES; AND

9 (3) THE NEED OF REVENUES SUFFICIENT TO ENABLE COMMON
10 CARRIERS TO PROVIDE THESE SERVICES UNDER HONEST, ECONOMICAL, AND
11 EFFICIENT MANAGEMENT.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 78, § 69(b).

14 Defined terms: "Commission" § 1-101

15 "Common carrier" § 1-101

16 "Just and reasonable rate" § 4-101

17 4-303. RATES FOR PILOTED VESSELS.

18 (A) IN GENERAL.

19 THE COMMISSION SHALL ESTABLISH PILOTAGE FEES AND CHARGES FOR
20 PILOTAGE SERVICES TO VESSELS AT A JUST AND REASONABLE RATE.

21 (B) NOTICE AND HEARING REQUIRED.

22 THE COMMISSION SHALL GIVE NOTICE AND HOLD A PUBLIC HEARING ON EACH
23 RATE PROPOSAL AS PROVIDED IN THIS ARTICLE.

24 (C) RATE MAKING STANDARDS.

25 IN DETERMINING A JUST AND REASONABLE RATE, THE COMMISSION SHALL
26 CONSIDER:

27 (1) THE DRAFT, DIMENSIONS, AND TONNAGE OF THE VESSEL PILOTED;

28 (2) THE DIFFICULTY AND INCONVENIENCE OF THE PARTICULAR
29 SERVICE AND THE TIME AND SKILL REQUIRED TO RENDER THE SERVICE;

30 (3) THE TIME REQUIRED TO RENDER PILOTAGE SERVICE AT OTHER
31 UNITED STATES PORTS AND THE FEES AND CHARGES FOR THE SERVICE;

32 (4) THE PUBLIC INTEREST IN MAINTAINING EFFICIENT AND RELIABLE
33 PILOTAGE SERVICE; AND

1 (5) OTHER FACTORS RELEVANT TO THE DETERMINATION OF A JUST
2 AND REASONABLE RATE.

3 (D) RATE MANDATORY.

4 A PILOT MAY NOT DEMAND OR RECEIVE A DIFFERENT COMPENSATION FOR
5 PROVIDING PILOTAGE SERVICE THAN THE RATE SET BY THE COMMISSION UNDER
6 THIS SECTION.

7 (E) ASSESSMENT.

8 THE COMMISSION SHALL IMPOSE AN ASSESSMENT ON THE ASSOCIATION OF
9 MARYLAND PILOTS BASED ON ASSESSMENT GUIDELINES ESTABLISHED FOR PUBLIC
10 SERVICE COMPANIES UNDER § 2-110 OF THIS ARTICLE. THE ASSESSMENT IMPOSED
11 UNDER THIS SUBSECTION MAY NOT BE LESS THAN \$25,000.

12 (F) CONTINUITY OF RATES.

13 ALL PILOTAGE FEES AND CHARGES PROVIDED BY APPLICABLE LAW SHALL
14 REMAIN IN EFFECT UNTIL CHANGED BY THE COMMISSION.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 78, § 72B.

17 In subsection (a) of this section, the former reference to "ships" is deleted
18 as include in the comprehensive reference to "vessels".

19 In subsection (b) of this section, the reference to notice and hearings
20 provided "in this article" is retained, although portions of this article are
21 derived from provisions outside former Art. 78. The notice and hearing
22 requirements in this article that apply to the Commission all derive from
23 former Art. 78; thus, no substantive change is made.

24 The Public Utility Companies Article Review Committee notes, for the
25 consideration of the General Assembly, that the "public hearing" provided
26 by the Commission under subsection (b) of this section is, in fact, an
27 evidentiary hearing.

28 Defined terms: "Commission" § 1-101

29 "Just and reasonable rate" § 4-101

30 "Public service company" § 1-101

31 "Rate" § 1-101

32 4-304. INTERJURISDICTIONAL SEWAGE DISPOSAL RATES.

33 (A) "JURISDICTION" DEFINED.

34 IN THIS SECTION, "JURISDICTION" MEANS A COUNTY OR MUNICIPAL
35 CORPORATION.

36 (B) SCOPE OF SECTION.

1 THIS SECTION DOES NOT APPLY IF RATES FOR SEWAGE DISPOSAL SERVICE ARE
2 SPECIFIED IN A CONTRACT BETWEEN THE JURISDICTIONS THAT SUPPLY AND
3 RECEIVE THE SEWAGE DISPOSAL SERVICE.

4 (C) ESTABLISHMENT AND ALTERATION.

5 THE COMMISSION SHALL SET ONLY THE RATES FOR SEWAGE DISPOSAL
6 SERVICE THAT ONE JURISDICTION SUPPLIES WITHIN THE TAXABLE LIMITS OF
7 ANOTHER JURISDICTION:

8 (1) ON WRITTEN APPLICATION BY THE JURISDICTION THAT RECEIVES
9 THE SERVICE; AND

10 (2) IN THE SAME WAY AS RATES ARE SET FOR SEWAGE DISPOSAL
11 COMPANIES.

12 REVISOR'S NOTE: Subsection (a) of this section is new language added to
13 avoid repetition of the phrase "county or municipal corporation" in
14 subsection (c) of this section and for consistency with § 4-305 of this
15 subtitle.

16 Subsections (b) and (c) of this section are new language derived without
17 substantive change from former Art. 78, § 55B.

18 In subsection (b) of this section, the reference to "sewage disposal service"
19 is added for clarity.

20 Defined terms: "Commission" § 1-101

21 "County" § 1-101

22 "Rate" § 1-101

23 "Sewage disposal company" § 1-101

24 4-305. INTERJURISDICTIONAL WATER -- IN GENERAL.

25 (A) "JURISDICTION" DEFINED.

26 IN THIS SECTION, "JURISDICTION" MEANS A COUNTY, SANITARY DISTRICT, OR
27 MUNICIPAL CORPORATION.

28 (B) SCOPE OF SECTION.

29 THIS SECTION DOES NOT AFFECT §§ 35-138, 35-140, 35-141, AND 35-145 OF THE
30 CODE OF PUBLIC LOCAL LAWS OF BALTIMORE COUNTY.

31 (C) ESTABLISHMENT AND ALTERATION.

32 THE COMMISSION SHALL SET ONLY THE RATES FOR WATER THAT ONE
33 JURISDICTION SUPPLIES WITHIN ANOTHER JURISDICTION:

34 (1) ON WRITTEN APPLICATION BY THE JURISDICTION THAT RECEIVES
35 THE WATER; AND

1 (2) IN THE SAME WAY AS RATES ARE SET FOR WATER COMPANIES.

2 REVISOR'S NOTE: Subsection (a) of this section is new language added to
3 avoid repetition of the phrase "county, sanitary district, or municipal
4 corporation" in subsection (c) of this section.

5 Subsections (b) and (c) of this section are new language derived without
6 substantive change from former Art. 78, § 55(a).

7 In subsection (b) of this section, the reference to "§§ 35-138, 35-140,
8 35-141, and 35-145 of the Code of Public Local Laws of Baltimore County"
9 is substituted for the former obsolete reference to "§§ 345 and 347 of the
10 Code of Public Local Laws of Baltimore County (1948 Edition)".

11 Sections 35-138, 35-140, 35-141, and 35-145 of the Code of Public Local
12 Laws of Baltimore County relate respectively, to the authority of the Mayor
13 and City Council of Baltimore City to exercise operating control over water
14 extensions in the metropolitan district of Baltimore County established by
15 Ch. 539, Acts of 1924, the establishment of rates charged by Baltimore City
16 for water furnished to consumers in Baltimore County, the provision of
17 water by the Mayor and City Council of Baltimore to the metropolitan
18 district of Baltimore County at cost, and the approval by Baltimore City of
19 plans for water line extensions by Baltimore County in the metropolitan
20 district.

21 Defined terms: "Commission" § 1-101

22 "County" § 1-101

23 "Rate" § 1-101

24 4-306. SAME -- MUNICIPAL SERVICE IN TALBOT COUNTY.

25 (A) SCOPE.

26 THIS SECTION APPLIES TO ANY MUNICIPAL CORPORATION IN TALBOT COUNTY
27 THAT SUPPLIES WATER TO AN AREA OUTSIDE THE BOUNDARIES OF THE MUNICIPAL
28 CORPORATION.

29 (B) CERTIFICATE OF AUTHORITY.

30 ON WRITTEN APPLICATION, THE COMMISSION MAY GRANT THE APPLICANT A
31 CERTIFICATE OF AUTHORITY TO ESTABLISH A SERVICE AREA OUTSIDE OF ITS
32 BOUNDARIES AND TO SUPPLY THAT SERVICE AREA WITH WATER.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 78, § 55(b).

35 Defined term: "Commission" § 1-101

SUBTITLE 4. FUEL RATE ADJUSTMENTS.

2 4-401. SLIDING SCALE.

3 AS IT CONSIDERS NECESSARY, AND IN ACCORDANCE WITH THE REQUIREMENTS
4 OF §§ 4-402 AND 4-403 OF THIS SUBTITLE, THE COMMISSION MAY ALLOW A GAS
5 COMPANY, ELECTRIC COMPANY, OR STEAM HEATING COMPANY TO ESTABLISH A
6 SLIDING SCALE TO ADJUST COSTS OF ITS FUEL, PURCHASED POWER, OR PURCHASED
7 GAS.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 78, § 54.

10 In this section, the defined terms "steam heating company", "gas
11 company", and "electric company" are substituted for the former references
12 to a "steam heating, gas, or electric utility" for consistency.

13 Defined terms: "Commission" § 1-101

14 "Electric company" § 1-101

15 "Gas company" § 1-101

16 "Steam heating company" § 1-101

17 4-402. FUEL RATES -- IN GENERAL.

18 (A) SCOPE.

19 (1) THIS SECTION APPLIES TO:

20 (I) THE ELECTRIC FUEL RATE ADJUSTMENT CLAUSE OF EACH
21 ELECTRIC COMPANY THAT IS NOT SUBJECT TO § 4-403 OF THIS SUBTITLE;

22 (II) THE FUEL RATE ADJUSTMENT CLAUSE OF A STEAM HEATING
23 COMPANY;

24 (III) PURCHASED POWER ADJUSTMENT CLAUSES; AND

25 (IV) PURCHASED GAS ADJUSTMENT CLAUSES.

26 (2) THIS SECTION DOES NOT APPLY TO A SMALL RURAL ELECTRIC
27 COOPERATIVE.

28 (B) JUSTIFICATION OF COSTS TO COMMISSION.

29 A STEAM HEATING COMPANY, GAS COMPANY, OR ELECTRIC COMPANY THAT
30 DIRECTLY PASSES ON TO ITS CUSTOMERS CHANGES IN FUEL COSTS, COSTS OF
31 PURCHASED POWER, OR COSTS OF PURCHASED GAS SHALL VERIFY AND JUSTIFY THE
32 ADJUSTED COSTS TO THE COMMISSION EACH MONTH.

33 (C) UNJUSTIFIED CHARGES.

1 THE COMMISSION SHALL ORDER A COMPANY TO CHARGE OFF AND AMORTIZE,
2 BY MEANS OF A TEMPORARY DECREASE OF RATES, ANY CHARGE THE COMMISSION
3 FINDS IS UNJUSTIFIED BECAUSE:

4 (1) THE COMPANY FAILED TO SHOW THAT THE CHARGES WERE BASED
5 SOLELY ON INCREASED COSTS OF FUEL, PURCHASED POWER, OR PURCHASED GAS;

6 (2) THE COMPANY FAILED TO FOLLOW COMPETITIVE PRACTICES IN
7 PROCURING AND PURCHASING FUEL, POWER, OR GAS; OR

8 (3) THE COMPANY FAILED TO SHOW THAT ITS PRACTICES IN
9 PROCURING AND PURCHASING FUEL WERE REASONABLE.

10 (D) EVIDENTIARY HEARING BY COMMISSION REQUIRED.

11 AT LEAST ONCE EVERY 12 MONTHS, THE COMMISSION SHALL CONDUCT A
12 PUBLIC EVIDENTIARY HEARING ON ANY CHANGES IN COSTS THAT A COMPANY
13 DIRECTLY PASSES ON TO ITS CUSTOMERS UNDER THIS SECTION.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 78, § 54D.

16 In subsections (c) and (d) of this section, the defined term "company" is
17 substituted for the former term "utility" for consistency.

18 In subsection (d) of this section, the reference to changes "in costs that a
19 company directly passes on to its customers under this section" is added for
20 clarity.

21 Defined terms: "Commission" § 1-101

22 "Company" § 1-101

23 "Electric company" § 1-101

24 "Gas company" § 1-101

25 "Rate" § 1-101

26 "Small rural electric cooperative" § 1-101

27 "Steam heating company" § 1-101

28 4-403. SAME -- LARGE ELECTRIC COMPANIES.

29 (A) SCOPE.

30 THIS SECTION APPLIES ONLY TO AN ELECTRIC COMPANY THAT PRODUCES OR
31 GENERATES POWER WITH GROSS ANNUAL REVENUES THAT EXCEED \$25,000,000.

32 (B) ZERO-BASED FUEL RATE.

33 AS PART OF ITS RATES TO ALL CUSTOMERS, AN ELECTRIC COMPANY MAY HAVE
34 A SEPARATELY STATED AND ZERO-BASED FUEL RATE TO CHARGE FOR THE ACTUAL
35 COST OF FUEL THAT IS COMPUTED ON A KILOWATT-HOUR BASIS.

1 (C) APPLICATION FOR RATE ADJUSTMENT BASED SOLELY ON ACTUAL COST
2 OF FUEL.

3 (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, ON
4 APPLICATION TO THE COMMISSION BY AN ELECTRIC COMPANY SUBJECT TO THIS
5 SECTION TO ADJUST THE ELECTRIC COMPANY'S RATES AND CHARGES BASED
6 SOLELY ON THE ACTUAL COST OF FUEL PER KILOWATT HOUR SOLD, THE
7 COMMISSION MAY SUSPEND THE PROPOSED ADJUSTMENT FOR A PERIOD NOT
8 EXCEEDING 30 DAYS AFTER THE DAY THE APPLICATION IS FILED.

9 (2) THE COMMISSION SHALL:

10 (I) PROMPTLY INVESTIGATE AN APPLICATION FILED UNDER THIS
11 SUBSECTION; AND

12 (II) INSTITUTE EVIDENTIARY HEARINGS UNDER § 4-402(D) OF THIS
13 SUBTITLE TO CONSIDER THE APPLICATION WITHIN 30 DAYS AFTER THE DAY THE
14 APPLICATION IS FILED.

15 (3) THE COMMISSION SHALL BASE ITS ORDER ON THE RECORD
16 DEVELOPED AT THE HEARING.

17 (4) THE COMMISSION SHALL ISSUE ITS FINAL ORDER PROMPTLY BUT
18 NO LATER THAN 120 DAYS AFTER THE DAY THE APPLICATION IS FILED.

19 (5) IF A SUSPENSION PERIOD UNDER THIS SUBSECTION ENDS BEFORE
20 THE COMMISSION ISSUES A FINAL ORDER, THE ORDER SHALL PROVIDE FOR A
21 REFUND OF THE DIFFERENCE BETWEEN THE RATE CHARGED AND THE RATE SET BY
22 THE FINAL ORDER.

23 (D) LIMITATION ON RATE ADJUSTMENT.

24 (1) THE COMMISSION MAY AUTHORIZE AN ELECTRIC COMPANY TO
25 ADJUST ITS FUEL RATE UNDER THIS SECTION ONLY IF THE ELECTRIC COMPANY'S
26 CURRENTLY CALCULATED ACTUAL FUEL RATE IS MORE THAN 5% ABOVE OR BELOW
27 THE SUM OF THE COMPONENTS OF THE FUEL RATE THEN IN EFFECT.

28 (2) AN ELECTRIC COMPANY THAT HAS A DECREASE OF MORE THAN 5%
29 IN ITS FUEL RATE PROMPTLY SHALL FILE AN APPLICATION WITH THE COMMISSION
30 TO REDUCE THE FUEL RATE.

31 (3) TO THE EXTENT THAT AN ELECTRIC COMPANY DOES NOT RECOVER
32 ITS ACTUAL ACCUMULATED FUEL COSTS UNDER THIS SECTION, THE ELECTRIC
33 COMPANY MAY DEFER THE COSTS AS AN OPERATING EXPENSE AND RECOVER THE
34 COSTS IN A BASE RATE PROCEEDING IF:

35 (I) THE COMMISSION FINDS THAT THE COSTS WERE JUSTIFIED;
36 AND

1 (II) RECOVERY OF THE COSTS IS CONSISTENT WITH THE RATE
2 PROVISIONS OF THIS TITLE.

3 (E) ISSUES TO BE DETERMINED BY COMMISSION.

4 IN ITS INVESTIGATION OF AN APPLICATION FOR A FUEL RATE ADJUSTMENT
5 UNDER THIS SECTION, THE COMMISSION SHALL MAKE SPECIFIC FINDINGS OF FACT
6 AND CONCLUSIONS BASED ON A DETERMINATION OF WHETHER THE APPLICANT
7 HAS:

8 (1) INCLUDED ONLY CHANGES IN THE ACTUAL COSTS OF THE
9 COMPONENTS OF THE FUEL RATE IN THE PROPOSED CHANGE;

10 (2) USED THE MOST ECONOMICAL MIX OF ALL TYPES OF GENERATION
11 AND PURCHASES;

12 (3) MADE EVERY REASONABLE EFFORT TO MINIMIZE FUEL COSTS AND
13 FOLLOWED COMPETITIVE PROCUREMENT PRACTICES, CONSIDERING THE
14 RELIABILITY OF LOCAL TRANSPORTATION; AND

15 (4) MAINTAINED THE PRODUCTIVE CAPACITY OF ALL ITS GENERATING
16 PLANTS AT A REASONABLE LEVEL.

17 (F) DISALLOWANCE OF COSTS.

18 UNLESS CAUSE TO THE CONTRARY IS SHOWN, THE COMMISSION MAY
19 DISALLOW ANY INCREASED COST THAT IT FINDS IS A RESULT OF THE APPLICANT'S
20 FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

21 (G) FILING OF TESTIMONY AND EXHIBITS BY APPLICANT.

22 AN APPLICANT FOR A FUEL RATE ADJUSTMENT SHALL FILE ITS PROPOSED
23 INITIAL DIRECT TESTIMONY AND EXHIBITS WITH THE APPLICATION.

24 (H) BURDEN OF PROOF.

25 THE APPLICANT HAS THE BURDEN OF PROVING THAT IT HAS COMPLIED WITH
26 THE REQUIREMENTS OF THIS SECTION.

27 (I) AUDITS.

28 (1) THE COMMISSION SHALL CONDUCT, OR DIRECT ANOTHER PERSON
29 TO CONDUCT, AN ANNUAL AUDIT OF THE FUEL PROCUREMENT AND PURCHASING
30 PRACTICES OF EACH ELECTRIC COMPANY SUBJECT TO THIS SECTION.

31 (2) THE DEPARTMENT OF LEGISLATIVE SERVICES MAY:

32 (I) CONDUCT AN AUDIT AND STUDY OF THE FUEL PROCUREMENT
33 AND PURCHASING PRACTICES OF AN ELECTRIC COMPANY; AND

1 (II) EXAMINE AN AUDIT ISSUED BY OR GENERATED AT THE
2 DIRECTION OF THE COMMISSION UNDER THIS SUBSECTION.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 78, § 54F(a) through (c), (e) through (i), and (k).

5 In subsection (c)(1) of this section, the former reference to "this article" is
6 retained even though "this article" now encompasses provisions other than
7 those from former Art. 78 of the Code. No substantive change is made; the
8 material in this article formerly in other articles does not affect fuel rate
9 adjustments.

10 Also in subsection (c)(1) of this section, the reference to making application
11 "to the Commission" is added for clarity. Correspondingly, in subsection
12 (d)(1) and (2) of this section, the references to "[t]he Commission" are
13 added.

14 In subsection (c)(2)(ii) of this section, the reference to evidentiary hearings
15 "under § 4-402(d) of this subtitle" is substituted for the former reference to
16 "public evidentiary hearings" for clarity.

17 In subsection (d)(1) of this section, the reference to the Commission's
18 "authoriz[ing] an electric company" to adjust its fuel rates is added for
19 clarity.

20 In subsection (i)(1) and (2)(i) of this section, the defined term "electric
21 company" is substituted for the former references to "utility" and "utilities"
22 for clarity.

23 In subsection (i)(2)(ii) of this section, the reference to an audit "generated
24 at the direction of" the Commission is added for clarity.

25 Former Art. 78, § 54F(d) and (j), which provided for termination of certain
26 rates and for a report, respectively, are deleted as obsolete.

27 Defined terms: "Commission" § 1-101

28 "Electric company" § 1-101

29 "Person" § 1-101

30 "Plant" § 1-101

31 "Proceeding" § 1-101

32 "Rate" § 1-101

33 "Record" § 1-101

34 SUBTITLE 5. PROHIBITIONS.

35 4-501. SERVICES AND COMPENSATION.

36 (A) PROVISION OF SERVICES; COMPENSATION.

37 IN ITS UTILITY OPERATIONS, A PUBLIC SERVICE COMPANY MAY NOT:

1 (1) SELL, RENDER SERVICES, OR FURNISH A COMMODITY UNTIL THE
2 PUBLIC SERVICE COMPANY FILES AND PUBLISHES ITS RATE SCHEDULES IN
3 ACCORDANCE WITH § 4-202 OF THIS TITLE; OR

4 (2) DEMAND OR COLLECT:

5 (I) COMPENSATION THAT DIFFERS FROM COMPENSATION
6 SPECIFIED IN ITS RATE SCHEDULES THAT ARE IN FORCE AT THE TIME OF THE
7 DEMAND OR COLLECTION; OR

8 (II) A CHARGE THAT VIOLATES THIS ARTICLE.

9 (B) SAME.

10 A PERSON MAY NOT ASSIST, ALLOW, OR ATTEMPT TO ASSIST OR ALLOW THE
11 ACTIONS PROHIBITED UNDER THIS SECTION BY ANY MEANS, INCLUDING FALSE
12 BILLING, FALSE CLASSIFICATION, FALSE WEIGHING, OR FALSE REPORT OF WEIGHT,
13 EVEN IF A PUBLIC SERVICE COMPANY OR ITS PERSONNEL CONSENTS TO OR
14 CONNIVES WITH THE PROHIBITED ACTION.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 78, § 27(a) and (b).

17 In subsection (a)(2)(ii) of this section, the reference to "this article" is
18 retained, although this article consists, in part, of material derived from
19 provisions outside former Art. 78. Because only material derived from
20 former Art. 78 sets charges, no substantive change results.

21 In subsection (b) of this section, the former references to a person
22 "suffer[ing]" a prohibited action, are deleted as included in the references
23 to "allow[ing]" such an action.

24 Also in subsection (b) of this section, the former reference to prohibited
25 actions "done by any means or device" is deleted as surplusage.

26 Defined terms: "Person" § 1-101

27 "Public service company" § 1-101

28 "Rate" § 1-101

29 4-502. EXCESSIVE RATES -- NO RECOVERY.

30 IN AN ACTION BY A PUBLIC SERVICE COMPANY TO COLLECT A CHARGE, THE
31 PUBLIC SERVICE COMPANY MAY NOT RECOVER ANY AMOUNT IF, IN THE
32 TRANSACTION THAT IS THE SUBJECT OF THE ACTION, THE PUBLIC SERVICE
33 COMPANY DEMANDED A RATE GREATER THAN THAT LAWFUL UNDER THIS ARTICLE
34 WHEN THE CHARGE WAS MADE.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 78, § 103.

1 The reference to a rate greater than that lawful "under this article" is
2 retained. Although this article is derived, in part, from provisions outside
3 former Art. 78, the only provisions of this article that relate to rate setting
4 are derived from former Art. 78; thus, no substantive change is made.

5 The reference to a rate greater than that lawful "when the charge was
6 made" is substituted for the former reference to a rate lawful "at the time"
7 for clarity.

8 Defined terms: "Public service company" § 1-101

9 "Rate" § 1-101

10 4-503. RATE DISCRIMINATION.

11 (A) SCOPE.

12 THIS SECTION DOES NOT APPLY TO SERVICE RENDERED OR COMMODITIES
13 FURNISHED:

14 (1) TO THE OFFICERS, EMPLOYEES, PENSIONERS, AND IMMEDIATE
15 FAMILY MEMBERS OF THE OFFICERS, EMPLOYEES, AND PENSIONERS OF A PUBLIC
16 SERVICE COMPANY;

17 (2) TO THE UNITED STATES, THE STATE, OR A LOCAL GOVERNMENT;

18 (3) TO PROVIDE RELIEF IN CASES OF GENERAL EPIDEMIC, PESTILENCE,
19 FLOOD, OR OTHER SIMILAR CALAMITY;

20 (4) IN THE CASE OF COMMON CARRIERS, TO TRANSPORT:

21 (I) PERSONNEL OF ANOTHER COMMON CARRIER THAT
22 RECIPROCATES FOR PERSONNEL OF THE TRANSPORTING COMMON CARRIER;

23 (II) HOSPITAL PATIENTS;

24 (III) INDIGENT, DESTITUTE, AND HOMELESS INDIVIDUALS;

25 (IV) PERSONS EXCLUSIVELY ENGAGED IN CHARITABLE WORK;

26 (V) RESIDENTS OF FEDERAL OR STATE VETERANS HOMES,
27 INCLUDING THOSE ABOUT TO ENTER A HOME OR THOSE RETURNING FROM A HOME;

28 (VI) RAILWAY MAIL SERVICE EMPLOYEES AND BAGGAGE AGENTS;

29 (VII) POST OFFICE, CUSTOMS, AND IMMIGRATION INSPECTORS;

30 (VIII) NEWSPAPER VENDORS;

31 (IX) PROPERTY FOR EXHIBITION CARRIED TO OR FROM FAIRS AND
32 EXPOSITIONS;

1 (X) EMPLOYEES OF SLEEPING CAR COMPANIES, EXPRESS
2 COMPANIES, TELEGRAPH COMPANIES, AND TELEPHONE COMPANIES DOING
3 BUSINESS ALONG THE LINE OF THE COMMON CARRIER;

4 (XI) PERSONS AND PROPERTY INCIDENT TO OR CONNECTED WITH
5 CONTRACTS FOR CONSTRUCTION, OPERATION, OR MAINTENANCE OF THE PLANT OF
6 THE TRANSPORTATION COMPANY, TO THE EXTENT PROVIDED IN THE CONTRACTS;

7 (XII) INDIVIDUALS INJURED IN ACCIDENTS AND PHYSICIANS,
8 NURSES, OR OTHER NECESSARY CARETAKERS ATTENDING THE INJURED
9 INDIVIDUALS IN TRANSIT;

10 (XIII) CHILDREN UNDER THE AGE OF 5 YEARS FOR NO CHARGE;

11 (XIV) CHILDREN UNDER 12 YEARS FOR HALF FARE; OR

12 (XV) PERSONS AT FREE OR REDUCED RATES THAT ARE OTHERWISE
13 AUTHORIZED BY LAW;

14 (5) IN THE CASE OF COMMON CARRIERS, FOR THE ISSUANCE OF
15 MILEAGE, EXCURSION, OR COMMUTER TICKETS;

16 (6) TO FREE STEAMBOAT EXCURSION TRANSPORTATION FROM MAY
17 THROUGH AUGUST OF EACH YEAR, FROM BALTIMORE CITY TO ANY PLACE IN THE
18 STATE, IN EXCHANGE FOR SERVICES RENDERED IN ADVERTISING THE EXCURSION
19 BUSINESS;

20 (7) TO OBTAIN ESSENTIAL DATA BY A METHOD THAT USES A LIMITED
21 SAMPLE OF CUSTOMERS, IN CONNECTION WITH A RATE STRUCTURE STUDY
22 CONDUCTED UNDER FORMAL PROCEEDINGS BEFORE THE COMMISSION; OR

23 (8) TO TELEPHONE LIFELINE SERVICE PROVIDED TO ELIGIBLE
24 SUBSCRIBERS UNDER § 8-201 OF THIS ARTICLE.

25 (B) PROHIBITIONS ON DISCRIMINATION.

26 FOR ANY SERVICE RENDERED OR COMMODITY FURNISHED, A PUBLIC SERVICE
27 COMPANY MAY NOT DIRECTLY OR INDIRECTLY, BY ANY MEANS, INCLUDING SPECIAL
28 RATES, REBATES, DRAWBACKS, OR REFUNDS:

29 (1) CHARGE, DEMAND, OR RECEIVE FROM A PERSON COMPENSATION
30 THAT IS GREATER OR LESS THAN FROM ANY OTHER PERSON UNDER SUBSTANTIALLY
31 SIMILAR CIRCUMSTANCES;

32 (2) EXTEND A PRIVILEGE OR FACILITY TO A PERSON, EXCEPT THOSE
33 PRIVILEGES AND FACILITIES THAT ARE EXTENDED UNIFORMLY TO ALL PERSONS
34 UNDER SUBSTANTIALLY SIMILAR CIRCUMSTANCES;

35 (3) DISCRIMINATE AGAINST A PERSON, LOCALITY, OR PARTICULAR
36 CLASS OF SERVICE; OR

1 (4) GIVE UNDUE OR UNREASONABLE PREFERENCE TO OR CAUSE
 2 UNDUE OR UNREASONABLE PREJUDICE TO A PERSON, LOCALITY, OR PARTICULAR
 3 CLASS OF SERVICE.

4 REVISOR'S NOTE: This section is new language derived without substantive
 5 change from former Art. 78, § 26.

6 In subsection (a)(4)(iii) and (xii) of this section, the references to
 7 "individuals" are substituted for the former references to "persons" for
 8 clarity since those provisions affect only "individuals" and not the other
 9 kinds of entities included in the defined term "person". See § 1-101 of this
 10 article.

11 In subsection (a)(4)(iv) of this section, the former reference to
 12 "eleemosynary" work is deleted to avoid redundancy.

13 In subsection (a)(4)(v) of this section, the reference to entering "a home" is
 14 added for clarity.

15 Also in subsection (a)(4)(v) of this section, the reference to "residents" is
 16 substituted for the former reference to "inmates of national or state
 17 soldiers and sailors homes, including those about to enter and those
 18 returning home after discharges" to conform to contemporary usage.

19 In subsection (a)(5) of this section, the reference to "joint interchangeable
 20 mileage tickets ..." and associated baggage is deleted as obsolete.

21 The Public Utility Companies Article Review Committee notes, for the
 22 consideration of the General Assembly, that in subsection (a)(4)(x) of this
 23 section, the reference to "sleeping car companies" appears to be obsolete.

24 The Public Utility Companies Article Review Committee also notes, for the
 25 consideration of the General Assembly, that in subsection (a)(6) of this
 26 section, it is unclear whether free steamboat excursions have been
 27 superseded by similar services, or are obsolete.

28 Defined terms: "Commission" § 1-101

29 "Common carrier" § 1-101

30 "Company" § 1-101

31 "Person" § 1-101

32 "Plant" § 1-101

33 "Proceeding" § 1-101

34 "Public service company" § 1-101

35 "Rate" § 1-101

36 "State" § 1-101

37 "Telegraph company" § 1-101

38 "Telephone company" § 1-101

1 TITLE 5. POWERS, DUTIES, AND PROHIBITIONS.

2 SUBTITLE 1. POWERS AND DUTIES OF THE COMMISSION.

3 5-101. REGULATION OF SERVICES.

4 (A) GENERAL AUTHORITY TO REGULATE SERVICES.

5 AFTER PROVIDING NOTICE AND AN OPPORTUNITY FOR INTERESTED PARTIES
6 TO BE HEARD, THE COMMISSION MAY ADOPT REGULATIONS THAT PRESCRIBE
7 STANDARDS FOR SAFE, ADEQUATE, REASONABLE, AND PROPER SERVICE FOR ANY
8 CLASS OF PUBLIC SERVICE COMPANY OR GAS MASTER METER OPERATOR.

9 (B) STANDARDS FOR REGULATION.

10 THE STANDARDS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL
11 BEST PROMOTE, IN THE OPINION OF THE COMMISSION, THE SECURITY OR
12 CONVENIENCE OF:

13 (1) THE PUBLIC;

14 (2) THOSE EMPLOYED IN FURNISHING SERVICES; AND

15 (3) THOSE TO WHOM SERVICES ARE RENDERED.

16 (C) ENFORCEMENT; ORDERS.

17 THE COMMISSION MAY:

18 (1) ENFORCE THE STANDARDS ADOPTED UNDER THIS SECTION; AND

19 (2) BY ORDER, AS THE COMMISSION CONSIDERS NECESSARY, REQUIRE
20 CHANGES AND ADDITIONS IN THE SERVICE OF ANY PUBLIC SERVICE COMPANY OR
21 GAS MASTER METER OPERATOR, INCLUDING:

22 (I) REPAIRS OR IMPROVEMENTS IN PLANT;

23 (II) INCREASE IN MOTIVE POWER; AND

24 (III) CHANGE IN SCHEDULE OR MANNER OF OPERATIONS.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 78, § 73(a).

27 In the introductory language of subsection (c) of this section, the former
28 reference to the Commission acting "to these ends" is deleted as
29 unnecessary.

30 In subsection (c)(2) of this section, the former reference to including "but
31 not limited to" is deleted in light of Art. 1, § 30 of the Code.

1 Defined terms: "Commission" § 1-101

2 "Gas master meter operator" § 1-101

3 "Plant" § 1-101

4 "Public service company" § 1-101

5 5-102. TICKETS, RATES, AND ROUTES.

6 (A) AUTHORITY TO REGULATE.

7 THE COMMISSION MAY:

8 (1) AS IT CONSIDERS REASONABLE AND PROPER, ORDER A COMMON
9 CARRIER TO ISSUE MILEAGE, EXCURSION, SCHOOL COMMUTER, PASSENGER
10 COMMUTER, OR JOINT INTERCHANGEABLE MILE TICKETS FOR ALL OR PART OF THE
11 COMMON CARRIER'S ROUTE IN THE STATE; AND

12 (2) REQUIRE ANY TWO OR MORE COMMON CARRIERS, WHOSE LINES
13 FORM A CONTINUOUS LINE OF TRANSPORTATION OR WHOSE LINES COULD FORM A
14 CONTINUOUS LINE OF TRANSPORTATION BY MEANS OF SWITCH CONNECTION, TO:

15 (I) ESTABLISH THROUGH ROUTES AND JOINT RATES;

16 (II) PROVIDE FOR THE MANNER OF SECURING THE THROUGH
17 ROUTES OR PAYING THE JOINT RATES; AND

18 (III) APPORTION THE THROUGH ROUTES AND JOINT RATES
19 BETWEEN THE AFFECTED COMMON CARRIERS.

20 (B) STATUTORY CONSTRUCTION.

21 THIS SECTION:

22 (1) IS SUBJECT TO § 7-208(C) OF THE TRANSPORTATION ARTICLE; AND

23 (2) DOES NOT LIMIT § 5-101 OF THIS SUBTITLE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 78, § 74.

26 In the introductory language of subsection (a) of this section, the word
27 "may" is substituted for the former reference to the Commission being
28 "specifically empowered" to conform with standard statutory style and for
29 brevity.

30 In subsection (a)(1) and (2) of this section, the defined term "common
31 carrier" is substituted for the former terms "common carrier company" and
32 "companies" for consistency.

33 In subsection (a)(2)(i) and (iii) of this section, the references to "through
34 routes and joint rates" are substituted for the former references to "them"
35 for clarity.

1 In subsection (b)(1) of this section, the reference to TR § 7-208(c), which
2 excludes certain transit facilities operated by the Mass Transit
3 Administration from Commission jurisdiction, is added for clarity.

4 The Public Utility Companies Article Review Committee notes, for the
5 consideration of the General Assembly, that mileage books and associated
6 tickets contained in this section have not been used for several years, and
7 should be considered for repeal.

8 Defined terms: "Commission" § 1-101

9 "Common carrier" § 1-101

10 "Rate" § 1-101

11 5-103. FRANCHISES.

12 (A) CONTINUATION OF SERVICE.

13 (1) THE COMMISSION MAY REQUIRE A PUBLIC SERVICE COMPANY TO
14 CONTINUE ANY SERVICE THAT THE PUBLIC SERVICE COMPANY RENDERS TO THE
15 PUBLIC UNDER ANY FRANCHISE, RIGHT, OR PERMIT, AFTER ANY APPLICABLE
16 EXPIRATION DATE.

17 (2) UNLESS AUTHORIZED BY THE COMMISSION, A PUBLIC SERVICE
18 COMPANY MAY NOT DISCONTINUE OR ABANDON A SERVICE UNDER A FRANCHISE,
19 RIGHT, OR PERMIT.

20 (3) THE COMMISSION MAY AUTHORIZE A PUBLIC SERVICE COMPANY TO
21 DISCONTINUE OR ABANDON A SERVICE UNDER A FRANCHISE, RIGHT, OR PERMIT IF
22 THE COMMISSION FINDS THAT THE PRESENT OR FUTURE PUBLIC CONVENIENCE
23 AND NECESSITY ALLOWS THE DISCONTINUANCE OR ABANDONMENT.

24 (4) DENIAL OF AUTHORIZATION TO DISCONTINUE OR ABANDON A
25 SERVICE UNDER A FRANCHISE, RIGHT, OR PERMIT DOES NOT PRECLUDE
26 SUBSEQUENT REAPPLICATION.

27 (B) ABANDONED RIGHTS, FRANCHISES, AND PERMITS.

28 (1) WHENEVER THE COMMISSION AUTHORIZES THE ABANDONMENT OR
29 DISCONTINUANCE OF A FRANCHISE, RIGHT, OR PERMIT, AS A WHOLE OR IN PART,
30 THAT INVOLVES ANY SERVICE TO OR FROM A SUBURBAN COMMUNITY, THE
31 COMMISSION:

32 (I) SHALL CONSIDER ALL APPLICATIONS TO ACQUIRE THE
33 FRANCHISE, RIGHT, OR PERMIT TO RENDER THE SERVICE; AND

34 (II) SHALL GRANT THE APPLICATION TO THE BEST QUALIFIED
35 APPLICANT.

36 (2) AN ABANDONED OR DISCONTINUED RIGHT THAT EXTENDS
37 BETWEEN MID-CITY AND SUBURBAN TERMINI SHALL CONTINUE TO EXTEND

1 BETWEEN THE MID-CITY AND SUBURBAN TERMINI IF THE ABANDONED OR
2 DISCONTINUED RIGHT:

3 (I) AS ACQUIRED BY THE ABANDONING OR DISCONTINUING
4 PUBLIC SERVICE COMPANY OR ITS PREDECESSOR, EXTENDED FROM MID-CITY TO
5 SUBURBAN TERMINI; OR

6 (II) WAS OPERATED BETWEEN THE MID-CITY AND SUBURBAN
7 TERMINI DURING MOST OF ITS EXISTENCE OR FOR AN AGGREGATE OF AT LEAST 15
8 YEARS.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 78, § 75.

11 In this section, the various references to "authorization" of discontinuance
12 or abandonment are substituted for the former references to the "consent"
13 to discontinuance or abandonment for consistency throughout this subtitle.

14 In subsection (a)(2) of this section, the reference to a "public service
15 company" is added for clarity.

16 In subsection (a)(3) of this section, the reference to "allows" is substituted
17 for the former reference to "permits" for clarity.

18 In subsection (a)(4) of this section, the former reference to a public service
19 company considering the "reapplications ... warranted" is deleted as
20 implicit.

21 In subsection (b)(1) of this section, the references to a "permit" are added
22 for conformity with subsection (a) of this section.

23 In subsection (b)(2) of this section, the former reference to a franchise or
24 right "likewise" extending between mid-city and suburban termini is
25 deleted as unnecessary.

26 Concerning common carriers, the provisions of this section do not apply to
27 transit facilities owned or operated by the Mass Transit Administration or
28 its contractors. See, TR § 7-208(c).

29 Defined terms: "Commission" § 1-101

30 "Public service company" § 1-101

31 5-104. LIMITATIONS ON THE COMMISSION'S POWER TO AUTHORIZE CERTAIN
32 ACTIONS OF PUBLIC SERVICE COMPANIES.

33 (A) REQUIRED FINDING OF PUBLIC CONVENIENCE AND NECESSITY.

34 THE COMMISSION MAY AUTHORIZE THE ACTS DESCRIBED IN §§ 5-202, 5-203,
35 AND 5-205 OF THIS TITLE IF IT FINDS THAT THE AUTHORIZATION IS CONSISTENT
36 WITH THE PUBLIC CONVENIENCE AND NECESSITY.

1 (B) REVIVAL, VALIDATION, ENLARGEMENT, AND WAIVERS.

2 AUTHORITY THAT THE COMMISSION GRANTS UNDER §§ 5-202 AND 5-203 OF THIS
3 TITLE DOES NOT:

4 (1) REVIVE A LAPSED FRANCHISE;

5 (2) VALIDATE AN INVALID FRANCHISE;

6 (3) ENLARGE OR ADD TO THE POWERS AND PRIVILEGES OF A
7 FRANCHISE; OR

8 (4) WAIVE A FORFEITURE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 78, § 24(c).

11 In subsection (a) of this section, the explicit reference to acts under § 5-205
12 of this article is added for clarity.

13 Also in subsection (a) of this section, the former reference to the "additional
14 requirements set forth in the following subsections of this section" is
15 deleted as surplusage.

16 Defined term: "Commission" § 1-101

17 5-105. SECURITY DEPOSITS FROM ELDERLY SUBSCRIBERS.

18 THE COMMISSION SHALL REQUIRE EACH GAS COMPANY, ELECTRIC COMPANY,
19 AND TELEPHONE COMPANY TO EXEMPT THE DWELLING UNITS OF SUBSCRIBING
20 INDIVIDUALS WHO ARE AT LEAST 60 YEARS OLD FROM ANY CASH DEPOSIT
21 REQUIREMENT, IF THE SUBSCRIBER DOES NOT OWE ANY PAST-DUE BILL TO THAT
22 PUBLIC SERVICE COMPANY.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 78, § 27A.

25 Defined terms: "Commission" § 1-101

26 "Electric company" § 1-101

27 "Gas company" § 1-101

28 "Public service company" § 1-101

29 "Telephone company" § 1-101

30 5-106. LICENSES AND PERMITS.

31 BEFORE A LICENSE OR PERMIT MAY BE ISSUED UNDER THIS ARTICLE TO AN
32 EMPLOYER TO ENGAGE IN AN ACTIVITY IN WHICH THE EMPLOYER MAY EMPLOY A
33 COVERED EMPLOYEE, AS DEFINED IN § 9-101 OF THE LABOR AND EMPLOYMENT
34 ARTICLE, THE EMPLOYER SHALL FILE WITH THE ISSUING AUTHORITY:

1 (1) A CERTIFICATE OF COMPLIANCE WITH THE MARYLAND WORKERS'
2 COMPENSATION ACT; OR

3 (2) THE NUMBER OF A WORKERS' COMPENSATION INSURANCE POLICY
4 OR BINDER.

5 REVISOR'S NOTE: This section formerly was Art. 78, § 28 1/2.

6 In the introductory language of this section, the reference to licenses and
7 permits issued under "this article" is retained, although this article
8 contains material derived in part from provisions outside of former Article
9 78. No substantive change is intended.

10 SUBTITLE 2. POWERS OF PUBLIC SERVICE COMPANIES.

11 5-201. FRANCHISES.

12 (A) AUTHORITY TO EXERCISE A FRANCHISE.

13 A PUBLIC SERVICE COMPANY MAY NOT EXERCISE A FRANCHISE GRANTED BY
14 LAW EXCEPT TO THE EXTENT AUTHORIZED BY THE COMMISSION.

15 (B) DOCUMENTS REQUIRED.

16 A PUBLIC SERVICE COMPANY MAY NOT EXERCISE A FRANCHISE UNLESS IT
17 FILES WITH THE COMMISSION:

18 (1) A CERTIFIED COPY OF ITS CHARTER; AND

19 (2) A STATEMENT BY ITS PRESIDENT AND SECRETARY, SIGNED UNDER
20 OATH, THAT THE APPROPRIATE LOCAL AUTHORITIES HAVE PROVIDED THE
21 REQUIRED CONSENT FOR THE EXERCISE OF THE FRANCHISE.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 78, § 24(a) and (d).

24 In subsection (a) of this section, the former word "[h]ereafter" is deleted as
25 surplusage.

26 In subsection (b)(2) of this section, the phrase "the exercise of the
27 franchise" is new language added for clarity.

28 Also in subsection (b)(2) of this section, the reference to statements being
29 "signed" under oath is new language added for accuracy.

30 Defined terms: "Commission" § 1-101

31 "Public service company" § 1-101

1 5-202. ACTIONS AFFECTING FRANCHISES.

2 WITHOUT PRIOR AUTHORIZATION OF THE COMMISSION, A PUBLIC SERVICE
3 COMPANY MAY NOT:

4 (1) ASSIGN, LEASE, OR TRANSFER A FRANCHISE OR A RIGHT UNDER A
5 FRANCHISE;

6 (2) ENTER INTO ANY AGREEMENT OR CONTRACT THAT MATERIALLY
7 AFFECTS A FRANCHISE OR A RIGHT UNDER A FRANCHISE; OR

8 (3) ABANDON OR DISCONTINUE THE EXERCISE OF A FRANCHISE OR A
9 RIGHT AS A WHOLE OR IN PART.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 78, § 24(b)(1) and (3).

12 The former reference to "[h]ereafter" is deleted as surplusage.

13 Defined terms: "Commission" § 1-101

14 "Public service company" § 1-101

15 5-203. SECURITIES.

16 (A) ACQUISITION.

17 SUBJECT TO § 6-101 OF THIS ARTICLE, WITHOUT PRIOR AUTHORIZATION OF
18 THE COMMISSION, A PUBLIC SERVICE COMPANY MAY NOT PURCHASE, ACQUIRE,
19 TAKE, OR HOLD ANY PART OF THE CAPITAL STOCK OF ANOTHER PUBLIC SERVICE
20 COMPANY INCORPORATED IN MARYLAND.

21 (B) CORPORATE ACTIONS.

22 (1) THIS SUBSECTION APPLIES TO CORPORATIONS INCORPORATED IN
23 MARYLAND.

24 (2) WITHOUT PRIOR AUTHORIZATION OF THE COMMISSION, A PUBLIC
25 SERVICE COMPANY MAY NOT:

26 (I) ASSUME OR GUARANTEE AN OBLIGATION OR LIABILITY WITH
27 RESPECT TO STOCKS, BONDS, SECURITIES, NOTES, OR OTHER EVIDENCE OF
28 INDEBTEDNESS THAT IS PAYABLE AS A WHOLE OR IN PART TO ANY PERSON MORE
29 THAN 12 MONTHS AFTER THE DATE OF ISSUANCE; OR

30 (II) ISSUE STOCKS, BONDS, SECURITIES, NOTES, OR OTHER
31 EVIDENCE OF INDEBTEDNESS PAYABLE AS A WHOLE OR IN PART MORE THAN 12
32 MONTHS AFTER THE DATE OF ISSUANCE.

33 (3) STOCKS, BONDS, SECURITIES, NOTES, OR OTHER EVIDENCE OF
34 INDEBTEDNESS DESCRIBED UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION SHALL
35 BE ISSUED IN ACCORDANCE WITH §§ 6-102 AND 6-103 OF THIS ARTICLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 78, § 24(b)(2), (4), and (5).

3 In subsections (a) and (b)(1) of this section, the references to public service
4 companies and corporations "incorporated in Maryland" are substituted for
5 the former references to these entities "organized or existing or hereafter
6 incorporated under or by virtue of the laws of this State" for brevity.

7 In subsection (a) of this section, the reference to § 6-101 of this article is
8 added for clarity.

9 In the introductory phrase of subsection (a) of this section, the former
10 reference to "[h]ereafter" is deleted as surplusage.

11 In subsection (b)(1) of this section, the former reference to corporations
12 "hereafter incorporated" is deleted as surplusage.

13 In subsection (b)(2)(i) of this section, the former reference to assuming or
14 guaranteeing obligations or liabilities "in any capacity or by any means" is
15 deleted as surplusage.

16 Also in subsection (b)(2)(i) of this section, the reference to indebtedness "of
17 any person" is deleted as surplusage.

18 Defined terms: "Commission" § 1-101

19 "Person" § 1-101

20 "Public service company" § 1-101

21 5-204. CONSTRUCTION OF WATER AND SEWAGE DISPOSAL SYSTEMS.

22 (A) SCOPE.

23 THIS SECTION DOES NOT APPLY TO:

24 (1) A MUNICIPAL CORPORATION, SANITARY DISTRICT, OR OTHER UNIT
25 OF GOVERNMENT;

26 (2) AN INDIVIDUAL, FOR THE CONSTRUCTION OF A WATER SYSTEM OR
27 SEWAGE DISPOSAL SYSTEM FOR THE INDIVIDUAL'S PERSONAL OR PRIVATE USE; OR

28 (3) A GROUP OF INDIVIDUALS FOR THEIR JOINT PERSONAL OR PRIVATE
29 USE, UNLESS THE COMMISSION FINDS THAT THE JOINT USE IS FOR THE PURPOSE OF
30 GENERALLY SERVING A PROPOSED NEW HOUSING DEVELOPMENT.

31 (B) AUTHORIZATION BY THE COMMISSION.

32 WITHOUT THE PRIOR AUTHORIZATION OF THE COMMISSION, A PERSON MAY
33 NOT CONSTRUCT A WATER SYSTEM OR SEWAGE DISPOSAL SYSTEM FOR PUBLIC USE.

34 (C) REQUIRED FINDINGS BY THE COMMISSION.

1 (1) THE COMMISSION MAY AUTHORIZE THE CONSTRUCTION OF A
2 WATER SYSTEM OR SEWAGE DISPOSAL SYSTEM FOR PUBLIC USE ONLY ON A FINDING
3 THAT THE CONSTRUCTION OF THE WATER SYSTEM OR SEWAGE DISPOSAL SYSTEM IS
4 IN THE PUBLIC INTEREST.

5 (2) IN DETERMINING WHETHER THE PROPOSED CONSTRUCTION OF THE
6 WATER SYSTEM OR SEWAGE DISPOSAL SYSTEM IS IN THE PUBLIC INTEREST, THE
7 COMMISSION SHALL CONSIDER:

8 (I) THE FINANCING PLANS FOR THE PROPOSED CONSTRUCTION;
9 AND

10 (II) OTHER PERTINENT FACTS AND CIRCUMSTANCES.

11 (D) REQUIRED DISCLOSURE; BURDEN OF PROOF.

12 AN APPLICANT FOR AUTHORIZATION TO CONSTRUCT A WATER SYSTEM OR
13 SEWAGE DISPOSAL SYSTEM:

14 (1) SHALL FULLY DISCLOSE TO THE COMMISSION THE FINANCING
15 PLANS FOR THE CONSTRUCTION; AND

16 (2) HAS THE BURDEN OF PROOF TO SATISFY THE COMMISSION THAT
17 THE CONSTRUCTION IS IN THE PUBLIC INTEREST.

18 (E) REVOCATION OF AUTHORIZATION.

19 (1) AFTER A HEARING, THE COMMISSION MAY REVOKE AN
20 AUTHORIZATION TO CONSTRUCT A WATER SYSTEM OR SEWAGE DISPOSAL SYSTEM IF
21 THE COMMISSION FINDS THAT THE REVOCATION IS IN THE PUBLIC INTEREST.

22 (2) AN ORDER OF REVOCATION MAY BE APPEALED IN ACCORDANCE
23 WITH § 3-204 OF THIS ARTICLE.

24 (3) SUBJECT TO ACTION OF THE COMMISSION UNDER § 3-205 OF THIS
25 ARTICLE, THE FILING OF AN APPEAL DOES NOT STAY AN ORDER OF REVOCATION.

26 (4) AFTER THE COMMISSION ISSUES AN ORDER OF REVOCATION, THE
27 WATER SYSTEM OR SEWAGE DISPOSAL SYSTEM MAY NOT BE OPERATED UNTIL THE
28 REVOCATION IS REPEALED BY:

29 (I) THE COMMISSION; OR

30 (II) THE FINAL DISPOSITION OF AN APPEAL FROM THE ORDER OF
31 REVOCATION.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 78, § 24A.

34 In subsection (a)(2) and (3) of this section, the references to this section not
35 applying to "an individual" or "a group of individuals" are substituted for

1 the former reference to the section not applying to "construction ... by an
2 individual ... or by a group of individuals" for consistency with the
3 prohibition in subsection (b) of this section.

4 In subsection (b) of this section, the reference to a "person" is substituted
5 for the former reference to an "individual, corporation, firm, partnership,
6 ... joint stock company or association or any other form of business
7 enterprise" in light of the definition of person in § 1-101 of this article.

8 In subsection (e) of this section, the reference to authorization to
9 "construct" is substituted for the former reference to the authorization
10 "granted under this section" for clarity.

11 In subsection (e)(3) of this section, the qualification "[s]ubject to action of
12 the Commission under" § 3-205 of this article is substituted for the former
13 qualification "as further provided in [former Art. 78] § 92" for clarity.

14 Defined terms: "Commission" § 1-101

15 "Person" § 1-101

16 5-205. CONTROLLING INTERESTS IN WATER AND SEWAGE DISPOSAL COMPANIES.

17 (A) TRANSFER.

18 WITHOUT PRIOR AUTHORIZATION OF THE COMMISSION, A PERSON MAY NOT
19 TRANSFER A CONTROLLING INTEREST IN A WATER COMPANY OR SEWAGE DISPOSAL
20 COMPANY TO ANOTHER PERSON.

21 (B) REQUIRED FINDING OF PUBLIC CONVENIENCE AND NECESSITY.

22 THE COMMISSION MAY AUTHORIZE THE TRANSFER OF A CONTROLLING
23 INTEREST IN A WATER COMPANY OR SEWAGE DISPOSAL COMPANY IF THE
24 COMMISSION FINDS THAT THE TRANSFER IS CONSISTENT WITH THE PUBLIC
25 CONVENIENCE AND NECESSITY.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 78, § 65A.

28 In subsection (a) of this section, the former reference to "group of persons"
29 is deleted as unnecessary in light of Art. 1, § 8 of the Code which provides
30 that "[t]he singular always includes the plural, and vice versa, except
31 where such construction would be unreasonable."

32 Defined terms: "Commission" § 1-101

33 "Person" § 1-101

34 "Sewage disposal company" § 1-101

35 "Water company" § 1-101

1 SUBTITLE 3. DUTIES OF PUBLIC SERVICE COMPANIES.

2 5-301. IN GENERAL.

3 (A) SCOPE OF SECTION.

4 EXCEPT AS OTHERWISE PROVIDED BY LAW, THIS SECTION DOES NOT APPLY TO
5 A REQUIREMENT OR VIOLATION OF:

6 (1) SUBTITLE 4 OF THIS TITLE;

7 (2) TITLE 7, SUBTITLE 1 OF THIS ARTICLE;

8 (3) TITLE 8, SUBTITLES 1 AND 3 OF THIS ARTICLE; OR

9 (4) TITLE 9, SUBTITLE 3 OF THIS ARTICLE.

10 (B) COMPLIANCE WITH ARTICLE.

11 A PUBLIC SERVICE COMPANY:

12 (1) SHALL COMPLY FULLY WITH THE REQUIREMENTS OF THIS ARTICLE;
13 AND

14 (2) MAY NOT VIOLATE ANY PROVISION OF THIS ARTICLE.

15 REVISOR'S NOTE: Subsection (a) of this section is new language added to
16 distinguish the duties imposed on public service companies by provisions
17 derived from former Art. 78 from those duties imposed by provisions
18 derived from other articles of the Code.

19 Subsection (b) of this section is new language derived without substantive
20 change from former Art. 78, § 28(f).

21 Although a public service company may not violate any applicable law, the
22 limitation stated in subsection (a) of this section is necessary to avoid
23 expansion of the prohibited acts that may be subject to sanction by the
24 Commission.

25 The former reference to "such other duties as may be specifically imposed
26 by this article" is deleted as unnecessary. Any duty imposed under this
27 section would be in addition to, not instead of, any other duty imposed by
28 another provision of this article.

29 Defined term: "Public service company" § 1-101

30 5-302. REPORTS AND OTHER DOCUMENTS.

31 (A) FILING.

32 A PUBLIC SERVICE COMPANY SHALL FILE WITH THE COMMISSION:

1 (1) AN ANNUAL REPORT FOR THE PRECEDING CALENDAR YEAR; AND

2 (2) SPECIAL REPORTS, INFORMATION, CONTRACTS, RECORDS, AND
3 COPIES AS REQUIRED BY THE COMMISSION.

4 (B) SAME -- FILING UNDER OATH.

5 THE COMMISSION MAY REQUIRE A PUBLIC SERVICE COMPANY THAT FILES
6 DOCUMENTS UNDER SUBSECTION (A) OF THIS SECTION TO FILE THE DOCUMENTS
7 UNDER OATH.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 78, § 28(b).

10 In subsection (a) of this section, the former reference to "such other duties
11 as may be specifically imposed by this article" is deleted as unnecessary.
12 Any duty imposed under this section would be in addition to, not instead
13 of, any other duty imposed by another provision of this article.

14 The Public Utility Companies Article Review Committee notes, for the
15 consideration of the General Assembly, that this section does not specify a
16 filing date for the annual report of a public service company.

17 Defined terms: "Commission" § 1-101

18 "Public service company" § 1-101

19 "Record" § 1-101

20 5-303. STANDARDS OF SERVICE.

21 A PUBLIC SERVICE COMPANY SHALL FURNISH EQUIPMENT, SERVICES, AND
22 FACILITIES THAT ARE SAFE, ADEQUATE, JUST, REASONABLE, ECONOMICAL, AND
23 EFFICIENT, CONSIDERING THE CONSERVATION OF NATURAL RESOURCES AND THE
24 QUALITY OF THE ENVIRONMENT.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 78, § 28(c).

27 In this section, the former phrase "such other duties as may be specifically
28 imposed by this article" is deleted as unnecessary. Any duty imposed under
29 this section would be in addition to, not instead of, any other duty imposed
30 by another provision of this article.

31 Also in this section, the reference to "equipment" is substituted for the
32 former reference to "instrumentalities" for clarity. Similarly, the former
33 reference to furnishing "utilities" is deleted as implicit in the reference to
34 furnishing "services ... and facilities".

35 Defined term: "Public service company" § 1-101

1 5-304. ACCIDENTS.

2 (A) NOTICE.

3 (1) A PUBLIC SERVICE COMPANY SHALL NOTIFY THE COMMISSION OF
4 ANY ACCIDENT INVOLVING THE PUBLIC SERVICE COMPANY THAT RESULTS IN
5 PERSONAL INJURY, PROPERTY DAMAGE, OR LOSS OF LIFE.

6 (2) THE PUBLIC SERVICE COMPANY SHALL NOTIFY THE COMMISSION
7 WITHIN 30 DAYS AFTER THE DAY THE ACCIDENT OCCURS OR WITHIN A PERIOD THAT
8 THE COMMISSION PRESCRIBES.

9 (B) LIMITATIONS ON NOTICE.

10 THE NOTICE:

11 (1) SHALL BE IN A FORM THAT THE COMMISSION PRESCRIBES; AND

12 (2) MAY NOT BE ADMISSIBLE IN EVIDENCE, OR USED FOR ANY PURPOSE
13 AGAINST THE PUBLIC SERVICE COMPANY THAT PROVIDES THE NOTICE, IN AN
14 ACTION FOR DAMAGES ARISING OUT OF ANY MATTER THAT IS REPORTED IN THE
15 NOTICE.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 78, § 28(e).

18 In subsection (a) of this section, the former reference to "such other duties
19 as may be specifically imposed by this article" is deleted as unnecessary.
20 Any duty imposed under this section would be in addition to, not instead
21 of, any other duty imposed by another provision of this article.

22 Defined terms: "Commission" § 1-101

23 "Public service company" § 1-101

24 REVISOR'S NOTE TO SUBTITLE:

25 Former Art. 23, § 139 is deleted as duplicative of the provisions of LE § 3-502,
26 which governs payment of wages by all employers in the State.

27 SUBTITLE 4. FRANCHISES AND CONDEMNATION.

28 5-401. SCOPE OF SUBTITLE.

29 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE OR BY OTHER LAW, THE
30 PROVISIONS OF THIS SUBTITLE ARE NOT SUBJECT TO THE JURISDICTION OF THE
31 COMMISSION.

32 REVISOR'S NOTE: This section is new language added to reflect the limitation
33 of the Commission's jurisdiction over the provisions contained in this
34 subtitle that are derived from former Article 23.

1 Defined term: "Commission" § 1-101

2 5-402. LIMITATIONS.

3 (A) COMPENSATION TO BE PAID.

4 THIS SUBTITLE DOES NOT AUTHORIZE A CORPORATION TO TAKE OR USE
5 PROPERTY UNLESS JUST COMPENSATION, AS AGREED ON WITH THE OWNER OR
6 AWARDED BY A JURY, HAS BEEN PAID OR TENDERED TO THE PARTIES ENTITLED TO
7 COMPENSATION OR PAID INTO COURT.

8 (B) LOCATION OF PUBLIC ROAD.

9 THIS SUBTITLE DOES NOT AUTHORIZE THE LOCATION OF A PUBLIC ROAD ON
10 PRIVATE PROPERTY WITHOUT THE CONSENT OF THE OWNER OR THE DECISION OF
11 THE COUNTY COMMISSIONERS OR COUNTY COUNCIL AFTER NOTICE AND AN
12 OPPORTUNITY TO BE HEARD AS REQUIRED BY LAW FOR OPENING OR ALTERING
13 PUBLIC ROADS.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 23, § 339.

16 In this section, the reference to "[t]his subtitle" is substituted for the
17 former reference to that which is "herein contained" to reflect the revision
18 of this section with several other provisions derived from former Article 23.

19 In subsection (b) of this section, the reference to the "county council" is
20 added to reflect the establishment of home rule since the original
21 enactment of this provision.

22 Also in subsection (b) of this section, the phrase "after notice and an
23 opportunity to be heard" is substituted for the former phrase "upon due
24 hearing" to reflect modern principles of due process. See, e.g., Fuentes v.
25 Shevin, 407 U.S. 67 (1972); Barry Properties v. Fick Bros. Roofing Co., 277
26 Md. 15 (1976).

27 Defined term: "County" § 1-101

28 5-403. GAS COMPANIES.

29 (A) SCOPE OF SECTION.

30 THIS SECTION APPLIES TO A DOMESTIC OR FOREIGN CORPORATION THAT IS OR
31 MAY BECOME ENGAGED IN THE BUSINESS OF TRANSMITTING OR SUPPLYING
32 NATURAL GAS, ARTIFICIAL GAS, OR A MIXTURE OF NATURAL AND ARTIFICIAL GASES.

33 (B) POWER TO CONDEMN.

34 SUBJECT TO SUBSECTION (C) OF THIS SECTION, A CORPORATION DESCRIBED IN
35 SUBSECTION (A) OF THIS SECTION MAY ACQUIRE BY CONDEMNATION, IN
36 ACCORDANCE WITH TITLE 12 OF THE REAL PROPERTY ARTICLE, RIGHTS-OF-WAY OR

1 EASEMENTS NECESSARY TO LAY, CONSTRUCT, MODIFY, REPAIR, MAINTAIN, OPERATE,
2 AND REMOVE PIPELINES AND APPURTENANCES TO PIPELINES FOR TRANSMITTING
3 AND SUPPLYING GAS.

4 (C) LIMITATION ON POWER.

5 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
6 CORPORATION MAY NOT CONDEMN RIGHTS-OF-WAY OR EASEMENTS UNDER
7 SUBSECTION (B) OF THIS SECTION UNLESS THE CORPORATION:

8 (I) 1. TRANSMITS GAS DIRECTLY TO LOCAL CONSUMERS IN THE
9 STATE ALONG THE CORPORATION'S PROPOSED RIGHTS-OF-WAY; AND

10 2. OFFERS TO CONTRACT WITH THOSE LOCAL CONSUMERS
11 TO SUPPLY THEM DIRECTLY WITH GAS ON TERMS AND CONDITIONS SUBJECT TO THE
12 APPROVAL OF THE COMMISSION; AND

13 (II) HAS CERTIFIED TO THE STATE DEPARTMENT OF ASSESSMENTS
14 AND TAXATION THE NAME AND ADDRESS OF A RESIDENT AGENT OF THE
15 CORPORATION IN THE STATE, SERVICE OF PROCESS ON WHOM SHALL BIND THE
16 CORPORATION UNTIL THE APPOINTMENT OF A SUBSTITUTE IS CERTIFIED TO THE
17 STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

18 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT AFFECT THE RIGHT
19 OF A CORPORATION THAT WAS TRANSMITTING NATURAL GAS, ARTIFICIAL GAS, OR A
20 MIXTURE OF NATURAL AND ARTIFICIAL GASES FOR PUBLIC USE THROUGH ONE OR
21 MORE PIPELINES IN THE STATE ON OR BEFORE JUNE 1, 1931, TO CONDEMN FOR
22 PUBLIC USE NECESSARY RIGHTS-OF-WAY OR EASEMENTS FOR:

23 (I) A PIPELINE OR APPURTENANCES TO A PIPELINE IN USE ON OR
24 BEFORE JUNE 1, 1931;

25 (II) ANY INCIDENTAL RELOCATIONS OF A PIPELINE OR
26 APPURTENANCES TO A PIPELINE IN USE ON OR BEFORE JUNE 1, 1931; OR

27 (III) ANY ADDITIONAL PIPELINES OR APPURTENANCES TO
28 PIPELINES ALONG AND ON THE SAME ROUTES OR ALONG AND ON ANY INCIDENTAL
29 RELOCATIONS OF A PIPELINE OR APPURTENANCES TO A PIPELINE IN USE ON OR
30 BEFORE JUNE 1, 1931.

31 (D) CONSTRUCTION OF SECTION.

32 THIS SECTION DOES NOT AFFECT THE APPLICATION OF ANY PROVISION OF
33 THIS ARTICLE THAT APPLIES GENERALLY OR SPECIFICALLY TO A CORPORATION
34 THAT IS OR MAY BECOME ENGAGED IN THE BUSINESS OF TRANSMITTING OR
35 SUPPLYING NATURAL GAS, ARTIFICIAL GAS, OR A MIXTURE OF NATURAL AND
36 ARTIFICIAL GASES.

37 REVISOR'S NOTE: This section is new language derived without substantive
38 change from former Art. 23, § 341.

1 In subsection (c)(2) of this section, the references to "a corporation that was
2 transmitting natural gas ... on or before June 1, 1931" and "a pipeline or
3 appurtenances to a pipeline in use on or before June 1, 1931" are
4 substituted for the former references to "any corporation which is now
5 transmitting such gas or gases" and "a pipeline or pipelines now in use or
6 appurtenances thereto" for clarity and accuracy.

7 Also in subsection (c)(2) of this section, the former phrase "so that the right
8 of any such corporation to condemn for those purposes shall be determined
9 as if this proviso had not been enacted" is deleted as redundant.

10 In subsection (d) of this section, the reference to "any provision of this
11 article that applies generally or specifically" is substituted for the former
12 obsolete reference to "Article 78 of the Code". Although this article is
13 derived, in part, from provisions outside former Article 78, no substantive
14 change is intended.

15 Defined term: "Commission" § 1-101

16 5-404. OIL PIPELINE CORPORATIONS.

17 (A) DEFINITIONS.

18 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (2) "OIL PIPELINE CORPORATION" MEANS A CORPORATION OF THIS
21 STATE, ANY OTHER STATE, OR THE UNITED STATES, THAT IS:

22 (I) ENGAGED IN THE BUSINESS OF TRANSPORTING REFINED
23 PETROLEUM PRODUCTS BY PIPELINE AS A COMMON CARRIER PUBLIC SERVICE
24 CORPORATION; AND

25 (II) SUBJECT TO THE JURISDICTION OF EITHER THE UNITED
26 STATES DEPARTMENT OF ENERGY (FEDERAL ENERGY REGULATORY COMMISSION)
27 OR THE COMMISSION.

28 (3) (I) "PROPERTY" MEANS REAL PROPERTY IN FEE SIMPLE OR ANY
29 LESSER RIGHT, INTEREST, OR ESTATE THAT IS NECESSARY FOR THE INTRASTATE OR
30 INTERSTATE PURPOSES OF THE OIL PIPELINE CORPORATION OR BOTH.

31 (II) "PROPERTY" INCLUDES:

32 1. PRIVATELY OWNED PROPERTY;

33 2. PROPERTY OWNED BY A PUBLIC BODY; AND

34 3. PROPERTY DEVOTED TO PUBLIC USE IF AN ACQUISITION
35 UNDER THIS SECTION DOES NOT MATERIALLY INTERFERE WITH THAT PUBLIC USE.

36 (B) POWER TO CONDEMN.

1 AN OIL PIPELINE CORPORATION THAT IS OPERATING AN OIL PIPELINE THAT
2 EXISTED IN THE STATE ON OR BEFORE JULY 1, 1978, MAY ACQUIRE BY
3 CONDEMNATION, IN ACCORDANCE WITH TITLE 12 OF THE REAL PROPERTY ARTICLE,
4 ANY PROPERTY NECESSARY TO:

5 (1) OPERATE THOSE EXISTING OIL PIPELINES AND APPURTENANCES; OR

6 (2) CONSTRUCT AND OPERATE ADDITIONAL OIL PIPELINES AND
7 APPURTENANCES ALONG, ON, ADJACENT TO, OR INCIDENTALLY DEVIATING NOT
8 MORE THAN 50 FEET FROM THE ROUTES FOLLOWED BY THE CORPORATION'S
9 EXISTING RIGHTS-OF-WAY.

10 (C) LIMITATION ON POWER.

11 THE RIGHT TO ACQUIRE PROPERTY UNDER THIS SECTION MAY BE EXERCISED
12 ONLY IN ANNE ARUNDEL, BALTIMORE, CARROLL, CECIL, HARFORD, HOWARD,
13 MONTGOMERY, AND PRINCE GEORGE'S COUNTIES AND BALTIMORE CITY.

14 (D) RESTORATION OF PROPERTY TO ORIGINAL CONDITION.

15 (1) AN OIL PIPELINE CORPORATION SHALL RESTORE TO ITS ORIGINAL
16 CONDITION ANY PROPERTY USED FOR CONSTRUCTION OR MAINTENANCE OF A
17 PIPELINE.

18 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
19 PARAGRAPH, THE CONSTRUCTION OR MAINTENANCE OF THE PIPELINE AND THE
20 RESTORATION OF THE PROPERTY SHALL BE COMPLETED WITHIN 7 DAYS AFTER THE
21 START OF THE CONSTRUCTION OR MAINTENANCE ON THAT PARCEL OF PROPERTY.

22 (II) IF WEATHER CONDITIONS OR THE NATURE OF THE TERRAIN
23 MAKE COMPLETION WITHIN 7 DAYS UNFEASIBLE, THE OIL PIPELINE CORPORATION
24 SHALL COMPLETE THE CONSTRUCTION OR MAINTENANCE OF THE PIPELINE AND
25 THE RESTORATION OF THE PROPERTY WITHIN 30 DAYS.

26 (E) COMMISSION FINDING AND ORDER.

27 (1) THE RIGHT TO ACQUIRE PROPERTY UNDER THIS SECTION MAY NOT
28 BE EXERCISED UNLESS THE OIL PIPELINE CORPORATION, WHETHER OR NOT IT IS
29 OTHERWISE SUBJECT TO THE JURISDICTION OF THE COMMISSION, FIRST OBTAINS
30 AN ORDER FROM THE COMMISSION FINDING THE ACQUISITION TO BE IN THE PUBLIC
31 INTEREST.

32 (2) BEFORE THE COMMISSION MAKES A FINDING AND ISSUES AN ORDER
33 UNDER THIS SUBSECTION, THE COMMISSION SHALL HOLD A PUBLIC HEARING.

34 (3) THE OIL PIPELINE CORPORATION SHALL GIVE WRITTEN NOTICE OF
35 THE PUBLIC HEARING TO ALL AFFECTED PROPERTY OWNERS.

36 (F) CONSTRUCTION OF SECTION.

1 THIS SECTION DOES NOT AFFECT ANY OTHER LAW OF THE STATE THAT
2 APPLIES GENERALLY OR SPECIFICALLY TO OIL PIPELINE CORPORATIONS.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 23, § 341A.

5 In the introductory language of subsection (b) of this section, the reference
6 to "[a]n oil pipeline corporation that is operating an oil pipeline that
7 existed in the State on or before July 1, 1978" is substituted for the former
8 reference to "[a]n oil pipeline corporation which is operating existing oil
9 pipelines in this State" for clarity and accuracy.

10 Also in the introductory language of subsection (b) of this section, the
11 phrase "by condemnation" is substituted for the former phrase "by eminent
12 domain" for consistency with terminology used throughout this subtitle.

13 In subsection (e)(1) of this section, the former reference to the authority of
14 the Commission "to make a finding and issue an order" is deleted as
15 implicit in the requirement that an oil pipeline corporation obtain an order
16 containing findings.

17 The Public Utility Companies Article Review Committee notes, for the
18 consideration of the General Assembly, that in subsection (e)(3) of this
19 section, the requirement that "[t]he oil pipeline corporation ... give" written
20 notice to all affected property owners is added to clarify who must give the
21 required notice. No substantive change is intended.

22 Defined term: "Commission" § 1-101

23 5-405. RAILROAD COMPANIES -- IN GENERAL.

24 (A) AGREEMENT WITH OWNER.

25 A RAILROAD COMPANY OR ITS AUTHORIZED AGENT MAY AGREE WITH THE
26 OWNER TO PURCHASE, USE, OCCUPY, OR DIVERT THE OWNER'S LAND, EARTH,
27 GRAVEL, STONE, TIMBER, STREAMS, MATERIALS, OR IMPROVEMENTS THAT THE
28 COMPANY WANTS FOR THE PROPER CONSTRUCTION OR REPAIR OF THE RAILROAD
29 COMPANY'S ROADS OR WORKS.

30 (B) POWER TO CONDEMN.

31 THE COMPANY MAY ACQUIRE THE PROPERTY BY CONDEMNATION UNDER
32 TITLE 12 OF THE REAL PROPERTY ARTICLE IF:

33 (1) THE COMPANY CANNOT AGREE WITH THE OWNER OF THE
34 PROPERTY; OR

35 (2) AN OWNER:

1 (I) IS A MINOR, IS ADJUDGED TO BE MENTALLY INCOMPETENT, OR
2 IS UNDER ANY OTHER LEGAL DISABILITY TO CONTRACT; OR

3 (II) IS ABSENT FROM THE COUNTY IN WHICH THE PROPERTY IS
4 LOCATED WHEN THE COMPANY WANTS THE PROPERTY.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 23, § 193.

7 In subsection (a) of this section, the reference to a "railroad company" is
8 substituted for the former reference to the "president and directors" for
9 clarity and consistency with terminology used elsewhere in this subtitle.

10 In the introductory language of subsection (b) of this section, the phrase
11 "acquire the property by condemnation" is substituted for the former
12 phrase "proceed to condemn" for consistency with terminology used
13 elsewhere in this subtitle.

14 In subsection (b)(2)(i) of this section, the word "minor" is substituted for
15 the former word "infant" for consistency with terminology used throughout
16 the Code. See, Art. 1, § 24 of the Code.

17 Also in subsection (b)(2)(i) of this section, the phrase "adjudged to be
18 mentally incompetent" is substituted for the former archaic phrase "non
19 compos mentis".

20 The Public Utility Companies Article Review Committee notes, for the
21 consideration of the General Assembly, that in subsection (b)(2)(ii) of this
22 section, the use of condemnation if "an owner ... is absent from the county
23 in which the property is located" appears to be obsolete.

24 Defined terms: "Company" § 1-101

25 "County" § 1-101

26 "Railroad" § 1-101

27 5-406. SAME -- CHANGE IN LOCATION OR GRADE.

28 (A) WHEN CHANGE AUTHORIZED.

29 (1) A RAILROAD COMPANY MAY CHANGE THE LOCATION OR GRADE OF
30 ANY PORTION OF ITS ROAD IF THE COMPANY FINDS THE CHANGE IS NECESSARY FOR
31 ANY REASONABLE CAUSE, INCLUDING TO AVOID:

32 (I) INCONVENIENCE TO PUBLIC TRAVEL;

33 (II) DANGEROUS OR DIFFICULT CURVES OR GRADES; OR

34 (III) UNSAFE OR UNSUBSTANTIAL GROUNDS OR FOUNDATIONS.

35 (2) A CHANGE OF LOCATION OR GRADE UNDER THIS SECTION SHALL
36 FOLLOW THE GENERAL ROUTE OF THE EXISTING ROAD.

1 (3) A RAILROAD COMPANY MAY ENTER ON AND TAKE LAND AND MAKE
2 SURVEYS NECESSARY TO MAKE THE CHANGE IN LOCATION OR GRADE IN
3 ACCORDANCE WITH TITLE 12 OF THE REAL PROPERTY ARTICLE.

4 (B) LIABILITY FOR DAMAGES CAUSED BY CHANGE.

5 (1) A RAILROAD COMPANY IS LIABLE TO THE OWNER OF THE LAND ON
6 WHICH THE ROAD WAS CONSTRUCTED FOR ANY DAMAGES CAUSED BY A CHANGE IN
7 LOCATION OR GRADE OF THE ROAD.

8 (2) THE AMOUNT OF DAMAGES DETERMINED SHALL BE PAID TO THE
9 OWNER OR DEPOSITED INTO COURT.

10 (3) AN OWNER SHALL CLAIM DAMAGES WITHIN:

11 (I) 30 DAYS AFTER ACTUAL NOTICE OF THE INTENDED CHANGE
12 HAS BEEN GIVEN TO THE OWNER, IF THE OWNER RESIDES ON THE PREMISES; OR

13 (II) 60 DAYS AFTER PUBLICATION OF NOTICE IN A NEWSPAPER IN
14 GENERAL CIRCULATION IN THE COUNTY, IF THE OWNER IS A NONRESIDENT.

15 (C) CONDEMNATION BINDING.

16 IF A RAILROAD COMPANY CONDEMNS LAND UNDER THIS SECTION, THE
17 CONDEMNATION IS BINDING ON THE COMPANY, UNLESS THE COMPANY CHOOSES TO
18 ABANDON THE LOCATION WITHIN 30 DAYS AFTER MAKING THE CONDEMNATION.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 23, § 196.

21 In subsection (a)(1)(i) of this section, the word "inconvenience" is
22 substituted for the former archaic word "annoyance".

23 In subsection (a)(2) of this section, the reference to the general route "of the
24 existing road" is substituted for the former obsolete reference to the route
25 "prescribed in the certificate of the company".

26 In subsection (a)(3) of this section, the former word "appropriate" is deleted
27 as implicit in the word "take".

28 In subsection (b)(1) of this section, the former word "heretofore" is deleted
29 as surplusage.

30 Defined terms: "Company" § 1-101

31 "County" § 1-101

32 "Railroad" § 1-101

33 5-407. SAME -- PUBLIC WAY.

34 (A) AGREEMENT WITH OWNER.

1 A RAILROAD COMPANY AND THE MUNICIPAL CORPORATION, PUBLIC OFFICER,
2 OR PUBLIC AUTHORITY THAT OWNS OR HAS CONTROL OF ANY ROAD, STREET, ALLEY,
3 OR OTHER PUBLIC WAY OR GROUND NECESSARY TO LOCATE ANY PART OF THE
4 RAILROAD MAY AGREE ON THE MANNER, TERMS, AND CONDITIONS ALLOWING THE
5 RAILROAD COMPANY TO USE OR OCCUPY THE ROAD, STREET, ALLEY, OR OTHER
6 PUBLIC WAY OR GROUND.

7 (B) ACTION FOR CONDEMNATION.

8 IF THE PARTIES ARE UNABLE TO AGREE AND THE RAILROAD COMPANY NEEDS
9 TO USE OR OCCUPY THE ROAD, STREET, ALLEY, OR OTHER PUBLIC WAY OR GROUND,
10 THE RAILROAD COMPANY MAY ACQUIRE THE PROPERTY BY CONDEMNATION IN
11 ACCORDANCE WITH TITLE 12 OF THE REAL PROPERTY ARTICLE.

12 (C) RESPONSIBILITY FOR DAMAGE TO PRIVATE PROPERTY.

13 (1) A RAILROAD COMPANY THAT LAYS TRACK ON ANY PUBLIC STREET,
14 ROAD, ALLEY, OR OTHER PUBLIC WAY OR GROUND IS RESPONSIBLE FOR ANY
15 DAMAGE DONE BY THE LOCATION OF THE TRACK TO PRIVATE PROPERTY ON OR
16 NEAR THE PUBLIC WAY OR GROUND.

17 (2) THE OWNER OF THE PRIVATE PROPERTY SHALL BRING A CIVIL
18 ACTION FOR DAMAGES UNDER THIS SUBSECTION WITHIN 2 YEARS AFTER THE
19 COMPLETION OF THE TRACK.

20 (D) CONSENT REQUIRED IN BALTIMORE CITY.

21 A RAILROAD COMPANY MAY NOT PASS THROUGH BALTIMORE CITY WITHOUT
22 THE CONSENT OF THE MAYOR AND CITY COUNCIL.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 23, § 199.

25 In subsection (a) of this section, the reference to a municipal or "other"
26 corporation owning a public road is deleted as surplusage.

27 In subsection (b) of this section, the reference to "the railroad company
28 need[ing]" to use or occupy the road is substituted for the former phrase, "it
29 is necessary, in the judgment of the directors of the railroad company", for
30 clarity and brevity.

31 Also in subsection (b) of this section, the phrase "may acquire the property
32 by condemnation" is substituted for the former phrase "may condemn so
33 much of the same" for consistency with terminology used elsewhere in this
34 subtitle.

35 In subsection (c)(2) of this section, the former phrase "before the proper
36 court" is deleted as unnecessary.

37 In subsection (d) of this section, the reference to "the Mayor and City

1 Council" of Baltimore City is substituted for the former reference to "the
2 municipal authorities" for accuracy.

3 The Public Utility Companies Article Review Committee notes, for the
4 consideration of the General Assembly, that this section is difficult to
5 reconcile with § 9-306 of this article, which deals with highway crossings.
6 The Committee notes difficulties with § 9-306 in the Revisor's Note to that
7 section, and recommends review and possible repeal of the latter section by
8 the General Assembly.

9 In addition, the Committee notes, for the consideration of the General
10 Assembly, that this section grants the power of condemnation to a private
11 railroad over publicly controlled property, including public railroad
12 property. The Committee recommends that the General Assembly explore
13 whether this remains appropriate public policy.

14 Defined terms: "Company" § 1-101

15 "Railroad" § 1-101

16 5-408. SAME -- PRIVATE WAY.

17 THE POWER OF A RAILROAD COMPANY TO CONDEMN LAND AND OTHER
18 PROPERTY UNDER THIS SUBTITLE INCLUDES THE POWER TO CONDEMN, FOR
19 RAILROAD PURPOSES, PRIVATE CROSSINGS OR WAYS AND LAND AND OTHER
20 PROPERTY TO PROVIDE SUBSTITUTE OUTLETS.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 23, § 198.

23 The reference to the power to condemn under "this subtitle" is substituted
24 for the former reference to "this article" to reflect the change in
25 organization of provisions formerly contained in Article 23 of the Code.

26 Defined terms: "Company" § 1-101

27 "Railroad" § 1-101

28 5-409. ELECTRIC OR CABLE OPERATED RAILROADS.

29 SECTIONS 5-405, 5-406, AND 5-407 OF THIS SUBTITLE APPLY TO ALL RAILROADS
30 OPERATED BY ELECTRICITY, CABLE, OR OTHER IMPROVED MOTIVE POWER,
31 WHETHER THE PROPERTY PROPOSED TO BE CONDEMNED IS LOCATED IN A COUNTY
32 OR BALTIMORE CITY, WHERE STREETS AND ALLEYS HAVE NOT BEEN OPENED AND
33 OCCUPIED AS CITY STREETS.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 23, § 200.

36 The former phrase "and whether incorporated under the provisions of this
37 article or by a special act" is deleted as obsolete.

1 The Public Utility Companies Article Review Committee notes, for the
2 consideration of the General Assembly, that the only remaining electric
3 railroad in the State is Amtrak, which is currently under federal control,
4 and is therefore beyond the jurisdiction of the State.

5 Defined terms: "County" § 1-101

6 "Railroad" § 1-101

7 5-410. TELEPHONE AND TELEGRAPH COMPANIES.

8 (A) SCOPE OF SECTION.

9 THIS SECTION APPLIES TO:

10 (1) A TELEGRAPH COMPANY THAT HAS ITS PRINCIPAL OFFICE IN THE
11 STATE;

12 (2) A TELEPHONE COMPANY THAT HAS ITS PRINCIPAL OFFICE IN THE
13 STATE; AND

14 (3) A TELEPHONE COMPANY THAT OWNS LINES AND PROVIDES LOCAL
15 EXCHANGE OR INTEREXCHANGE SERVICE IN THE STATE WITH THE APPROVAL OF
16 THE COMMISSION.

17 (B) POWER TO CONDEMN.

18 A COMPANY DESCRIBED IN SUBSECTION (A) OF THIS SECTION HAS THE SAME
19 POWER GRANTED TO TELEGRAPH COMPANIES BY §§ 8-103, 8-104, 8-105, AND 8-106(A)
20 OF THIS ARTICLE AND MAY:

21 (1) CONSTRUCT AND LAY LINES UNDERGROUND OR ABOVE GROUND ON
22 ANY ROUTE FOR WHICH IT IS AUTHORIZED TO CONSTRUCT LINES AS A WHOLE OR IN
23 PART; AND

24 (2) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,
25 ACQUIRE BY CONDEMNATION, IN ACCORDANCE WITH TITLE 12 OF THE REAL
26 PROPERTY ARTICLE, ANY PROPERTY OR RIGHT THAT THE COMPANY CONSIDERS
27 NECESSARY FOR ITS PURPOSES.

28 (C) CONSENT REQUIRED IN BALTIMORE CITY.

29 (1) BEFORE USING EITHER THE SURFACE OF OR THE GROUND BENEATH
30 THE STREETS OR HIGHWAYS OF BALTIMORE CITY, THE COMPANY SHALL OBTAIN THE
31 CONSENT OF THE MAYOR AND CITY COUNCIL.

32 (2) THIS SUBSECTION DOES NOT APPLY TO CORPORATIONS THAT WERE
33 IN PRACTICAL OPERATION ON JUNE 1, 1910, AND THAT HAD LAID OR CONSTRUCTED
34 LINES, PIPES, MAINS, OR OTHER STRUCTURES IN BALTIMORE CITY, UNLESS THE
35 CORPORATIONS USE NEW AND ADDITIONAL STREETS AND HIGHWAYS IN BALTIMORE
36 CITY FOR THEIR LINES, PIPES, MAINS, OR OTHER STRUCTURES.

1 (D) LIMITATION.

2 THIS SECTION DOES NOT AUTHORIZE A TELEPHONE COMPANY DESCRIBED IN
3 SUBSECTION (A)(3) OF THIS SECTION THAT, AS OF SEPTEMBER 30, 1993, DID NOT HAVE
4 THE POWER OF CONDEMNATION GRANTED TO A TELEGRAPH COMPANY UNDER §§
5 8-103, 8-104, 8-105, AND 8-106(A) OF THIS ARTICLE, TO ACQUIRE PROPERTY FOR
6 COMMUNICATIONS TOWERS OR BUILDINGS.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 23, § 340 and Ch. 219, § 2, Acts of 1993.

9 In subsection (a) of this section, the references to "a telegraph company
10 that has its principal office in the State", "a telephone company that has its
11 principal office in the State", or "a telephone company that owns lines and
12 provides local exchange or interexchange service in the State with the
13 approval of the Commission" are substituted for the former reference to
14 "[a]ny of the corporations formed under class thirteen, § 28 of this article,
15 as codified by the Code of 1904 or referred to in § 326 of this article" and
16 "other telephone companies that own lines and provide local exchange or
17 interexchange service in this State with the approval of the Public Service
18 Commission" for clarity.

19 In subsection (a)(1) of this section, the former phrase "incorporated under
20 this article" is deleted as obsolete.

21 In subsection (b)(2) of this section, the former phrase "either in fee simple
22 or the use thereof in fee simple, or for a less estate" is deleted as implicit in
23 the phrase "any property or right".

24 In subsection (c)(1) of this section, the reference to "the company" is
25 substituted for the former reference to "all corporations incorporated, or to
26 be incorporated by virtue of said § 28, class thirteen, (Code of 1904) and all
27 corporations heretofore or hereafter incorporated under the provisions of
28 the Corporation Law of 1908 or other telephone companies that own lines
29 and provide local exchange or interexchange service in this State with the
30 approval of the Public Service Commission" for brevity.

31 Also in subsection (c)(1) of this section, the word "consent" is substituted
32 for the former words "assent and approval" for consistency with
33 terminology used elsewhere in this subtitle.

34 In subsection (c)(2) of this section, the phrase "on June 1, 1910" is
35 substituted for the former word "now" for clarity and accuracy.

36 In subsection (d) of this section, the reference to "condemnation" is
37 substituted for the former reference to "eminent domain" for consistency
38 and accuracy.

39 Defined terms: "Commission" § 1-101

40 "Company" § 1-101

1 "Telegraph company" § 1-101

2 "Telephone company" § 1-101

3 5-411. WATER COMPANIES.

4 A WATER COMPANY MAY ACQUIRE BY CONDEMNATION, IN ACCORDANCE WITH
5 TITLE 12 OF THE REAL PROPERTY ARTICLE, ANY LAND OR WATER RIGHTS THAT THE
6 COMPANY IS AUTHORIZED TO ACQUIRE TO LAY PIPES OR CONSTRUCT ITS WORK, IF:

7 (1) THE COMPANY CANNOT AGREE WITH THE OWNER OF THE LAND OR
8 WATER RIGHTS; OR

9 (2) AN OWNER:

10 (I) IS A MINOR, IS ADJUDGED TO BE MENTALLY INCOMPETENT, OR
11 IS UNDER ANY OTHER LEGAL DISABILITY TO CONTRACT; OR

12 (II) WHEN THE COMPANY NEEDS THE LAND OR WATER RIGHTS, IS
13 ABSENT FROM THE COUNTY OR CITY IN WHICH THE PROPERTY IS LOCATED.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 language from former Art. 23, § 333.

16 In the introductory clause of this section, the reference to "[a] water
17 company" is substituted for the former reference to "any corporation
18 formed for the purposes mentioned in § 332 of this article" for brevity and
19 clarity. Similarly, throughout this section, the word "company" is
20 substituted for the former word "corporation" for consistency.

21 In item (2)(i) of this section, the word "minor" is substituted for the former
22 phrase "under age" for consistency with terminology used throughout the
23 Code. See, Art. 1, § 24 of the Code.

24 Also in item (2)(i) of this section, the words "adjudged to be mentally
25 incompetent" are substituted for the former archaic phrase "non compos
26 mentis".

27 The Public Utility Companies Article Review Committee notes, for the
28 consideration of the General Assembly, that in item (2)(ii) of this section,
29 the use of condemnation if "an owner ... is absent from the county or city in
30 which the property is located" appears to be obsolete.

31 Defined terms: "Company" § 1-101

32 "County" § 1-101

33 "Water company" § 1-101

1 TITLE 6. BUSINESS STRUCTURE.

2 SUBTITLE 1. FINANCING.

3 6-101. PRIOR APPROVAL.

4 (A) EVIDENCE OF INDEBTEDNESS.

5 (1) THIS SUBSECTION APPLIES ONLY TO MARYLAND CORPORATIONS.

6 (2) A PUBLIC SERVICE COMPANY SHALL OBTAIN AUTHORIZATION FROM
7 THE COMMISSION BEFORE THE PUBLIC SERVICE COMPANY:

8 (I) ASSUMES OR GUARANTEES AN OBLIGATION OR LIABILITY WITH
9 RESPECT TO STOCKS, BONDS, SECURITIES, NOTES, OR OTHER EVIDENCE OF
10 INDEBTEDNESS OF ANY PERSON THAT IS PAYABLE WHOLLY OR PARTLY MORE THAN
11 12 MONTHS AFTER THE DATE OF THE ASSUMPTION OR GUARANTEE; OR

12 (II) ISSUES STOCKS, BONDS, SECURITIES, NOTES, OR OTHER
13 EVIDENCE OF INDEBTEDNESS THAT IS PAYABLE WHOLLY OR PARTLY MORE THAN 12
14 MONTHS AFTER THE DATE ISSUED.

15 (3) AN ISSUANCE UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION SHALL
16 CONFORM TO §§ 6-102 AND 6-103 OF THIS SUBTITLE.

17 (B) AUTHORIZATION BY COMMISSION.

18 (1) SUBJECT TO THE REQUIREMENTS OF SUBSECTION (C) OF THIS
19 SECTION, THE COMMISSION MAY AUTHORIZE AN ACT DESCRIBED UNDER
20 SUBSECTION (A)(2) OF THIS SECTION IF THE COMMISSION FINDS THAT THE ACT IS
21 CONSISTENT WITH THE PUBLIC CONVENIENCE AND NECESSITY.

22 (2) AUTHORIZATION UNDER THIS SUBSECTION DOES NOT:

23 (I) REVIVE A LAPSED FRANCHISE, VALIDATE AN INVALID
24 FRANCHISE, OR ADD TO THE POWERS AND PRIVILEGES IN A FRANCHISE; OR

25 (II) WAIVE A FORFEITURE.

26 (C) ACQUISITION OF CAPITAL STOCK OF A PUBLIC SERVICE COMPANY.

27 (1) IN THIS SUBSECTION, A COMPANY CONTROLLING A PUBLIC SERVICE
28 COMPANY IS DEEMED A PUBLIC SERVICE COMPANY OF THE SAME CLASS AS THE
29 CONTROLLED PUBLIC SERVICE COMPANY.

30 (2) WITHOUT PRIOR AUTHORIZATION OF THE COMMISSION, A PUBLIC
31 SERVICE COMPANY MAY NOT HOLD OR ACQUIRE ANY PART OF THE CAPITAL STOCK
32 OF A PUBLIC SERVICE COMPANY THAT IS:

33 (I) INCORPORATED IN MARYLAND; AND

1 (II) OF THE SAME CLASS AS THE ACQUIRING COMPANY.

2 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
3 PARAGRAPH, A STOCK CORPORATION MAY NOT HOLD OR ACQUIRE MORE THAN 10%
4 OF THE TOTAL CAPITAL STOCK OF A PUBLIC SERVICE COMPANY INCORPORATED IN
5 MARYLAND UNLESS:

6 1. THE STOCK IS ACQUIRED AS COLLATERAL SECURITY; AND

7 2. THE COMMISSION APPROVES THE ACQUISITION.

8 (II) THE COMMISSION MAY AUTHORIZE A PUBLIC SERVICE
9 COMPANY OF THE SAME CLASS TO HOLD OR ACQUIRE MORE THAN 10% OF THE TOTAL
10 CAPITAL STOCK OF A PUBLIC SERVICE COMPANY INCORPORATED IN MARYLAND.

11 (4) A PUBLIC SERVICE COMPANY MAY NOT BE A PARTY TO A VIOLATION
12 OF THIS SUBSECTION.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 78, § 24(b)(4) and (5), (e) and, as it related to acts
15 described under former Art. 78, § 24(b)(4) and (5), (c).

16 In subsection (a)(1) of this section, the former reference to any obligation or
17 liability "in any capacity or by any means" is deleted as surplusage.

18 In subsection (a)(2)(i) of this section, the reference to the "date of the
19 assumption or guarantee" is substituted for the former reference to the
20 "date thereof" for clarity.

21 In subsection (a)(3) of this section, the reference to an issuance
22 "conform[ing] to §§ 6-102 and 6-103 of this subtitle" is substituted for the
23 former reference to issuance "in accordance with §§ 65 and 66 of this
24 article", although the reference is more inclusive in the context of this
25 section than in the former section. However, former Art. 78, § 67E(a)(1)
26 required a public service company to disclose certain information in
27 applying for authorization of long-term debt under former Art. 78, § 65.
28 Therefore, no substantive change is intended.

29 In subsection (b)(1) of this section, the former reference to "additional"
30 requirements is deleted as surplusage.

31 In subsection (b)(2) of this section, the former reference to an authorization
32 that does not "enlarge" the powers and privileges in a franchise is deleted
33 as included in the reference to an authorization that does not "add to" the
34 powers and privileges in a franchise.

35 In subsection (c)(2) and (3)(ii) of this section, the former references to a
36 public service company that "takes" capital stock is deleted as included in
37 the reference to a public service company that "acquire[s]" capital stock.

1 In subsection (c)(2)(ii) of this section, the reference to the "acquiring
2 company" is added for clarity.

3 In subsection (c)(3)(i) of this section, the former reference to a stock
4 corporation "of any description" is deleted as surplusage.

5 In subsection (c)(3)(i)2 of this section, the reference to "approv[ing] the
6 acquisition" of stock is substituted for the former reference to "approv[ing]
7 of its being so taken" for clarity.

8 In subsection (c)(3)(ii) of this section, the reference to the Commission
9 authorizing a "public service" company is added for clarity.

10 Defined terms: "Commission" § 1-101

11 "Company" § 1-101

12 "Person" § 1-101

13 "Public service company" § 1-101

14 6-102. ISSUANCE OF STOCKS, BONDS, AND OTHER INDEBTEDNESS.

15 (A) SCOPE.

16 THIS SECTION APPLIES ONLY TO PUBLIC SERVICE COMPANIES THAT ARE
17 MARYLAND CORPORATIONS.

18 (B) MANDATORY AUTHORIZATION.

19 THE COMMISSION SHALL AUTHORIZE A PUBLIC SERVICE COMPANY TO ISSUE
20 STOCKS, BONDS, SECURITIES, NOTES, OR OTHER EVIDENCE OF INDEBTEDNESS,
21 PAYABLE WHOLLY OR PARTLY MORE THAN 12 MONTHS AFTER THE DATE OF
22 ISSUANCE, IF THE COMMISSION FINDS THAT THE ISSUANCE IS REASONABLY
23 REQUIRED FOR THE PUBLIC SERVICE COMPANY TO:

24 (1) ACQUIRE PROPERTY;

25 (2) CONSTRUCT, COMPLETE, EXTEND, OR IMPROVE ITS FACILITIES;

26 (3) DISCHARGE OR LAWFULLY REFUND ITS OBLIGATIONS;

27 (4) MAINTAIN OR IMPROVE SERVICE; OR

28 (5) REIMBURSE MONEY, NOT SECURED BY OR OBTAINED FROM THE
29 ISSUANCE, THAT IS EXPENDED FOR A PURPOSE DESCRIBED IN ITEM (1), (2), OR (3) OF
30 THIS SUBSECTION WITHIN 5 YEARS BEFORE THE FILING OF AN APPLICATION WITH
31 THE COMMISSION FOR THE REIMBURSEMENT.

32 (C) DISCRETIONARY AUTHORIZATION.

33 (1) THE COMMISSION MAY AUTHORIZE A PUBLIC SERVICE COMPANY TO
34 ISSUE STOCKS, BONDS, SECURITIES, NOTES, OR OTHER EVIDENCE OF

1 INDEBTEDNESS, PAYABLE WHOLLY OR PARTLY MORE THAN 12 MONTHS AFTER THE
2 DATE OF ISSUANCE, FOR THE PUBLIC SERVICE COMPANY TO:

3 (I) CONFORM THE AGGREGATE CAPITALIZATION OF THE PUBLIC
4 SERVICE COMPANY TO THE VALUE OF ITS PROPERTY; OR

5 (II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, PAY A
6 DIVIDEND IN SHARES OF THE PUBLIC SERVICE COMPANY'S OWN STOCK.

7 (2) AN ORDER OF THE COMMISSION AUTHORIZING AN ISSUANCE UNDER
8 PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL STATE THAT:

9 (I) CONCURRENTLY WITH THE ISSUANCE, THE PUBLIC SERVICE
10 COMPANY SHALL TRANSFER FROM SURPLUS TO CAPITAL AN AMOUNT THAT THE
11 COMMISSION DETERMINES UNDER PARAGRAPH (3) OF THIS SUBSECTION; AND

12 (II) A SUM EQUAL TO THE AMOUNT TO BE TRANSFERRED HAS BEEN
13 EXPENDED FROM INCOME OR OTHER MONEY IN THE TREASURY OF THE PUBLIC
14 SERVICE COMPANY NOT SECURED BY, OBTAINED FROM, OR REIMBURSED BY THE
15 ISSUANCE OF STOCKS, BONDS, NOTES, OR OTHER EVIDENCE OF INDEBTEDNESS OF
16 THE PUBLIC SERVICE COMPANY FOR A PURPOSE DESCRIBED IN SUBSECTION (B)(1),
17 (2), OR (3) OF THIS SECTION.

18 (3) THE AMOUNT THAT THE COMMISSION DETERMINES UNDER
19 PARAGRAPH (2)(I) OF THIS SUBSECTION MAY NOT BE LESS THAN:

20 (I) THE AGGREGATE PAR VALUE OF THE STOCK WHOSE ISSUANCE
21 IS TO BE AUTHORIZED; OR

22 (II) IF THE STOCK HAS NO PAR VALUE, THE CAPITAL VALUE OF THE
23 STOCK.

24 (D) FORM OF AUTHORIZATION.

25 (1) AN AUTHORIZATION BY THE COMMISSION UNDER SUBSECTION (B)
26 OR (C) OF THIS SECTION SHALL BE BY ORDER.

27 (2) THE ORDER SHALL SPECIFY:

28 (I) THE AMOUNT OF THE ISSUANCE AUTHORIZED; AND

29 (II) THE PURPOSE UNDER SUBSECTION (B) OR (C) OF THIS SECTION
30 FOR WHICH THE ISSUANCE IS REASONABLY REQUIRED.

31 (E) ISSUANCE IN CONNECTION WITH ORGANIZATION OF NEW PUBLIC
32 SERVICE COMPANY.

33 (1) NOTWITHSTANDING SUBSECTIONS (B), (C), (D), AND (G) OF THIS
34 SECTION, THE COMMISSION MAY APPROVE THE ISSUANCE OF STOCKS, BONDS,
35 SECURITIES, NOTES, OR OTHER EVIDENCE OF INDEBTEDNESS IN CONNECTION WITH
36 THE ORGANIZATION OF A NEW PUBLIC SERVICE COMPANY BY THE PURCHASER OF

1 THE FRANCHISE OR PROPERTY OF A PUBLIC SERVICE COMPANY SOLD UNDER
2 JUDICIAL PROCEEDINGS, MORTGAGE, OR DEED OF TRUST.

3 (2) AN ISSUANCE THAT THE COMMISSION APPROVES UNDER THIS
4 SUBSECTION SHALL BE IN THE AMOUNT THAT THE COMMISSION CONSIDERS
5 NECESSARY FULLY TO PROTECT THE RIGHTS AND EQUITIES OF THE HOLDERS OF
6 THE SECURITIES OF THE PREDECESSOR COMPANY.

7 (F) APPLICATION FOR APPROVAL OF LONG-TERM DEBT.

8 A PUBLIC SERVICE COMPANY'S APPLICATION FOR AUTHORIZATION UNDER THIS
9 SECTION OF LONG-TERM DEBT IN EXCESS OF \$1,000,000 SHALL INCLUDE A COPY OF
10 ANY RESTRICTIVE COVENANT ATTACHED TO THE DEBT.

11 (G) ISSUANCE OF NOTES WITHOUT PRIOR CONSENT OF COMMISSION.

12 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS
13 SECTION DOES NOT PREVENT A PUBLIC SERVICE COMPANY FROM ISSUING,
14 WITHOUT THE PRIOR CONSENT OF THE COMMISSION, NOTES THAT ARE:

15 (I) FOR PROPER CORPORATE PURPOSES;

16 (II) NOT OTHERWISE IN VIOLATION OF THE LAW; AND

17 (III) PAYABLE AT PERIODS TOTALING NOT MORE THAN 12 MONTHS
18 AFTER THE DATE OF ISSUANCE.

19 (2) EXCEPT AS AUTHORIZED UNDER SUBSECTION (B) OR (C) OF THIS
20 SECTION, NOTES ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE
21 REFUNDED DIRECTLY OR INDIRECTLY, WHOLLY OR PARTLY, BY AN EVIDENCE OF
22 INDEBTEDNESS RUNNING FOR MORE THAN 12 MONTHS.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 78, §§ 65, the second sentence of 24(b)(5), and
25 67E(a)(1), as it related to the approval of the issuance of long-term debt.

26 In subsection (c)(1) of this section, the former phrase providing that the
27 Commission may authorize issuance "in its discretion" is deleted as
28 implicit in the statement that the "Commission may authorize" the
29 issuance.

30 In subsection (c)(2) of this section, the references to the "public service
31 company" are substituted for the former references to the "corporation" for
32 consistency.

33 In subsection (f) of this section, the reference to an application for
34 "authorization" is substituted for the former reference to an application for
35 "approval" for consistency.

1 Defined terms: "Commission" § 1-101

2 "Public service company" § 1-101

3 6-103. LIMITATIONS ON CAPITALIZATION.

4 (A) SCOPE.

5 THIS SECTION APPLIES ONLY TO PUBLIC SERVICE COMPANIES THAT ARE
6 MARYLAND CORPORATIONS.

7 (B) CAPITALIZATION OF CONTRACT OR FRANCHISE.

8 (1) A PUBLIC SERVICE COMPANY MAY NOT:

9 (I) CAPITALIZE OR ISSUE BONDS AGAINST OR AS LIEN ON A
10 CONTRACT FOR CONSOLIDATION, MERGER, OR LEASE; OR

11 (II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
12 CAPITALIZE A FRANCHISE OR THE RIGHT TO OWN A FRANCHISE.

13 (2) A PUBLIC SERVICE COMPANY MAY CAPITALIZE A FRANCHISE OR
14 RIGHT TO OWN A FRANCHISE IN AN AMOUNT NOT EXCEEDING THE AMOUNT,
15 EXCLUSIVE OF ANY TAX OR ANNUAL CHARGE, ACTUALLY PAID TO THE STATE OR A
16 POLITICAL SUBDIVISION AS CONSIDERATION FOR THE GRANT OF THE FRANCHISE
17 OR RIGHT.

18 (C) STATED CAPITAL AFTER MERGER OR CAPITALIZATION.

19 THE STATED CAPITAL, AS DETERMINED UNDER TITLE 2, SUBTITLE 3 OF THE
20 CORPORATIONS AND ASSOCIATIONS ARTICLE, OF A PUBLIC SERVICE COMPANY
21 FORMED BY A MERGER OR CONSOLIDATION OF CORPORATIONS MAY NOT EXCEED,
22 SOLELY BY VIRTUE OF THE MERGER OR CONSOLIDATION, THE STATED CAPITAL OF
23 THE CORPORATIONS MERGED OR CONSOLIDATED PLUS ANY ADDITIONAL SUM PAID
24 IN CASH.

25 (D) NEWLY CHARTERED OR REORGANIZED PUBLIC SERVICE COMPANY.

26 (1) THIS SUBSECTION DOES NOT APPLY TO THE CAPITALIZATION OF A
27 FRANCHISE TO BE A PUBLIC SERVICE COMPANY.

28 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE
29 COMMISSION MAY APPROVE THE CAPITALIZATION OF TANGIBLE AND INTANGIBLE
30 PROPERTY OF:

31 (I) A NEWLY CHARTERED PUBLIC SERVICE COMPANY; OR

32 (II) A PUBLIC SERVICE COMPANY ORGANIZED OR REORGANIZED BY
33 THE PURCHASER OF THE FRANCHISE AND PROPERTY OF ITS PREDECESSOR AT A
34 SALE UNDER JUDICIAL PROCEEDINGS, MORTGAGE, OR DEED OF TRUST.

1 (3) CAPITALIZATION UNDER PARAGRAPH (2) OF THIS SUBSECTION
2 SHALL BE IN THE AMOUNT AND FORM THAT THE COMMISSION CONSIDERS
3 REASONABLY NECESSARY TO ENABLE THE PUBLIC SERVICE COMPANY TO OBTAIN
4 THE CAPITAL NECESSARY TO ESTABLISH ITSELF AS A GOING CONCERN.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 78, §§ 66 and the second sentence of 24(b)(5).

7 In subsection (b) of this section, the former reference to a franchise "of any
8 character" is deleted as surplusage.

9 In subsection (c) of this section, the former phrase "the stated capital of the
10 corporations so merged or consolidated" is deleted as implicitly contained
11 in the phrase "the stated capital of the corporations merged or consolidated
12 plus any additional sum paid in cash".

13 In subsection (d) of this section, the former introductory phrase "to the
14 contrary" is deleted as surplusage.

15 In subsection (d)(1) of this section, the defined term "public service
16 company" is substituted for the former word "corporation" for clarity.

17 In subsection (d)(2) of this section, the word "article", which appeared in
18 former Art. 78, § 66, is retained although the word is broader in the context
19 of this section than in the former section. However, no substantive change
20 is intended.

21 In subsection (d)(3) of this section, the former word "manner" is deleted as
22 surplusage.

23 Defined terms: "Commission" § 1-101

24 "Public service company" § 1-101

25 6-104. VOID TRANSACTIONS.

26 ANY CONTRACT, ASSIGNMENT, TRANSFER, OR AGREEMENT FOR TRANSFER OR
27 PURCHASE OF STOCK IN VIOLATION OF THE PROVISIONS OF THIS ARTICLE IS VOID.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 78, § 104.

30 The former word "entirely" and the former phrase "ineffective for any
31 purpose" are deleted as implicit in the word "void".

32 The reference to this "article", which appeared in former Art. 78, § 104, is
33 retained although the reference is broader in the context of this section
34 than in the former section. Because this article includes no additional
35 limitations on contracts and stock transfers beyond those contained in
36 former Article 78, the retention of the term "article" in this section causes
37 no substantive change.

1 The Public Utility Companies Article Review Committee notes, for the
2 consideration of the General Assembly, that former Article 78, § 104 is
3 ambiguous in that it may be read either as generally voiding contracts,
4 assignments, and transfers in violation of the article, or as a voiding only of
5 stock-related contracts, assignments, and transactions. The Committee
6 has chosen the more expansive reading of the source material, and
7 accordingly has revised former § 104 both in this section as a stock-related
8 provision, and in § 13-207 of this article as a general provision. The
9 Committee intends no substantive change in this revision.

10 SUBTITLE 2. REPORTING REQUIREMENTS.

11 6-201. DEFINITIONS.

12 (A) IN GENERAL.

13 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

14 REVISOR'S NOTE: This subsection is new language derived without
15 substantive change from former Art. 78, § 67A(a).

16 The reference to "this subtitle" is substituted for the former reference to
17 Article 78, §§ 67A through 67E although this reference is broader than the
18 former reference. Thus, this subsection makes the definitions in
19 subsections (b) through (j) of this section applicable to provisions to which
20 those definitions formerly did not apply. However, the definitions generally
21 are nonsubstantive and are intended solely to allow concise and
22 standardized references. Therefore, no substantive change is intended.

23 (B) CONTROL.

24 "CONTROL" MEANS THE POSSESSION, DIRECT OR INDIRECT, OF THE POWER TO
25 DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT OR POLICIES OF A
26 PERSON.

27 REVISOR'S NOTE: This subsection is new language derived without
28 substantive change from former Art. 78, § 67A(c).

29 The former phrases "controlling", "controlled by", and "under common
30 control with" are deleted as surplusage because they are not used in this
31 subtitle.

32 Defined term: "Person" § 6-201

33 (C) FINANCING LEASE.

34 "FINANCING LEASE" MEANS A LEASE THAT, DURING THE NONCANCELABLE
35 LEASE PERIOD:

1 (1) COVERS AT LEAST 75% OF THE ECONOMIC LIFE OF THE PROPERTY;
2 OR

3 (2) HAS TERMS THAT ASSURE THE LESSOR OF A FULL RECOVERY OF
4 THE FAIR MARKET VALUE THAT WOULD NORMALLY BE REPRESENTED BY THE
5 LESSOR'S INVESTMENT OF THE PROPERTY AT THE START OF THE LEASE AND A
6 REASONABLE RETURN ON THE USE OF THE ASSETS INVESTED, SUBJECT ONLY TO
7 LIMITED RISK IN THE REALIZATION OF THE RESIDUAL INTEREST IN THE PROPERTY
8 AND THE CREDIT RISKS GENERALLY ASSOCIATED WITH SECURED LOANS.

9 REVISOR'S NOTE: This subsection is new language derived without
10 substantive change from former Art. 78, § 67A(d).

11 (D) JOINT VENTURE.

12 "JOINT VENTURE" MEANS A JOINT BUSINESS ARRANGEMENT BETWEEN A
13 PUBLIC SERVICE COMPANY AND ANOTHER PERSON FOR MUTUAL BENEFIT, WITH
14 THE UNDERSTANDING THAT EACH WILL SHARE IN THE PROFITS AND LOSSES AND
15 HAVE A VOICE IN MANAGEMENT.

16 REVISOR'S NOTE: This subsection is new language derived without
17 substantive change from former Art. 78, § 67A(g), except as it related to a
18 minimum monetary value of a joint venture.

19 The former reference to an "enterprise, contract, [or] agreement" is deleted
20 as unnecessary in light of the word "arrangement".

21 The reference to a "public service company" is substituted for the former
22 reference to a "respondent" for clarity.

23 Defined terms: "Person" § 6-201

24 "Public service company" § 1-101

25 (E) LONG-TERM DEBT.

26 "LONG-TERM DEBT" MEANS A DEBT DUE AT LEAST 1 YEAR AFTER THE DATE OF
27 INDEBTEDNESS.

28 REVISOR'S NOTE: This subsection formerly was Art. 78, § 67A(h).

29 The only changes are in style.

30 (F) PARENT.

31 "PARENT" MEANS:

32 (1) EVERY FIRM, HOLDING COMPANY, OR OTHER PERSON THAT
33 ULTIMATELY CONTROLS A PUBLIC SERVICE COMPANY; OR

34 (2) ANY INTERMEDIARY ENTITY THAT CONTROLS A PUBLIC SERVICE
35 COMPANY.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 78, § 67A(i).

3 The former reference to a parent "of respondent" is deleted for clarity. In
4 former Art. 78, §§ 67A through 67E, the full term was not used consistently
5 in referring to the parent of the public service company.

6 In item (1) of this subsection, the reference to a person that ultimately
7 controls a "public service company" is substituted for the former reference
8 to a person that ultimately controls the "respondent" for clarity.

9 In item (2) of this subsection, the reference to an "entity that controls a
10 public service company" is substituted for the former reference to a
11 "controlling entity" for clarity.

12 Defined terms: "Person" § 6-201

13 "Public service company" § 1-101

14 (G) PERSON.

15 "PERSON" INCLUDES AN INDIVIDUAL, CORPORATION, ESTATE, TRUST,
16 PARTNERSHIP, ASSOCIATION, TWO OR MORE PERSONS HAVING A JOINT OR COMMON
17 INTEREST, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

18 REVISOR'S NOTE: This subsection is new language derived without
19 substantive change from former Art. 78, § 67A(j).

20 In this subsection the former phrase "business trust" is deleted as
21 surplusage.

22 (H) SHORT-TERM DEBT.

23 "SHORT-TERM DEBT" MEANS A DEBT DUE WITHIN 1 YEAR AFTER THE DATE OF
24 INDEBTEDNESS.

25 REVISOR'S NOTE: This subsection formerly was Art. 78, § 67A(l).

26 The only changes are in style.

27 (I) SIC CODE AND SHORT TITLE.

28 "SIC CODE AND SHORT TITLE" MEANS A 4-DIGIT INDUSTRY STANDARD
29 INDUSTRIAL CLASSIFICATION CODE AND SHORT TITLE LISTED IN THE MOST RECENT
30 STANDARD INDUSTRIAL CLASSIFICATION MANUAL PUBLISHED BY THE OFFICE OF
31 MANAGEMENT AND BUDGET OF THE EXECUTIVE OFFICE OF THE PRESIDENT.

32 REVISOR'S NOTE: This subsection is new language derived without
33 substantive change from former Art. 78, § 67A(e).

34 REVISOR'S NOTE TO SECTION: Former Art. 78, § 67A(b), which defined
35 "[a]nnual report" is deleted as unnecessary in light of § 6-205 of this

1 subtitle, which delineates the requirements of the annual report.
2 Former Art. 78, § 67A(k), which defined "[s]ources of power" is deleted as
3 unnecessary because the term is not used in the revision.
4 The provisions of former Art. 78, § 67A(f), which defined "holder", is
5 revised in the substantive provision to which it applied: § 6-210(c) of this
6 article.

7 6-202. CLASSIFICATION OF PUBLIC SERVICE COMPANIES.

8 (A) IN GENERAL.

9 THE COMMISSION MAY CLASSIFY THE PUBLIC SERVICE COMPANIES UNDER ITS
10 JURISDICTION.

11 (B) PUBLIC SERVICE COMPANIES OF THE SAME CLASS.

12 TWO PUBLIC SERVICE COMPANIES ARE OF THE SAME CLASS, IF THEY ARE
13 BOTH:

- 14 (1) COMMON CARRIER COMPANIES;
- 15 (2) ELECTRIC COMPANIES;
- 16 (3) GAS COMPANIES;
- 17 (4) GAS AND ELECTRIC COMPANIES;
- 18 (5) SEWAGE DISPOSAL COMPANIES;
- 19 (6) STEAM HEATING COMPANIES;
- 20 (7) TELEGRAPH COMPANIES;
- 21 (8) TELEPHONE COMPANIES; OR
- 22 (9) WATER COMPANIES.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from the second sentence of former Art. 78, § 2(n), and, as it related
25 to classification, the first sentence of former § 67(a)(1).

26 Defined terms: "Commission" § 1-101

27 "Common carrier" § 1-101

28 "Electric company" § 1-101

29 "Gas company" § 1-101

30 "Public service company" § 1-101

31 "Sewage disposal company" § 1-101

32 "Steam heating company" § 1-101

33 "Telegraph company" § 1-101

1 "Telephone company" § 1-101

2 "Water company" § 1-101

3 6-203. RECORD KEEPING REQUIREMENTS.

4 THE COMMISSION MAY:

5 (1) ESTABLISH A UNIFORM SYSTEM OF RECORDS FOR EACH CLASS OF
6 PUBLIC SERVICE COMPANY; AND

7 (2) PRESCRIBE THE MANNER AND FORM IN WHICH A PUBLIC SERVICE
8 COMPANY SHALL KEEP RECORDS AND ENTER PARTICULAR ITEMS.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from the first sentence of former Art. 78, § 67(a)(1) as it related to
11 record keeping and reporting.

12 Defined terms: "Commission" § 1-101

13 "Public service company" § 1-101

14 "Record" § 1-101

15 6-204. CONFORMITY TO FEDERAL REQUIREMENTS.

16 THE COMMISSION SHALL PRESCRIBE A SYSTEM, A FORM OF RECORDS, AND A
17 FORM OF ANNUAL REPORT FOR PUBLIC SERVICE COMPANIES THAT CONFORM AS
18 NEARLY AS POSSIBLE TO THE SYSTEM AND FORMS THAT ANY CORRESPONDING
19 FEDERAL REGULATORY UNIT REQUIRES FOR PUBLIC SERVICE COMPANIES OF THE
20 SAME CLASS IN INTERSTATE COMMERCE.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from the second sentence of former Art. 78, § 67(a)(1).

23 Defined terms: "Commission" § 1-101

24 "Public service company" § 1-101

25 "Record" § 1-101

26 6-205. ANNUAL REPORTS AND OTHER INFORMATION.

27 (A) ANNUAL REPORT REQUIRED.

28 (1) THIS SUBSECTION DOES NOT APPLY TO RAILROADS.

29 (2) EACH PUBLIC SERVICE COMPANY SHALL FILE WITH THE
30 COMMISSION AN ANNUAL REPORT CONTAINING INFORMATION ON ITS CORPORATE
31 STRUCTURE, AFFILIATIONS OF ITS OFFICERS AND DIRECTORS, AND DEBT HOLDINGS.

32 (3) NOTWITHSTANDING ANY SPECIFIC REPORTING REQUIREMENTS IN
33 THIS SUBTITLE, THE COMMISSION MAY PRESCRIBE THE CONTENTS OF THE ANNUAL
34 REPORT TO BE FILED BY A PUBLIC SERVICE COMPANY WHOSE GROSS ANNUAL
35 REVENUES FOR THE MOST RECENT CALENDAR YEAR FOR WHICH DATA ARE

1 AVAILABLE ARE LESS THAN 0.003% OF THE TOTAL GROSS ANNUAL REVENUES OF ALL
2 PUBLIC SERVICE COMPANIES IN THE STATE DURING THE SAME CALENDAR YEAR.

3 (B) VERIFICATION.

4 THE PRESIDENT, TREASURER, OR GENERAL MANAGER OF A PUBLIC SERVICE
5 COMPANY SHALL VERIFY THE COMPANY'S ANNUAL REPORT UNDER OATH.

6 (C) OTHER REPORTS AND INFORMATION.

7 THE COMMISSION MAY:

8 (1) REQUIRE A PUBLIC SERVICE COMPANY TO SUBMIT REPORTS AND
9 INFORMATION THAT THE COMMISSION REASONABLY DESIRES;

10 (2) PRESCRIBE THE FORM, CONTENTS, AND DEADLINES FOR THE
11 REPORTS AND INFORMATION; AND

12 (3) REQUIRE AMENDMENTS OR CORRECTIONS TO THE REPORTS WITHIN
13 A SET PERIOD.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 78, §§ 67B and 67(a)(2), (d) and, as it related to
16 verification of the annual report by oath, (b).

17 In subsection (a)(3) of this section, the Public Utility Companies Article
18 Review Committee notes, for the consideration of the General Assembly,
19 that the reporting requirements for qualifying public service companies
20 are implied to relate only to the business of those companies.

21 In subsection (c)(2) of this section, the former requirement that reports
22 "includ[e] specific answers to questions which the Commission may desire
23 answered" is deleted as included in the authority of the Commission to
24 prescribe the "contents" of reports.

25 Defined terms: "Commission" § 1-101

26 "Public service company" § 1-101

27 "Railroad" § 1-101

28 6-206. ANNUAL REPORT -- FORM AND FILING.

29 (A) IN GENERAL.

30 A PUBLIC SERVICE COMPANY SHALL FILE ITS ANNUAL REPORT WITH THE
31 COMMISSION WITHIN THE TIME THE COMMISSION SETS AFTER THE END OF THE
32 YEAR THAT THE REPORT COVERS.

33 (B) FORM.

1 (1) THE COMMISSION SHALL PROVIDE EACH PUBLIC SERVICE COMPANY
2 WITH A BLANK FORM OF ANNUAL REPORT IN TIME TO ALLOW THE PUBLIC SERVICE
3 COMPANY TO COMPLY WITH SUBSECTION (A) OF THIS SECTION.

4 (2) UNLESS THE COMMISSION NOTIFIES A PUBLIC SERVICE COMPANY
5 OF A PROPOSED CHANGE AT LEAST 6 MONTHS BEFORE THE START OF THE YEAR FOR
6 WHICH AN ANNUAL REPORT IS DUE, THE COMMISSION MAY NOT CHANGE THE FORM
7 OF THE ANNUAL REPORT IN A WAY THAT REQUIRES THE PUBLIC SERVICE COMPANY
8 TO CHANGE THE MANNER OR FORM OF ITS RECORD KEEPING.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 78, § 67(c).

11 In subsection (b) of this section, the reference to the provision of a blank
12 form in time "to allow the public service company to comply with
13 subsection (a) of this section" is substituted for the former reference to the
14 provision of a blank form in sufficient time "prior to the date when the
15 report is due" for clarity.

16 Defined terms: "Commission" § 1-101

17 "Public service company" § 1-101

18 6-207. SAME -- CONTENTS -- IN GENERAL.

19 IN ADDITION TO ANY OTHER INFORMATION THAT THE COMMISSION REQUIRES,
20 THE ANNUAL REPORT OF A PUBLIC SERVICE COMPANY SHALL STATE:

21 (1) THE AMOUNT AND KIND OF:

22 (I) AUTHORIZED CAPITAL STOCK;

23 (II) CAPITAL STOCK ISSUED AND OUTSTANDING;

24 (III) AUTHORIZED BONDED INDEBTEDNESS; AND

25 (IV) BONDS AND OTHER EVIDENCE OF INDEBTEDNESS ISSUED AND
26 OUTSTANDING;

27 (2) RECEIPTS AND EXPENDITURES FOR THE YEAR REPORTED;

28 (3) THE AMOUNT PAID AS DIVIDENDS AND INTEREST ON BONDS OR
29 OTHER EVIDENCE OF INDEBTEDNESS;

30 (4) THE AMOUNT OF SALARY PAID TO EACH OFFICER, BY NAME, AND
31 THE AMOUNT PAID AS WAGES TO EMPLOYEES;

32 (5) THE LOCATION OF THE PUBLIC SERVICE COMPANY'S PLANTS WITH A
33 FULL DESCRIPTION OF EACH PLANT AND FRANCHISE, STATING IN DETAIL HOW
34 EACH FRANCHISE WAS ACQUIRED; AND

35 (6) WHEN APPLICABLE:

1 (I) A MONTHLY COMPILATION OF REVENUES COLLECTED AS FUEL
2 RATE ADJUSTMENTS UNDER § 4-403 OF THIS ARTICLE;

3 (II) A MONTHLY COMPILATION OF EXPENDITURES THAT WERE THE
4 BASIS FOR ANY FUEL RATE ADJUSTMENT; AND

5 (III) AN ANNUAL RECAPITULATION OF THE INFORMATION
6 REQUIRED UNDER SUBITEMS (I) AND (II) OF THIS ITEM.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 78, § 67(b) as it related to the required contents of
9 the annual report of a public service company.

10 In item (1)(iv) of this section, the former reference to "forms of" evidence of
11 indebtedness is deleted as surplusage.

12 Defined terms: "Commission" § 1-101

13 "Plant" § 1-101

14 "Public service company" § 1-101

15 6-208. SAME -- RELATED ENTITIES.

16 (A) PARENTS, SUBSIDIARIES, AND OTHER ORGANIZATIONS.

17 A PUBLIC SERVICE COMPANY SHALL LIST IN ITS ANNUAL REPORT THE NAME
18 AND ADDRESS, BASIS OF CONTROL, AND PRINCIPAL BUSINESS ACTIVITIES OF:

19 (1) THE PUBLIC SERVICE COMPANY; AND

20 (2) EACH:

21 (I) PARENT;

22 (II) SUBSIDIARY OF THE PUBLIC SERVICE COMPANY;

23 (III) ORGANIZATION THE PUBLIC SERVICE COMPANY CONTROLS;

24 AND

25 (IV) JOINT VENTURE IN EXCESS OF \$1,000,000 IN WHICH THE PUBLIC
26 SERVICE COMPANY IS INVOLVED.

27 (B) BUSINESS ACTIVITIES.

28 (1) FOR EACH PRINCIPAL BUSINESS ACTIVITY DESCRIBED IN
29 SUBSECTION (A) OF THIS SECTION, A PUBLIC SERVICE COMPANY SHALL LIST AND
30 DESCRIBE BY SIC CODE AND SHORT TITLE EACH INDUSTRY IN WHICH THE PUBLIC
31 SERVICE COMPANY'S ACTIVITIES GENERATED, DURING THE REPORTING YEAR, AT
32 LEAST 10% OF GROSS REVENUES OR \$5,000,000.

33 (2) THE PUBLIC SERVICE COMPANY SHALL COMPILE THE LIST
34 DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN ORDER OF

1 SIGNIFICANCE RELATIVE TO THE TOTAL ACTIVITIES OF THE PUBLIC SERVICE
2 COMPANY, BASED ON THE PERCENTAGE OF GROSS REVENUES GENERATED WITHIN
3 EACH INDUSTRY.

4 (C) INTEREST IN BUSINESS ORGANIZATIONS.

5 FOR EACH CORPORATION, PARTNERSHIP, OR OTHER BUSINESS ORGANIZATION
6 IN WHICH A PUBLIC SERVICE COMPANY OWNS MORE THAN 5% OF THE OUTSTANDING
7 VOTING SECURITIES OR OTHER OWNERSHIP INTERESTS, THE PUBLIC SERVICE
8 COMPANY SHALL, IN ITS ANNUAL REPORT:

9 (1) LIST THE CORPORATION, PARTNERSHIP, OR OTHER BUSINESS
10 ORGANIZATION; AND

11 (2) INDICATE THE PERCENTAGE THAT THE PUBLIC SERVICE COMPANY
12 OWNS.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 78, § 67A(g), as it related to a minimum monetary
15 value of a joint venture to which reporting requirements applied, and §
16 67C.

17 In subsection (a) of this section, the former phrase "[w]ith respect to the
18 company structure" is deleted as surplusage.

19 In this section, the references to a "public service company" are substituted
20 for the former references to a "respondent" for clarity.

21 Defined terms: "Control" § 6-201

22 "Joint venture" § 6-201

23 "Own" § 1-101

24 "Parent" § 6-201

25 "Public service company" § 1-101

26 "SIC code and short title" § 6-201

27 6-209. SAME -- OFFICERS AND DIRECTORS.

28 (A) AFFILIATIONS.

29 (1) A PUBLIC SERVICE COMPANY SHALL LIST IN ITS ANNUAL REPORT
30 THE NAME AND ADDRESS OF:

31 (I) EACH PRINCIPAL OFFICER, DIRECTOR, TRUSTEE, OR PARTNER
32 OF THE PUBLIC SERVICE COMPANY AND ITS PARENT; AND

33 (II) EACH INDIVIDUAL EXERCISING FUNCTIONS SIMILAR TO THAT
34 OF A DIRECTOR, TRUSTEE, OR PARTNER ON BEHALF OF THE PUBLIC SERVICE
35 COMPANY AND ITS PARENT.

1 (2) FOR EACH INDIVIDUAL DESCRIBED IN PARAGRAPH (1) OF THIS
2 SUBSECTION, THE PUBLIC SERVICE COMPANY SHALL LIST:

3 (I) THE TITLE AND POSITION WITH THE PUBLIC SERVICE
4 COMPANY AND ANY PARENT;

5 (II) THE TITLE AND POSITION WITH ANY SUBSIDIARY OF THE
6 PUBLIC SERVICE COMPANY AND ANY OTHER COMPANY, FIRM, OR ORGANIZATION
7 THAT THE PUBLIC SERVICE COMPANY CONTROLS;

8 (III) THE PRINCIPAL OCCUPATION OR BUSINESS AFFILIATION, IF
9 DIFFERENT THAN THAT PROVIDED IN ITEM (I) OR (II) OF THIS PARAGRAPH; AND

10 (IV) EACH AFFILIATION WITH ANY OTHER BUSINESS OR FINANCIAL
11 ORGANIZATION, FIRM, OR PARTNERSHIP DOING BUSINESS WITH THE PUBLIC
12 SERVICE COMPANY.

13 (B) CONTRACTS.

14 IN ITS ANNUAL REPORT, A PUBLIC SERVICE COMPANY SHALL:

15 (1) LIST EACH CONTRACT, AGREEMENT, OR OTHER BUSINESS
16 ARRANGEMENT EXCEEDING AN AGGREGATE VALUE OF \$1,000,000 BETWEEN THE
17 PUBLIC SERVICE COMPANY AND ANY BUSINESS OR FINANCIAL ORGANIZATION,
18 FIRM, OR PARTNERSHIP DOING BUSINESS WITH THE PUBLIC SERVICE COMPANY;

19 (2) EXCEPT FOR COMPENSATION RELATED TO A POSITION WITH THE
20 PUBLIC SERVICE COMPANY, LIST EACH CONTRACT, AGREEMENT, OR OTHER
21 BUSINESS ARRANGEMENT WITH A VALUE EXCEEDING \$2,500 ENTERED INTO DURING
22 THE REPORTING YEAR BETWEEN THE PUBLIC SERVICE COMPANY AND EACH
23 OFFICER AND DIRECTOR LISTED IN SUBSECTION (A) OF THIS SECTION;

24 (3) FOR EACH CONTRACT, AGREEMENT, OR OTHER BUSINESS
25 ARRANGEMENT DESCRIBED IN PARAGRAPH (1) OR (2) OF THIS SUBSECTION, IDENTIFY
26 THE PARTIES, AMOUNTS, DATES, AND PRODUCT OR SERVICE INVOLVED; AND

27 (4) LIST THE PROFESSIONAL SERVICES PERFORMED FOR THE PUBLIC
28 SERVICE COMPANY BY EACH FIRM, PARTNERSHIP, OR ORGANIZATION WITH WHICH
29 AN OFFICER OR DIRECTOR OF THE PUBLIC SERVICE COMPANY IS AFFILIATED.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 78, § 67D.

32 In subsections (a) and (b) of this section, the references to a "public service
33 company" are substituted for the former references to a "respondent" for
34 clarity.

35 In the introductory clause of subsection (a) of this section, the former
36 phrase "[w]ith respect to the affiliations of officers and directors" is deleted
37 as surplusage.

1 In subsection (a)(1) and (2) of this section, the former references to any
2 "holding company, person, or combination of persons, controlling" the
3 public service company are deleted as included in the defined term
4 "parent".

5 In subsection (b)(2) of this section, the reference to an arrangement with a
6 particular "value" is added for clarity.

7 In subsection (b)(4) of this section, the reference to services "performed" is
8 added for clarity.

9 Defined terms: "Company" § 1-101

10 "Control" § 6-201

11 "Parent" § 6-201

12 "Public service company" § 1-101

13 6-210. SAME -- DEBT HOLDINGS.

14 (A) LONG-TERM DEBT.

15 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
16 PUBLIC SERVICE COMPANY SHALL DESCRIBE IN ITS ANNUAL REPORT EACH
17 LONG-TERM DEBT OF THE PUBLIC SERVICE COMPANY EXCEEDING \$1,000,000,
18 INCLUDING:

19 (I) THE NAME AND ADDRESS OF THE CREDITOR;

20 (II) THE CHARACTER OF THE DEBT;

21 (III) THE NATURE OF ANY SECURITY;

22 (IV) THE DATE OF ORIGIN OF THE DEBT;

23 (V) THE DATE OF MATURITY OF THE DEBT;

24 (VI) THE TOTAL AMOUNT OF THE DEBT;

25 (VII) THE RATE OF INTEREST; AND

26 (VIII) THE TOTAL AMOUNT OF INTEREST TO BE PAID.

27 (2) IF THE LONG-TERM DEBT IS IN THE FORM OF BONDS, DEBENTURES,
28 OR OTHER WIDELY HELD DEBT, THE PUBLIC SERVICE COMPANY SHALL LIST THE
29 NAME AND ADDRESS OF THE TRUSTEE, IF AVAILABLE, IN PLACE OF THE NAME AND
30 ADDRESS OF THE CREDITOR.

31 (B) SHORT-TERM DEBTS AND LIABILITIES RELATED TO CAPITAL ASSETS.

32 IN ITS ANNUAL REPORT, A PUBLIC SERVICE COMPANY SHALL:

1 (1) EXCEPT FOR THE ACCOUNTS PAYABLE OF THE PUBLIC SERVICE
2 COMPANY, DESCRIBE EACH SHORT-TERM DEBT, INCLUDING:

- 3 (I) THE NAME AND ADDRESS OF THE CREDITOR;
4 (II) THE CHARACTER OF THE DEBT;
5 (III) THE PERIOD OF THE DEBT;
6 (IV) THE RATE OF INTEREST;
7 (V) THE TOTAL AMOUNT OF THE DEBT;
8 (VI) THE NATURE OF ANY SECURITY; AND
9 (VII) THE DATE THE DEBT WAS PAID OR SHALL BE PAID;

10 (2) DESCRIBE, IF INVOLVING AGGREGATE PAYMENTS EXCEEDING
11 \$1,000,000, EACH FINANCING LEASE, EQUIPMENT TRUST, CONDITIONAL SALES
12 CONTRACT, OR MAJOR LIABILITY RELATED TO THE CAPITAL ASSETS OF THE PUBLIC
13 SERVICE COMPANY; AND

14 (3) PROVIDE A COPY OF ANY RESTRICTIVE COVENANT ATTACHED TO
15 THE DEBT DESCRIBED IN PARAGRAPH (1) OR (2) OF THIS SUBSECTION.

16 (C) HOLDERS OF REPORTED ISSUES.

17 IN ITS ANNUAL REPORT, A PUBLIC SERVICE COMPANY SHALL, IF AVAILABLE:

18 (1) LIST THE NAME AND ADDRESS OF EACH HOLDER OF MORE THAN 5%
19 OF EACH ISSUE REPORTED UNDER THIS SECTION; AND

20 (2) IDENTIFY THE HOLDER AS A BANK, BROKER, HOLDING COMPANY,
21 INDIVIDUAL, OR OTHER PERSON.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 78, §§ 67A(f) and 67E(a)(2) and (3), (b), (c), and, as
24 it related to reporting of long-term debt, (a)(1).

25 In subsections (a)(1) and (b)(1) and (2) of this section, the references to a
26 "public service company" are substituted for the former references to a
27 "respondent" for clarity.

28 In subsection (a) of this section, the former introductory phrase "[w]ith
29 respect to the debt holdings", is deleted as surplusage.

30 In subsection (a)(1) of this section, the Public Utility Companies Article
31 Review Committee notes, for the consideration of the General Assembly,
32 that the annual reporting threshold of \$1,000,000 in long-term debt was
33 enacted by Chapter 631 of the Acts of 1977, and has remained unchanged
34 since that time. Because of inflation, it may be appropriate to revisit the

- 1 threshold amount in light of current accounting practices.
- 2 In subsection (a)(1)(iv) and (v) of this section, the references to "the debt"
3 are added for clarity.
- 4 In subsection (a)(2) of this section, the reference to the "address" of the
5 trustee is added for consistency.
- 6 In subsection (b)(1)(ii) of this section, the reference to "the character of the
7 debt" is substituted for the former reference to the "nature and character of
8 the liability" for clarity and for consistency both with the definition of
9 "short-term debt" and with subsection (a)(1)(ii) of this section.
- 10 In subsection (b)(1)(v) of this section, the former reference to "short-term"
11 debt is deleted for consistency both with the rest of the paragraph and with
12 subsection (a)(1)(ii) of this section.
- 13 In subsection (b)(2) of this section, the former reference to a financing lease
14 "arrangement" is deleted as surplusage.
- 15 In subsection (c)(1) of this section, the reference to issues reported "under
16 this section" is added for clarity.

17 Defined terms: "Financing lease" § 6-201

18 "Long-term debt" § 6-201

19 "Person" § 6-201

20 "Public service company" § 1-101

21 "Short-term debt" § 6-201

22 TITLE 7. GAS AND ELECTRIC COMPANIES.

23 SUBTITLE 1. GENERAL PROVISIONS.

24 7-101. SCOPE.

25 EXCEPT AS OTHERWISE PROVIDED BY LAW, THE PROVISIONS OF THIS SUBTITLE
26 ARE NOT SUBJECT TO THE JURISDICTION OF THE COMMISSION.

27 REVISOR'S NOTE: This section is new language added to distinguish those
28 provisions subject to the jurisdiction of the Commission derived from
29 former Article 78, from those provisions outside the jurisdiction of the
30 Commission derived from other articles of the Code.

31 Defined term: "Commission" § 1-101

32 7-102. GAS COMPANIES -- POWERS.

33 (A) MANUFACTURE, SALE, AND DISTRIBUTION OF GAS.

34 A GAS COMPANY INCORPORATED IN MARYLAND MAY:

- 1 (1) MANUFACTURE ARTIFICIAL GAS;
- 2 (2) SELL OR FURNISH ANY QUANTITY OF NATURAL GAS OR ARTIFICIAL
3 GAS THAT MAY BE REQUIRED IN ANY MUNICIPAL CORPORATION OR COUNTY OF THE
4 STATE;
- 5 (3) LAY PIPE UNDER THE ROADWAYS OR OTHER PUBLIC WAYS OF ANY
6 COUNTY OR MUNICIPAL CORPORATION OF THE STATE TO TRANSMIT NATURAL GAS
7 OR ARTIFICIAL GAS; AND
- 8 (4) CONNECT THE PIPE FROM THE PLACE OF SUPPLY TO ANY
9 STRUCTURE OR OBJECT.

10 (B) LAYING OF GAS PIPES -- CONSENT OF LOCAL GOVERNMENT REQUIRED.

11 (1) A GAS COMPANY MUST HAVE THE CONSENT OF THE GOVERNING
12 BODY OF THE MUNICIPAL CORPORATION OR COUNTY BEFORE LAYING ANY GAS PIPE
13 IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

14 (2) THE GOVERNING BODY OF THE MUNICIPAL CORPORATION OR
15 COUNTY MAY ADOPT REASONABLE REGULATIONS AND CONDITIONS FOR THE
16 LAYING OF A GAS PIPE, INCLUDING REGULATIONS REQUIRING THE GAS COMPANY TO
17 REFILL AND REPAVE ANY ROADWAY OR OTHER PUBLIC WAY UNDER WHICH THE PIPE
18 IS LAID.

19 (C) GAS TRANSMISSION.

20 A GAS COMPANY, WHETHER INCORPORATED IN MARYLAND OR ANOTHER STATE,
21 THAT IS AUTHORIZED BY A GOVERNING BODY OF A MUNICIPAL CORPORATION OR
22 COUNTY TO LAY OR MAINTAIN PIPE OR OTHER STRUCTURES IN A ROADWAY OR
23 OTHER PUBLIC WAY OR PLACE SHALL OBTAIN CONSENT FROM THE COMMISSION
24 BEFORE USING THE PIPE OR OTHER STRUCTURE TO TRANSMIT AND SUPPLY
25 NATURAL GAS, ARTIFICIAL GAS, OR A MIXTURE OF NATURAL GAS AND ARTIFICIAL
26 GAS.

27 (D) EFFECT ON FRANCHISE.

28 THIS SECTION DOES NOT:

29 (1) EXTEND THE DURATION OF A FRANCHISE GRANTED BY THE
30 GOVERNING BODY OF A MUNICIPAL CORPORATION OR COUNTY; OR

31 (2) EXCEPT AS PROVIDED IN THIS SECTION, CHANGE THE TERMS OR
32 CONDITIONS OF THE FRANCHISE.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 23, § 166.

35 In this section, the term "municipal corporation" is substituted for the
36 former reference to "city" or "town" for consistency with the usage in Md.

1 Constitution Art. XI-E.

2 In subsections (a)(3) and (c) of this section, the former references to
3 "conductors", "mains", and "conduits" are deleted in light of the references
4 to a "pipe".

5 In subsections (a)(3), (b)(2), and (c) of this section, the references to
6 "roadway[s] or other public way[s]" are substituted for the former
7 references to "streets", "lanes", "alleys", "roads", "squares", and "public
8 highways", for brevity.

9 In subsection (a)(4) of this section, the former reference to a "manufactory,
10 public or private building, [or] lamp" is deleted as unnecessary in light of
11 the reference to a "structure or object".

12 In subsection (b)(1) of this section, the reference to the "governing body" of
13 a municipal corporation is substituted for the former reference to
14 "municipal authorities of said city or town, or of the county commissioners
15 of said county" for clarity and specificity, and to reflect the fact that many
16 counties in the State no longer have the "commissioner" form of
17 government. Similarly, in subsection (c) of this section, the phrase
18 "governing body of a municipal corporation" is substituted for the former
19 phrase "municipal authorities of any city or town" and in subsection (d) of
20 this section, the reference to the "governing body of a municipal
21 corporation or county" is added for consistency.

22 In subsection (b)(2) of this section, the former reference to "proper"
23 regulations and conditions is deleted as implicit in the authority to "adopt"
24 regulations.

25 Also in subsection (b)(2) of this section, the former reference to an
26 "ordinance" is deleted as unnecessary in light of the reference to
27 "reasonable regulations and conditions".

28 Defined terms: "Commission" § 1-101

29 "County" § 1-101

30 "Gas company" § 1-101

31 7-103. ELECTRIC COMPANIES -- POWERS.

32 (A) MANUFACTURE, SELL, AND FURNISH LIGHT AND POWER.

33 AN ELECTRIC COMPANY INCORPORATED IN MARYLAND MAY:

34 (1) MANUFACTURE, SELL, AND FURNISH ELECTRIC POWER IN ANY
35 MUNICIPAL CORPORATION OR COUNTY OF THE STATE;

36 (2) CONSTRUCT A POWER LINE TO TRANSMIT POWER UNDER, ALONG,
37 ON, OR OVER THE ROADWAYS OR PUBLIC WAYS OF ANY MUNICIPAL CORPORATION
38 OR COUNTY OF THE STATE; AND

1 (3) CONNECT THE POWER LINE FROM THE PLACE OF SUPPLY TO ANY
2 OTHER STRUCTURE OR OBJECT.

3 (B) LAYING OF POWER LINES -- CONSENT OF LOCAL GOVERNMENT
4 REQUIRED.

5 (1) AN ELECTRIC COMPANY MUST HAVE THE CONSENT OF THE
6 GOVERNING BODY OF THE MUNICIPAL CORPORATION OR COUNTY BEFORE LAYING
7 OR CONSTRUCTING ANY POWER LINE IN ACCORDANCE WITH SUBSECTION (A) OF
8 THIS SECTION.

9 (2) THE GOVERNING BODY OF THE MUNICIPAL CORPORATION OR
10 COUNTY MAY ADOPT REASONABLE REGULATIONS AND CONDITIONS FOR THE
11 LAYING OF A POWER LINE, INCLUDING REGULATIONS REQUIRING THE ELECTRIC
12 COMPANY TO REFILL AND REPAVE ANY ROADWAY OR PUBLIC WAY UNDER WHICH
13 THE POWER LINE IS LAID.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 23, § 167.

16 In the introductory language of subsection (a) of this section, the reference
17 to an "electric company incorporated in Maryland" is substituted for the
18 former reference to a "light or power company formed under this article"
19 for clarity.

20 In subsection (a)(1) of this section, the former references to "such
21 quantities of electric light ... as may be required or desired" and the
22 authority of an electric company to supply electric power "for lighting the
23 streets, roads, public or private buildings, or for motive power or other
24 purposes ..." are deleted as included in the reference to "electric power".

25 In subsection (a)(2) of this section, the term "roadways or public ways" is
26 substituted for the former references to "streets, squares, lanes, alleys and
27 roads" and "paved or unpaved" streets, alleys, etc. that are "... in ... or
28 adjoining ..." a city, town, or county for brevity. Similarly, in subsection
29 (b)(2) of this section, the term "roadway or public way" is substituted for
30 the former reference to "streets or roads", respectively, for brevity.

31 Also in subsection (a)(2) of this section, the former authority to "lay" and
32 "build" power lines or conductors is deleted as unnecessary in light of the
33 authority to "construct" them.

34 In subsections (a)(2) and (b)(1) and (2) of this section, the term "power line"
35 is substituted for the former reference to "lines or conductors" for clarity.

36 In subsection (a)(3) of this section, the former reference to a "manufactory,
37 public or private building, lamps" is deleted as redundant in light of the
38 use of the phrase "structure or object".

39 In subsection (b)(1) of this section, the reference to the "governing body" of

1 a municipal corporation is substituted for the former reference to
2 "municipal authorities of said city or town, or of the county commissioners
3 of said county" for clarity and specificity, and to reflect the fact that many
4 counties in the State no longer have the "commissioner" form of
5 government. Similarly, in subsection (b)(2) of this section, the term
6 "governing body of the municipal corporation or county" is substituted for
7 the former phrase "municipal authorities of the city or town, or of the
8 county commissioners", for clarity.

9 In subsection (b)(2) of this section, the reference to "repav[ing]" a roadway
10 or public way is substituted for the former reference to "restoring [the
11 roadway to its] ... former condition" for consistency with § 7-102(b)(2) of
12 this subtitle.

13 Defined terms: "County" § 1-101

14 "Electric company" § 1-101

15 SUBTITLE 2. ELECTRIC GENERATION FACILITY PLANNING.

16 7-201. ELECTRIC COMPANIES -- LONG-RANGE PLANS.

17 (A) COMMISSION TO ASSEMBLE AND EVALUATE PLANS ANNUALLY.

18 IN COOPERATION WITH THE SECRETARY OF NATURAL RESOURCES AS
19 PROVIDED UNDER § 3-304 OF THE NATURAL RESOURCES ARTICLE, THE COMMISSION
20 SHALL ASSEMBLE AND EVALUATE ANNUALLY THE LONG-RANGE PLANS OF THE
21 STATE'S ELECTRIC COMPANIES REGARDING GENERATING NEEDS AND THE MEANS
22 TO MEET THOSE NEEDS.

23 (B) TEN-YEAR PLAN REQUIRED OF COMMISSION.

24 (1) ANNUALLY, THE CHAIRMAN OF THE COMMISSION SHALL FORWARD
25 TO THE SECRETARY OF NATURAL RESOURCES A 10-YEAR PLAN LISTING POSSIBLE
26 AND PROPOSED SITES, INCLUDING THE ASSOCIATED TRANSMISSION ROUTES, FOR
27 THE CONSTRUCTION OF ELECTRIC PLANTS WITHIN THE STATE.

28 (2) (I) THE CHAIRMAN SHALL DELETE FROM THE 10-YEAR PLAN ANY
29 SITE THAT THE SECRETARY OF NATURAL RESOURCES IDENTIFIES AS UNSUITABLE
30 IN ACCORDANCE WITH THE REQUIREMENTS OF § 3-304 OF THE NATURAL
31 RESOURCES ARTICLE.

32 (II) THE CHAIRMAN MAY INCLUDE A SITE DELETED FROM A
33 10-YEAR PLAN UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IN A SUBSEQUENT
34 10-YEAR PLAN.

35 (3) THE CHAIRMAN SHALL INCLUDE INFORMATION IN THE ANNUAL
36 10-YEAR PLAN ON CURRENT AND PROJECTED EFFORTS BY ELECTRIC COMPANIES
37 AND THE COMMISSION TO MODERATE OVERALL ELECTRICAL GENERATION DEMAND
38 AND PEAK DEMAND THROUGH THE ELECTRIC COMPANIES' PROMOTION OF ENERGY

1 CONSERVATION BY CUSTOMERS AND THROUGH THE ELECTRIC COMPANIES' USE OF
2 ALTERNATIVE ENERGY SOURCES, INCLUDING COGENERATION.

3 (C) COMMISSION TO EVALUATE ENERGY CONSERVATION INVESTMENT.

4 (1) THE COMMISSION SHALL EVALUATE THE COST-EFFECTIVENESS OF
5 THE INVESTMENTS BY ELECTRIC COMPANIES IN ENERGY CONSERVATION TO
6 REDUCE ELECTRICAL DEMAND AND IN RENEWABLE ENERGY SOURCES TO HELP
7 MEET ELECTRICAL DEMAND.

8 (2) THE EVALUATION OF INVESTMENTS SHALL INCLUDE:

9 (I) THE ELECTRIC COMPANIES' PROMOTION AND CONDUCT OF A
10 BUILDING AUDIT AND WEATHERIZATION PROGRAM, INCLUDING LOW-INTEREST OR
11 NO-INTEREST ELECTRIC COMPANY FINANCING FOR THE INSTALLATION OF ENERGY
12 CONSERVATION MATERIALS AND RENEWABLE ENERGY DEVICES;

13 (II) UTILIZATION OF RENEWABLE ENERGY SOURCES;

14 (III) PROMOTION AND UTILIZATION OF ELECTRICITY FROM
15 COGENERATION AND WASTES; AND

16 (IV) WIDESPREAD PUBLIC PROMOTION OF ENERGY CONSERVATION
17 PROGRAMS.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 78, § 54B(b)(1) and (2).

20 The Public Utility Companies Article Review Committee notes, for the
21 consideration of the General Assembly, that this section is revised to apply
22 to "electric companies" which generate power, rather than "utilities", in
23 accordance with the practice of the Commission.

24 Former Art. 78, § 54B(b)(3), which required the first 10-year plan to be
25 submitted by 1972, is deleted as obsolete.

26 Defined terms: "Commission" § 1-101

27 "Electric company" § 1-101

28 "Electric plant" § 1-101

29 7-202. SAME -- POWER PLANT SITES.

30 (A) REQUEST TO SECRETARY OF NATURAL RESOURCES TO PURCHASE SITE.

31 IF THE COMMISSION DETERMINES THAT A SITE IS NEEDED, THE COMMISSION,
32 ON ITS OWN MOTION, MAY REQUEST THE SECRETARY OF NATURAL RESOURCES TO
33 PURCHASE A POWER PLANT SITE AS PROVIDED IN TITLE 3, SUBTITLE 3 OF THE
34 NATURAL RESOURCES ARTICLE.

35 (B) DETERMINATION OF NEED.

1 IN DETERMINING WHETHER A NEED EXISTS FOR THE STATE TO PURCHASE A
2 POWER PLANT SITE, THE COMMISSION SHALL CONSIDER:

3 (1) THE SUITABILITY OF SITES OWNED BY AN ELECTRIC COMPANY,
4 BOTH WITHIN AND OUTSIDE THE STATE;

5 (2) THE ANTICIPATED GROWTH OF ELECTRIC POWER DEMAND AND THE
6 ALTERNATIVE MEANS AND LOCATIONS FOR MEETING THAT DEMAND, BOTH WITHIN
7 AND OUTSIDE THE STATE; AND

8 (3) ANY OTHER FACTORS REQUIRED BY LAW.

9 (C) NOTICE AND HEARING REQUIRED.

10 (1) THE COMMISSION MAY DETERMINE THAT A POWER PLANT SITE IS
11 NEEDED ONLY AFTER THE COMMISSION GIVES PUBLIC NOTICE AND HOLDS A
12 PUBLIC HEARING.

13 (2) THE HEARING SHALL BE HELD IN THE LEGISLATIVE DISTRICT IN
14 WHICH THE SITE UNDER CONSIDERATION IS LOCATED.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 78, § 54B(e).

17 In subsection (a) of this section, the word "determines" is substituted for
18 the former reference to a "finding" for consistency. Correspondingly, in
19 subsection (c)(1) of this section, the word "determine" is substituted for the
20 former reference to a "finding".

21 Defined terms: "Commission" § 1-101

22 "Electric company" § 1-101

23 "Plant" § 1-101

24 7-203. SAME -- ENVIRONMENTAL SURCHARGE.

25 (A) IMPOSITION BY COMMISSION.

26 (1) THE COMMISSION SHALL:

27 (I) IMPOSE AN ENVIRONMENTAL SURCHARGE PER KILOWATT
28 HOUR OF ELECTRICITY GENERATED WITHIN THE STATE; AND

29 (II) AUTHORIZE EACH ELECTRIC COMPANY TO ADD THE FULL
30 AMOUNT OF THE SURCHARGE TO ITS CUSTOMERS' BILLS.

31 (2) TO THE EXTENT THAT AN ELECTRIC COMPANY FAILS TO COLLECT
32 THE SURCHARGE FROM ITS CUSTOMERS, THE AMOUNT UNCOLLECTED SHALL BE
33 DEEMED A COST OF POWER GENERATION AND ALLOWED AND COMPUTED AS SUCH
34 TOGETHER WITH OTHER ALLOWABLE EXPENSES FOR PURPOSES OF RATE-MAKING.

35 (B) COLLECTION BY COMPTROLLER.

1 (1) THE COMPTROLLER SHALL COLLECT THE REVENUE FROM THE
2 SURCHARGE IMPOSED UNDER SUBSECTION (A) OF THIS SECTION AND PLACE THE
3 REVENUE INTO A SPECIAL FUND, THE ENVIRONMENTAL TRUST FUND.

4 (2) THE COMPTROLLER SHALL MAINTAIN THE METHOD OF COLLECTION
5 OF THE SURCHARGE FROM EACH ELECTRIC COMPANY, AND THE MONEY COLLECTED
6 SHALL ACCRUE TO THE FUND.

7 (C) BUDGET PROPOSAL AND APPROVAL.

8 (1) EACH FISCAL YEAR, THE SECRETARY OF NATURAL RESOURCES
9 SHALL COORDINATE THE PREPARATION OF THE ANNUAL BUDGET REQUIRED TO
10 CARRY OUT THE PROVISIONS OF THE POWER PLANT RESEARCH PROGRAM UNDER
11 TITLE 3, SUBTITLE 3 OF THE NATURAL RESOURCES ARTICLE.

12 (2) EACH FISCAL YEAR, ON APPROVAL OF THE ANNUAL BUDGET BY THE
13 GENERAL ASSEMBLY FOR THE POWER PLANT RESEARCH PROGRAM, THE
14 COMMISSION SHALL ESTABLISH THE AMOUNT OF THE ENVIRONMENTAL
15 SURCHARGE PER KILOWATT HOUR OF ELECTRIC ENERGY GENERATED IN THE STATE
16 THAT IS TO BE IMPOSED ON EACH ELECTRIC COMPANY IN ACCORDANCE WITH
17 SUBSECTION (A) OF THIS SECTION.

18 (D) AMOUNT.

19 (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE
20 AMOUNT OF THE SURCHARGE FOR EACH ACCOUNT MAY NOT EXCEED THE LESSER
21 OF 0.15 MILL PER KILOWATT HOUR OR \$1,000 PER MONTH.

22 (2) THE DEPARTMENT OF NATURAL RESOURCES SHALL CREDIT
23 AGAINST THE AMOUNT THE COMMISSION REQUIRES EACH ELECTRIC COMPANY TO
24 PAY INTO THE ENVIRONMENTAL TRUST FUND 1.5% OF THE TOTAL SURCHARGE
25 AMOUNT ATTRIBUTED TO THE ELECTRIC COMPANY ON THE BASIS OF THE AMOUNT
26 OF THE ELECTRICITY GENERATED IN THE STATE.

27 (E) TERMINATION.

28 THE SURCHARGE IMPOSED UNDER THIS SUBTITLE SHALL TERMINATE ON JUNE
29 30, 2000.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 78, § 54B(c).

32 In subsection (c) of this section, the references to the "Power Plant
33 Research Program" are substituted for the former reference to the "power
34 plant siting and research program" to reflect the current name of that
35 program in the Department of Natural Resources.

36 Also in subsection (c)(1) of this section, the reference to each "fiscal" year is
37 added to conform to subsection (c)(2) of this section.

1 In subsection (c)(2) of this section, the reference to the imposition of the
2 surcharge by the Commission on "each electric company in accordance
3 with subsection (a) of this section" is added for clarity.

4 In subsection (d)(2) of this section, the reference to the "Commission" is
5 added for clarity.

6 Also in subsection (d)(2) of this section, the reference to the Department "of
7 Natural Resources" is added for clarity.

8 Defined terms: "Commission" § 1-101

9 "Electric company" § 1-101

10 7-204. SAME -- LINES AND TRANSMISSION DEVICES.

11 (A) REQUIRED NOTICE TO PROPERTY OWNERS.

12 (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, AT
13 LEAST 30 DAYS BEFORE A HEARING, A PUBLIC SERVICE COMPANY SHALL PROVIDE
14 TO EACH OWNER OF LAND, BY CERTIFIED MAIL, WRITTEN NOTICE OF INTENT TO
15 RUN A LINE OR SIMILAR TRANSMISSION DEVICE OVER, ON, OR UNDER THE LAND.

16 (2) THE PUBLIC SERVICE COMPANY SHALL DETERMINE THE PROPERTY
17 OWNERS FROM THE CURRENT TAX ASSESSMENT RECORDS OF THE POLITICAL
18 SUBDIVISION IN WHICH THE PROPERTY IS LOCATED.

19 (B) FAILURE TO PROVIDE NOTICE.

20 UNLESS THE FAILURE IS WILLFUL OR DELIBERATE, THE FAILURE OF A PUBLIC
21 SERVICE COMPANY TO PROVIDE NOTICE DOES NOT INVALIDATE A PUBLIC HEARING
22 OR REQUIRE THAT ANOTHER HEARING TAKE PLACE.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 78, § 54B(d).

25 In subsection (a)(1) of this section, the reference to "this article" is
26 retained, although this article is derived, in part, from provisions outside
27 former Article 78. No substantive change is intended.

28 Defined term: "Public service company" § 1-101

29 7-205. SAME -- MODIFICATION OF POWER PLANT.

30 (A) "MODIFICATION" DEFINED.

31 (1) IN THIS SECTION, "MODIFICATION" MEANS A PHYSICAL ALTERATION
32 OF, REPLACEMENT OF, OR OTHER CHANGE TO THE FACILITIES AT A POWER PLANT,
33 OR A CHANGE IN THE FUEL USED BY THE PLANT, THAT COULD RESULT IN A CHANGE
34 OF THE AIR EMISSIONS FROM THE PLANT OR FROM A GENERATING UNIT OF THE
35 PLANT.

1 (2) "MODIFICATION" DOES NOT INCLUDE:

2 (I) ROUTINE MAINTENANCE OR REPAIRS OF THE FACILITIES OF A
3 POWER PLANT; OR

4 (II) A CHANGE THAT WOULD RESULT IN AMBIENT AIR QUALITY
5 LEVELS LESS THAN OR EQUAL TO THE LEVELS THAT WERE A BASIS FOR THE
6 ISSUANCE OF A PRIOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
7 UNDER § 7-207 OF THIS SUBTITLE.

8 (B) PRIOR APPROVAL OF COMMISSION REQUIRED.

9 SUBJECT TO SUBSECTIONS (C) THROUGH (E) OF THIS SECTION, AN ELECTRIC
10 COMPANY MAY NOT COMMENCE A MODIFICATION WITHOUT THE PRIOR APPROVAL
11 OF THE COMMISSION UNDER THIS TITLE.

12 (C) FILING OF APPLICATION.

13 (1) UNLESS THE COMMISSION ORDERS OTHERWISE, AN APPLICATION
14 FOR A MODIFICATION TO A POWER PLANT SHALL BE FILED WITH THE COMMISSION
15 AT LEAST 180 DAYS BEFORE THE DATE ON WHICH THE MODIFICATION IS TO
16 COMMENCE.

17 (2) THE APPLICANT FOR THE MODIFICATION SHALL SUBMIT TO THE
18 COMMISSION AND TO THE DEPARTMENT OF THE ENVIRONMENT ALL INFORMATION
19 RELATING TO THE MODIFICATION, INCLUDING:

20 (I) DETAILED PLANS AND SPECIFICATIONS; AND

21 (II) THE IMPACT OF THE MODIFICATION ON AIR QUALITY.

22 (D) COMMISSION DECISION.

23 THE COMMISSION SHALL RENDER ITS DECISION WITHIN 150 DAYS AFTER THE
24 DAY THE APPLICATION IS FILED.

25 (E) APPLICABILITY OF TEMPORARY FUEL VARIANCES.

26 NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, A MODIFICATION TO A
27 POWER PLANT THAT INVOLVES THE SHORT-TERM INABILITY TO OBTAIN THE TYPE
28 OF FUEL NORMALLY USED BY THE PLANT IS SUBJECT TO TITLE 2, SUBTITLE 5 OF THE
29 ENVIRONMENT ARTICLE.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 78, § 54-I.

32 In subsection (a)(1) and (2)(i) of this section, the references to a "power
33 plant" are substituted for the former references to a "generating station"
34 for consistency with the terminology of § 7-202 of this subtitle and to
35 distinguish the equipment subject to this section from the "generating
36 station" subject to §§ 7-206 et seq. of this subtitle.

1 In subsection (b) of this section, the reference to modification "to an electric
2 generating station" is deleted as included in the defined term
3 "modification".

4 Also in subsection (b) of this section, the reference to a modification
5 commencing "after January 1, 1980" is deleted as obsolete.

6 In subsection (c)(1) of this section, the reference to an application "for a
7 modification to a power plant" is added for clarity.

8 Also in subsection (c)(1) of this section, the reference to the filing of the
9 application "with the Commission" is added for clarity.

10 In subsection (c)(2) of this section, the former reference to an electric
11 company's submission of an application for a modification to a power plant
12 "... not later than 180 days prior to the date on which any modification is to
13 commence" is deleted as redundant in light of subsection (c)(1) of this
14 section.

15 Defined terms: "Commission" § 1-101

16 "Electric company" § 1-101

17 "Modification" § 7-205

18 "Plant" § 1-101

19 7-206. SAME -- CLEAN AIR ACT MODIFICATIONS.

20 (A) SCOPE OF SECTION.

21 THIS SECTION APPLIES TO THE INSTALLATION OF POLLUTION CONTROL
22 EQUIPMENT OR A CHANGE IN THE METHOD OF OPERATION AT A GENERATING
23 STATION THAT AN ELECTRIC COMPANY PERFORMS IN ORDER TO COMPLY WITH
24 PHASE II POLLUTION CONTROL REQUIREMENTS OF THE FEDERAL CLEAN AIR ACT.

25 (B) COMMISSION REVIEW AND APPROVAL.

26 AN ELECTRIC COMPANY THAT PERFORMS AN INSTALLATION OR CHANGE IN
27 OPERATION UNDER SUBSECTION (A) OF THIS SECTION SHALL OBTAIN PRIOR REVIEW
28 AND APPROVAL OF THE COMMISSION IN ACCORDANCE WITH:

29 (1) SECTIONS 7-203, 7-207, AND 7-208 OF THIS SUBTITLE; AND

30 (2) THE PROCEDURES SET FORTH IN § 7-205 OF THIS SUBTITLE AND §
31 2-405 OF THE ENVIRONMENT ARTICLE.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 78, § 54L.

34 Subsection (b) of this section is revised as an affirmative duty for an
35 electric company to obtain Commission review and approval of an
36 installation or change in operation before going forward with the

1 modification, rather than having the modification "subject to" prior review
2 and approval to clarify the entity that has the burden of acting to secure
3 review and approval.

4 In subsection (b)(1) of this section, the reference to "Sections 7-203, 7-207,
5 and 7-208 of this subtitle" is substituted for the former reference to "§§
6 54A and 54B of this article", although portions of the latter provisions are
7 revised elsewhere in this subtitle. Only §§ 7-203, 7-207, and 7-208 of this
8 subtitle pertain to modifications made in connection with pollution control.

9 Defined terms: "Commission" § 1-101

10 "Electric company" § 1-101

11 7-207. GENERATING STATIONS OR TRANSMISSION LINES -- GENERAL
12 CERTIFICATION PROCEDURE.

13 (A) "CONSTRUCTION" DEFINED.

14 (1) IN THIS SECTION AND § 7-208 OF THIS SUBTITLE, "CONSTRUCTION"
15 MEANS THE CLEARING OF LAND, EXCAVATION, OR OTHER ACTION THAT AFFECTS
16 THE NATURAL ENVIRONMENT OF A SITE OR ROUTE OF A BULK POWER SUPPLY
17 FACILITY.

18 (2) "CONSTRUCTION" DOES NOT INCLUDE A CHANGE THAT IS NEEDED
19 FOR THE TEMPORARY USE OF A SITE OR ROUTE FOR NONUTILITY PURPOSES OR FOR
20 USE IN SECURING GEOLOGICAL DATA, INCLUDING ANY BORING THAT IS NECESSARY
21 TO ASCERTAIN FOUNDATION CONDITIONS.

22 (B) CONSTRUCTION -- CERTIFICATE OF PUBLIC CONVENIENCE AND
23 NECESSITY FROM COMMISSION REQUIRED.

24 AN ELECTRIC COMPANY MAY NOT BEGIN CONSTRUCTION IN THE STATE OF A
25 GENERATING STATION OR OF AN OVERHEAD TRANSMISSION LINE THAT IS DESIGNED
26 TO CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS, OR EXERCISE THE RIGHT OF
27 CONDEMNATION IN CONNECTION WITH THE CONSTRUCTION, UNLESS A
28 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION
29 IS FIRST OBTAINED FROM THE COMMISSION.

30 (C) NOTICE TO INTERESTED PERSONS.

31 (1) ON RECEIPT OF AN APPLICATION FOR A CERTIFICATE OF PUBLIC
32 CONVENIENCE AND NECESSITY UNDER THIS SECTION, THE COMMISSION SHALL
33 PROVIDE NOTICE TO THE OFFICE OF PLANNING AND TO ALL OTHER INTERESTED
34 PERSONS.

35 (2) THE OFFICE OF PLANNING SHALL FORWARD THE APPLICATION TO
36 EACH APPROPRIATE STATE UNIT AND UNIT OF LOCAL GOVERNMENT FOR REVIEW,
37 EVALUATION, AND COMMENT REGARDING THE SIGNIFICANCE OF THE PROPOSAL TO
38 STATE, AREA-WIDE, AND LOCAL PLANS OR PROGRAMS.

1 (D) PUBLIC HEARING REQUIRED.

2 (1) THE COMMISSION SHALL HOLD A PUBLIC HEARING ON THE
3 APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN
4 EACH COUNTY AND MUNICIPAL CORPORATION IN WHICH ANY PORTION OF THE
5 CONSTRUCTION OF A GENERATING STATION OR OF AN OVERHEAD TRANSMISSION
6 LINE DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS IS PROPOSED TO
7 BE LOCATED.

8 (2) THE COMMISSION SHALL HOLD THE PUBLIC HEARING JOINTLY WITH
9 THE GOVERNING BODY OF THE COUNTY OR MUNICIPAL CORPORATION IN WHICH
10 ANY PORTION OF THE CONSTRUCTION OF THE GENERATING STATION OR OVERHEAD
11 TRANSMISSION LINE IS PROPOSED TO BE LOCATED, UNLESS THE GOVERNING BODY
12 DECLINES TO PARTICIPATE IN THE HEARING.

13 (3) ONCE IN EACH OF THE 2 SUCCESSIVE WEEKS IMMEDIATELY BEFORE
14 THE HEARING DATE, THE COMMISSION SHALL PROVIDE WEEKLY NOTICE OF THE
15 PUBLIC HEARING BY ADVERTISEMENT IN A NEWSPAPER OF GENERAL CIRCULATION
16 IN THE COUNTY OR MUNICIPAL CORPORATION AFFECTED BY THE APPLICATION.

17 (4) (I) THE COMMISSION SHALL ENSURE PRESENTATION AND
18 RECOMMENDATIONS FROM EACH INTERESTED STATE UNIT, AND SHALL ALLOW
19 REPRESENTATIVES OF EACH STATE UNIT TO SIT DURING HEARING OF ALL PARTIES.

20 (II) THE COMMISSION SHALL ALLOW EACH STATE UNIT 15 DAYS
21 AFTER THE CONCLUSION OF THE HEARING TO MODIFY THE STATE UNIT'S INITIAL
22 RECOMMENDATIONS.

23 (E) FINAL ACTION BY COMMISSION REQUIRED.

24 THE COMMISSION SHALL TAKE FINAL ACTION ON AN APPLICATION FOR A
25 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY ONLY AFTER DUE
26 CONSIDERATION OF:

27 (1) THE RECOMMENDATION OF THE GOVERNING BODY OF EACH
28 COUNTY OR MUNICIPAL CORPORATION IN WHICH ANY PORTION OF THE
29 CONSTRUCTION OF THE GENERATING STATION OR OVERHEAD TRANSMISSION LINE
30 IS PROPOSED TO BE LOCATED;

31 (2) THE NEED TO MEET EXISTING AND FUTURE DEMAND FOR ELECTRIC
32 SERVICE; AND

33 (3) THE EFFECT OF THE GENERATING STATION OR OVERHEAD
34 TRANSMISSION LINE ON:

35 (I) THE STABILITY AND RELIABILITY OF THE ELECTRIC SYSTEM;

36 (II) ECONOMICS;

37 (III) ESTHETICS;

1 (IV) HISTORIC SITES;

2 (V) AVIATION SAFETY AS DETERMINED BY THE MARYLAND
3 AVIATION ADMINISTRATION AND THE ADMINISTRATOR OF THE FEDERAL AVIATION
4 ADMINISTRATION;

5 (VI) AIR AND WATER POLLUTION; AND

6 (VII) THE AVAILABILITY OF MEANS FOR THE REQUIRED TIMELY
7 DISPOSAL OF WASTES PRODUCED BY ANY GENERATING STATION.

8 (F) CONSTRUCTION OF TRANSMISSION LINES NEAR AIRPORT RUNWAY.

9 (1) THE COMMISSION MAY NOT AUTHORIZE, AND AN ELECTRIC
10 COMPANY MAY NOT UNDERTAKE, THE CONSTRUCTION OF AN OVERHEAD
11 TRANSMISSION LINE THAT IS ALIGNED WITH AND WITHIN 1 MILE OF EITHER END OF
12 A PUBLIC AIRPORT RUNWAY, UNLESS:

13 (I) THE FEDERAL AVIATION ADMINISTRATION DETERMINES THAT
14 THE CONSTRUCTION OF AN OVERHEAD TRANSMISSION LINE WILL NOT CONSTITUTE
15 A HAZARD TO AIR NAVIGATION; AND

16 (II) THE MARYLAND AVIATION ADMINISTRATION CONCURS IN THAT
17 DETERMINATION.

18 (2) A PRIVATELY OWNED AIRPORT RUNWAY SHALL QUALIFY AS A
19 PUBLIC AIRPORT RUNWAY UNDER THIS SUBSECTION ONLY IF THE RUNWAY HAS
20 BEEN ON FILE WITH THE FEDERAL AVIATION ADMINISTRATION FOR AT LEAST 2
21 YEARS AS BEING OPEN TO THE PUBLIC WITHOUT RESTRICTION.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 78, § 54A.

24 In subsection (b) of this section, the reference to "condemnation" is
25 substituted for the former reference to "eminent domain", for accuracy.

26 In subsection (c)(1) of this section, the reference to an application "for a
27 certificate of public convenience and necessity under this section" is added
28 for clarity.

29 In subsections (d)(1), (2), and (3) and (e)(1) of this section, the references to
30 a "county" and a "municipal corporation" are substituted for the former
31 references to the "area" affected by a generating station or overhead
32 transmission line for clarity.

33 In subsections (d)(2) and (e)(1), respectively, of this section, the
34 requirement that the Commission hold a joint public hearing with, or
35 consider the recommendations of, respectively, the governing body of the
36 county or municipal corporation "in which any portion of the construction
37 of the generating station or overhead transmission line is proposed to be

1 located" is added for clarity.

2 In the introductory language of subsection (e) of this section, the
3 requirement that the Commission take final action "on an application for a
4 certificate of public convenience and necessity" is added for clarity.

5 In subsection (e)(2) of this section, the reference to "electric" service is
6 added for clarity.

7 In subsection (e)(3) of this section, the reference to the effect "of the
8 generating station or overhead transmission line" is added for clarity.

9 In subsection (e)(3)(vii) of this section, the former reference to any "fossil
10 fuel or nonfossil fuel" generating station is deleted as surplusage.

11 Also in subsection (e)(3)(vii) of this section, the former reference to
12 applications "received by the Commission after July 1, 1981" is deleted as
13 obsolete.

14 In subsection (f)(1)(ii) of this section, the reference to the "Maryland
15 Aviation Administration" is substituted for the former reference to the
16 "State Aviation Administration" to reflect the current name of the unit.

17 Defined terms: "Commission" § 1-101

18 "Construction" § 7-207

19 "County" § 1-101

20 "Electric company" § 1-101

21 "Person" § 1-101

22 7-208. SAME -- JOINT CONSTRUCTION OF STATION AND ASSOCIATED LINES.

23 (A) SCOPE OF SECTION.

24 THIS SECTION APPLIES TO AN ELECTRIC COMPANY:

25 (1) CONSTRUCTING A GENERATING STATION AND ITS ASSOCIATED
26 OVERHEAD TRANSMISSION LINES DESIGNED TO CARRY A VOLTAGE IN EXCESS OF
27 69,000 VOLTS; OR

28 (2) EXERCISING THE RIGHT OF CONDEMNATION IN CONNECTION WITH
29 THE CONSTRUCTION.

30 (B) FILING WITH COMMISSION.

31 (1) TO OBTAIN THE CERTIFICATE OF PUBLIC CONVENIENCE AND
32 NECESSITY REQUIRED UNDER § 7-207 OF THIS SUBTITLE FOR CONSTRUCTION UNDER
33 THIS SECTION, AN ELECTRIC COMPANY SHALL FILE AN APPLICATION WITH THE
34 COMMISSION AT LEAST 2 YEARS BEFORE CONSTRUCTION OF THE FACILITY WILL
35 COMMENCE.

1 (2) THE COMMISSION MAY WAIVE THE 2-YEAR REQUIREMENT ON A
2 SHOWING OF GOOD CAUSE.

3 (C) CONTENTS.

4 AN ELECTRIC COMPANY SHALL:

5 (1) INCLUDE IN AN APPLICATION UNDER THIS SECTION THE
6 INFORMATION THAT THE COMMISSION REQUESTS INITIALLY; AND

7 (2) FURNISH ANY ADDITIONAL INFORMATION THAT THE COMMISSION
8 REQUESTS SUBSEQUENTLY.

9 (D) NOTICE AND PUBLIC HEARING.

10 (1) ON THE RECEIPT OF AN APPLICATION UNDER THIS SECTION,
11 TOGETHER WITH ANY ADDITIONAL INFORMATION REQUESTED UNDER SUBSECTION
12 (C)(2) OF THIS SECTION, THE COMMISSION SHALL PROVIDE NOTICE TO:

13 (I) ALL INTERESTED PERSONS;

14 (II) THE DEPARTMENT OF AGRICULTURE;

15 (III) THE DEPARTMENT OF BUSINESS AND ECONOMIC
16 DEVELOPMENT;

17 (IV) THE DEPARTMENT OF THE ENVIRONMENT;

18 (V) THE DEPARTMENT OF NATURAL RESOURCES;

19 (VI) THE DEPARTMENT OF TRANSPORTATION; AND

20 (VII) THE OFFICE OF PLANNING.

21 (2) THE COMMISSION SHALL HOLD A PUBLIC HEARING ON THE
22 APPLICATION AS REQUIRED BY § 7-207 OF THIS SUBTITLE, AFTER:

23 (I) THE RECEIPT OF ANY ADDITIONAL INFORMATION REQUESTED
24 UNDER SUBSECTION (C)(2) OF THIS SECTION THAT THE COMMISSION CONSIDERS
25 NECESSARY; AND

26 (II) ANY PUBLICATION OF NOTICE THE COMMISSION CONSIDERS
27 TO BE PROPER.

28 (3) (I) AT THE PUBLIC HEARING, THE COMMISSION SHALL ENSURE
29 PRESENTATION OF THE INFORMATION AND RECOMMENDATIONS OF THE STATE
30 UNITS SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION AND SHALL ALLOW THE
31 OFFICIAL REPRESENTATIVE OF EACH UNIT TO SIT DURING HEARING OF ALL
32 PARTIES.

1 (II) BASED ON THE EVIDENCE RELATING TO THE UNIT'S AREAS OF
2 CONCERN, THE COMMISSION SHALL ALLOW EACH UNIT 15 DAYS AFTER THE
3 CONCLUSION OF THE HEARING TO MODIFY OR AFFIRM THE UNIT'S INITIAL
4 RECOMMENDATIONS.

5 (E) COMMISSION DECISION.

6 WITHIN 90 DAYS AFTER THE CONCLUSION OF THE HEARING ON AN
7 APPLICATION UNDER THIS SECTION, THE COMMISSION SHALL:

8 (1) (I) GRANT A CERTIFICATE OF PUBLIC CONVENIENCE AND
9 NECESSITY UNCONDITIONALLY;

10 (II) GRANT THE CERTIFICATE, SUBJECT TO CONDITIONS THE
11 COMMISSION DETERMINES TO BE APPROPRIATE; OR

12 (III) DENY THE CERTIFICATE; AND

13 (2) NOTIFY ALL INTERESTED PARTIES OF ITS DECISION.

14 (F) INCLUSION OF FEDERAL AND STATE ENVIRONMENTAL LAWS AND
15 STANDARDS IN CERTIFICATE.

16 (1) THE COMMISSION SHALL INCLUDE IN EACH CERTIFICATE IT ISSUES
17 UNDER SUBSECTION (E) OF THIS SECTION:

18 (I) THE REQUIREMENTS OF THE FEDERAL AND STATE
19 ENVIRONMENTAL LAWS AND STANDARDS THAT ARE IDENTIFIED BY THE
20 DEPARTMENT OF THE ENVIRONMENT; AND

21 (II) THE METHODS AND CONDITIONS THAT THE COMMISSION
22 DETERMINES ARE APPROPRIATE TO COMPLY WITH THOSE ENVIRONMENTAL LAWS
23 AND STANDARDS.

24 (2) THE COMMISSION MAY NOT ADOPT ANY METHOD OR CONDITION
25 UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION THAT THE DEPARTMENT OF THE
26 ENVIRONMENT DETERMINES IS INCONSISTENT WITH FEDERAL AND STATE
27 ENVIRONMENTAL LAWS AND STANDARDS.

28 (G) COMMISSION DECISION -- REQUIRED MAJORITY.

29 (1) A DECISION OF THE COMMISSION REGARDING THE ISSUANCE OF A
30 CERTIFICATE REQUIRES THE VOTE OF A MAJORITY OF THE MEMBERS OF THE
31 COMMISSION.

32 (2) IF A MAJORITY OF THE MEMBERS OF THE COMMISSION FAILS TO
33 REACH AGREEMENT ON THE CONDITIONS TO BE ATTACHED TO A CONDITIONAL
34 CERTIFICATE, THE CERTIFICATE SHALL BE DENIED.

35 (H) ADDITIONAL AUTHORITY TO CONSTRUCT VESTED BY GRANTING A
36 CERTIFICATE.

1 THE GRANT OF A CERTIFICATE BY THE COMMISSION TO AN ELECTRIC
2 COMPANY UNDER SUBSECTION (E) OF THIS SECTION CONSTITUTES:

3 (1) AUTHORITY FOR THE COMPANY TO DREDGE AND CONSTRUCT
4 BULKHEADS IN THE WATERS OR PRIVATE WETLANDS OF THE STATE AND TO
5 APPROPRIATE OR USE THE WATERS; AND

6 (2) REGISTRATION FOR THE CONSTRUCTION OF ANY FACILITY
7 NECESSARY TO CONTROL EMISSIONS INTO THE AIR RESULTING FROM THE
8 OPERATION OF THE GENERATING STATION, AS REQUIRED UNDER TITLE 2, SUBTITLE
9 4 OF THE ENVIRONMENT ARTICLE.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 78, § 54B(a).

12 In subsections (a) and (b)(1) of this section, the former references to "July
13 1, 1972" and "July 1, 1974" are deleted as obsolete.

14 In subsection (a)(1) of this section, the former reference to an "electric"
15 generating station is deleted as implicit and for consistency with §§ 7-207
16 et seq. of this subtitle.

17 In subsection (a)(2) of this section, the reference to "condemnation" is
18 substituted for the former reference to "eminent domain" for accuracy.

19 In subsection (c) of this section, the defined term "electric company" is
20 substituted for the former reference to "company" for clarity.

21 In subsection (c)(1) of this section, the word "initially" is added since, under
22 subsection (c)(2) of this section, the Commission may subsequently request
23 information to support the application for a certificate of public
24 convenience and necessity.

25 In subsection (d)(3)(ii) of this section, the reference to "amend[ing]" a
26 recommendation is deleted in light of the reference to "modify[ing]" the
27 recommendation.

28 In subsections (e) through (h) of this section, the references to a "certificate
29 of public convenience and necessity" or "certificate" are substituted for the
30 former references to a "permit" for clarity.

31 In subsection (e)(1)(i) of this section, the reference to the granting of a
32 certificate "unconditionally" is added for clarity in light of the
33 Commission's authority to grant a conditional permit under subsection
34 (e)(1)(ii) of this section.

35 In subsection (h)(2) of this section, the reference to operation of the
36 "generating station" is substituted for the former reference to operation of
37 the "plant" for clarity.

1 Defined terms: "Commission" § 1-101

2 "Construction" § 7-207

3 "Electric company" § 1-101

4 "Person" § 1-101

5 7-209. ALTERNATIVES TO CONSTRUCTION OF TRANSMISSION LINES.

6 (A) IN GENERAL.

7 THE COMMISSION SHALL EXAMINE ALTERNATIVES TO THE CONSTRUCTION OF
8 A NEW TRANSMISSION LINE IN A SERVICE AREA, INCLUDING THE USE OF AN
9 EXISTING TRANSMISSION LINE OF ANOTHER COMPANY, IF:

10 (1) THE EXISTING TRANSMISSION LINE IS CONVENIENT TO THE
11 SERVICE AREA; OR

12 (2) THE USE OF THE TRANSMISSION LINE WILL BEST PROMOTE
13 ECONOMIC AND EFFICIENT SERVICE TO THE PUBLIC.

14 (B) FRANCHISE NOT A FACTOR.

15 IN CONSIDERING THE USE OF AN EXISTING TRANSMISSION LINE UNDER
16 SUBSECTION (A) OF THIS SECTION, THE COMMISSION NEED NOT CONSIDER
17 WHETHER THE COMPANY THAT OWNS THE LINE HAS A FRANCHISE IN A SERVICE
18 AREA.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 78, § 73(b).

21 The only changes are in style.

22 Defined terms: "Commission" § 1-101

23 "Company" § 1-101

24 "Own" § 1-101

25 7-210. MUNICIPAL ELECTRIC PLANTS.

26 (A) APPLICATION OF SECTION.

27 THIS SECTION DOES NOT APPLY TO BALTIMORE CITY.

28 (B) IN GENERAL.

29 (1) A MUNICIPAL CORPORATION MAY NOT BUILD, MAINTAIN, OR
30 OPERATE A PLANT FOR SUPPLYING GAS OR ELECTRICITY FOR OTHER THAN
31 MUNICIPAL PURPOSES UNLESS THE MUNICIPAL CORPORATION HAS A CERTIFICATE
32 OF AUTHORITY FROM THE COMMISSION.

33 (2) IF THE COMMISSION DENIES THE CERTIFICATE OF AUTHORITY, THE
34 MUNICIPAL CORPORATION MAY NOT REAPPLY FOR A CERTIFICATE UNTIL AT LEAST 6

1 MONTHS HAVE ELAPSED FROM THE DATE THAT THE COMMISSION DENIED THE
2 PREVIOUS APPLICATION.

3 (C) OWNERSHIP OR FINANCING OF PLANT ALLOWED.

4 SUBJECT TO SUBSECTION (B) OF THIS SECTION, A MUNICIPAL CORPORATION IN
5 THE BUSINESS OF SUPPLYING ELECTRICITY FOR OTHER THAN MUNICIPAL
6 PURPOSES MAY OWN OR FINANCE AN INTEREST IN AN ELECTRIC PLANT TO SECURE
7 AN ENTITLEMENT OF ELECTRICITY FOR ITS CUSTOMERS.

8 (D) AUTHORITY TO SUPPLY ELECTRICITY WITHIN ANNEXED AREA.

9 IF THE BOUNDARIES OF A MUNICIPAL CORPORATION ARE ENLARGED BY
10 ANNEXATION, THE MUNICIPAL CORPORATION MAY ACQUIRE THE EXCLUSIVE RIGHT
11 TO SUPPLY ELECTRICITY WITHIN THE ANNEXED AREA IF:

12 (1) THE MUNICIPAL CORPORATION:

13 (I) FILES A PETITION WITH THE COMMISSION SEEKING APPROVAL
14 TO ACQUIRE THE EXCLUSIVE RIGHT TO SUPPLY ELECTRICITY WITHIN THE ANNEXED
15 AREA;

16 (II) PROVIDES A COPY OF THE PETITION TO EACH ELECTRIC
17 COMPANY WHOSE SERVICE TERRITORY OR ELECTRIC PLANT WILL BE AFFECTED BY
18 THE ANNEXATION; AND

19 (III) ATTACHES TO THE PETITION A COPY OF THE AMENDMENT TO
20 THE MUNICIPAL CORPORATION CHARTER THAT DESCRIBES THE AREA ANNEXED
21 AND A DESCRIPTION OF THE SERVICE TERRITORY, PLANT, EQUIPMENT, AND
22 CUSTOMERS OF EACH ELECTRIC COMPANY THAT IS LIKELY TO BE AFFECTED BY THE
23 ANNEXATION; AND

24 (2) THE COMMISSION DETERMINES THAT MODIFICATION OF THE
25 SERVICE TERRITORY OF AN ELECTRIC COMPANY AND THE TRANSFER OF A
26 FRANCHISE OR RIGHT UNDER THE FRANCHISE IS IN THE PUBLIC INTEREST.

27 (E) ACQUISITION OF FACILITIES WITHIN ANNEXED AREA.

28 (1) A MUNICIPAL CORPORATION THAT ACQUIRES THE EXCLUSIVE RIGHT
29 UNDER SUBSECTION (D) OF THIS SECTION TO SUPPLY ELECTRICITY WITHIN AN AREA
30 ANNEXED BY THE MUNICIPAL CORPORATION MAY EXERCISE THE RIGHT OF
31 EMINENT DOMAIN TO ACQUIRE THE EXISTING INSTALLED FACILITIES OF EACH
32 ELECTRIC COMPANY WITHIN THE ANNEXED AREA THAT ARE USED SOLELY TO
33 SUPPLY ELECTRICITY TO THE ANNEXED AREA.

34 (2) THE VALUE OF ANY PROPERTY TAKEN UNDER PARAGRAPH (1) OF
35 THIS SUBSECTION SHALL BE DETERMINED AS OF THE DATE OF THE TAKING.

36 REVISOR'S NOTE: This section is new language derived without substantive
37 change from former Art. 78, § 53.

1 In subsection (a) of this section, the reference to "Baltimore City" is
2 substituted for the former reference to "the Mayor and City Council of
3 Baltimore" for clarity.

4 In subsection (c) of this section, the former reference to an electric plant
5 "located within or without the State" is deleted as surplusage.

6 In subsection (d)(1)(ii) of this section, the reference to any electric company
7 whose service territory or electric plant will be affected "by the annexation"
8 is added for clarity and consistency with subsection (d)(1)(iii) of this
9 section.

10 Defined terms: "Commission" § 1-101

11 "Electric company" § 1-101

12 "Electric plant" § 1-101

13 "Own" § 1-101

14 "Plant" § 1-101

15 7-211. ENERGY EFFICIENCY PROGRAMS.

16 (A) PROMOTION OF ENERGY EFFICIENCY.

17 SUBJECT TO REVIEW AND APPROVAL BY THE COMMISSION, EACH GAS
18 COMPANY AND ELECTRIC COMPANY SHALL DEVELOP AND IMPLEMENT PROGRAMS
19 AND SERVICES TO ENCOURAGE AND PROMOTE THE EFFICIENT USE AND
20 CONSERVATION OF ENERGY BY CONSUMERS, GAS COMPANIES, AND ELECTRIC
21 COMPANIES.

22 (B) COMMISSION'S ROLE.

23 THE COMMISSION SHALL:

24 (1) REQUIRE EACH GAS COMPANY AND ELECTRIC COMPANY TO
25 ESTABLISH ANY PROGRAM OR SERVICE THAT THE COMMISSION DEEMS
26 APPROPRIATE AND COST EFFECTIVE TO ENCOURAGE AND PROMOTE THE EFFICIENT
27 USE AND CONSERVATION OF ENERGY; AND

28 (2) ADOPT RATE-MAKING POLICIES THAT PROVIDE COST RECOVERY
29 AND, IN APPROPRIATE CIRCUMSTANCES, REASONABLE FINANCIAL INCENTIVES FOR
30 GAS COMPANIES AND ELECTRIC COMPANIES TO ESTABLISH PROGRAMS AND
31 SERVICES THAT ENCOURAGE AND PROMOTE THE EFFICIENT USE AND
32 CONSERVATION OF ENERGY.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 78, § 28(g).

35 In subsection (a) of this section, the former reference to "such other duties
36 as may be specifically imposed by this article" is deleted as unnecessary.
37 Any duty imposed under this section would be in addition to, not instead
38 of, any other duty imposed by another provision of this article.

1 Defined terms: "Commission" § 1-101

2 "Electric company" § 1-101

3 "Gas company" § 1-101

4 SUBTITLE 3. CONSUMER RELATIONS.

5 7-301. METERS -- AUTHORIZATION BY COMMISSION.

6 (A) IN GENERAL.

7 A PERSON MAY NOT FURNISH OR PUT IN USE FOR REVENUE BILLING PURPOSES
8 A GAS METER OR ELECTRIC METER UNLESS THE COMMISSION HAS AUTHORIZED THE
9 METER'S USE.

10 (B) TESTING OF METERS.

11 (1) EACH GAS COMPANY AND ELECTRIC COMPANY SHALL MAINTAIN
12 SUITABLE EQUIPMENT, APPROVED BY THE COMMISSION, FOR TESTING THE
13 ACCURACY OF A GAS METER OR ELECTRIC METER FURNISHED BY THE COMPANY FOR
14 USE BY ITS CUSTOMERS.

15 (2) THE GAS COMPANY OR ELECTRIC COMPANY SHALL TEST A
16 CUSTOMER'S METER WITH THE EQUIPMENT IN ACCORDANCE WITH § 7-302 OF THIS
17 SUBTITLE.

18 (C) NEW RESIDENTIAL MULTIPLE OCCUPANCY BUILDING, NEW SHOPPING
19 CENTER, OR LOCAL HOUSING AUTHORITY UNITS.

20 (1) THIS SUBSECTION APPLIES TO:

21 (I) A NEW RESIDENTIAL MULTIPLE OCCUPANCY BUILDING;

22 (II) A NEW SHOPPING CENTER; OR

23 (III) A NEW HOUSING UNIT THAT IS CONSTRUCTED, MANAGED,
24 OPERATED, DEVELOPED, OR SUBSIDIZED BY A LOCAL HOUSING AUTHORITY
25 ESTABLISHED UNDER ARTICLE 44A OF THE CODE.

26 (2) THE SERVICE RESTRICTIONS IMPOSED UNDER THIS SUBSECTION DO
27 NOT APPLY TO CENTRAL HOT WATER.

28 (3) THE COMMISSION MAY NOT AUTHORIZE A GAS COMPANY OR
29 ELECTRIC COMPANY TO SERVICE AN OCCUPANCY UNIT OR SHOPPING CENTER UNIT
30 SUBJECT TO THIS SUBSECTION UNLESS THE BUILDING OR SHOPPING CENTER HAS
31 INDIVIDUAL METERED SERVICE OR SUBMETERING AS PROVIDED UNDER § 7-303 OR §
32 7-304 OF THIS SUBTITLE FOR EACH INDIVIDUALLY LEASED OR OWNED OCCUPANCY
33 UNIT OR SHOPPING CENTER UNIT.

34 (4) IN ACCORDANCE WITH ITS REGULATIONS, THE COMMISSION MAY
35 AUTHORIZE A GAS COMPANY OR ELECTRIC COMPANY TO PROVIDE SERVICE FOR

1 CENTRAL HEATING OR COOLING SYSTEMS, OR A COMBINATION OF THOSE SYSTEMS,
2 TO AN OCCUPANCY UNIT OR SHOPPING CENTER UNIT SUBJECT TO THIS SUBSECTION
3 IF THE COMMISSION IS SATISFIED THAT THE SERVICE WILL RESULT IN A
4 SUBSTANTIAL NET SAVING OF ENERGY OVER THE ENERGY SAVING THAT WOULD
5 RESULT FROM INDIVIDUAL METERING OR SUBMETERING AS PROVIDED UNDER §
6 7-303 OR § 7-304 OF THIS SUBTITLE.

7 (D) IMPOSITION OF UNAUTHORIZED UTILITY CHARGES PROHIBITED.

8 THE OWNER, OPERATOR, OR MANAGER OF A RESIDENTIAL MULTIPLE
9 OCCUPANCY BUILDING OR SHOPPING CENTER SUBJECT TO THIS SECTION MAY NOT
10 IMPOSE A UTILITY COST ON AN OCCUPANCY UNIT OR SHOPPING CENTER UNIT,
11 EXCEPT FOR CHARGES THAT:

12 (1) THE COMMISSION AUTHORIZES THE GAS COMPANY OR ELECTRIC
13 COMPANY TO IMPOSE; AND

14 (2) THE GAS COMPANY OR ELECTRIC COMPANY ACTUALLY IMPOSES ON
15 THE OWNER, OPERATOR, OR MANAGER.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 78, § 51(b), (c), and, except for the first and third
18 clauses of the third sentence, (a).

19 In subsection (b)(1) of this section, the former reference to maintaining a
20 testing apparatus "in an appropriate place" is deleted as surplusage.

21 In subsection (c)(2) of this section, the former references to construction
22 "after July 1, 1978" and "after July 1, 1985" are deleted as obsolete.

23 In subsection (c)(4) of this section, the former reference to "rules" is
24 deleted. See General Revisor's Note to this article.

25 In subsection (d)(1) and (2) of this section, the defined terms "gas company"
26 and "electric company" are substituted for the former reference to a
27 "utility" for consistency.

28 Defined terms: "Commission" § 1-101

29 "Electric company" § 1-101

30 "Gas company" § 1-101

31 "Person" § 1-101

32 7-302. METERS -- INSPECTION.

33 (A) REQUEST FOR INSPECTION BY CONSUMER.

34 (1) BY WRITTEN REQUEST, A CONSUMER MAY COMPEL THE
35 COMMISSION TO INSPECT AND TEST THE CONSUMER'S ELECTRIC METER OR GAS
36 METER.

1 (2) THE CONSUMER IS ENTITLED TO BE PRESENT FOR THE TEST.

2 (B) REPLACEMENT OF INCORRECT METER.

3 (1) THE COMMISSION SHALL SET A PERCENTAGE TOLERANCE LIMIT
4 FOR THE ACCURACY OF AN ELECTRIC METER OR GAS METER.

5 (2) THE COMMISSION SHALL ORDER A GAS COMPANY OR ELECTRIC
6 COMPANY TO REPLACE A METER AT THE COMPANY'S EXPENSE IF THE METER IS
7 INCORRECT TO THE PREJUDICE OF THE CONSUMER BY MORE THAN THE
8 PERCENTAGE TOLERANCE LIMIT SET BY THE COMMISSION.

9 (C) FEES.

10 (1) THE COMMISSION SHALL SET A UNIFORM REASONABLE FEE FOR
11 METER TEST SERVICES UNDER THIS SECTION.

12 (2) (I) IF THE TEST INDICATES THAT THE METER IS WITHIN THE
13 PERCENTAGE TOLERANCE LIMIT SET BY THE COMMISSION UNDER SUBSECTION
14 (B)(1) OF THIS SECTION, THE CONSUMER SHALL PAY THE TEST FEE.

15 (II) IF THE TEST INDICATES THAT THE METER IS NOT WITHIN THE
16 PERCENTAGE TOLERANCE LIMIT SET BY THE COMMISSION, THE COMMISSION SHALL
17 REFUND THE FEE.

18 REVISOR'S NOTE: Subsections (a), (b)(2), and (c) of this section are new
19 language derived without substantive change from former Art. 78, § 52,
20 and the last sentence of § 51(a).

21 Subsection (b)(1) of this section is new language added for clarity.

22 Subsection (c)(2)(ii) of this section is new language added as an implicit
23 corollary of subsection (c)(2)(i) of this section.

24 In subsection (b)(2) of this section, the defined terms "gas company" and
25 "electric company" are substituted for the former reference to "the
26 company" for clarity.

27 In subsection (c)(2)(i) of this section, the clause "[i]f the test indicates that
28 the meter is within the percentage tolerance limit set by the Commission
29 under subsection (b)(1) of this section," is added for clarity.

30 Defined terms: "Commission" § 1-101

31 "Electric company" § 1-101

32 "Gas company" § 1-101

33 7-303. SUBMETERING -- APARTMENT HOUSE AND COMMERCIAL BUILDING.

34 (A) DEFINITIONS.

1 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (2) (I) "APARTMENT HOUSE" MEANS ONE OR MORE BUILDINGS THAT
4 EACH CONTAIN MORE THAN TWO DWELLING UNITS AND IN WHICH ALL THE
5 DWELLING UNITS ARE OCCUPIED PRIMARILY FOR NONTRANSIENT USE WITH RENT
6 PAID AT INTERVALS OF 1 WEEK OR LONGER.

7 (II) "APARTMENT HOUSE" INCLUDES A RESIDENTIAL
8 CONDOMINIUM OR COOPERATIVE, WHETHER THE UNITS ARE RENTED OR OWNER
9 OCCUPIED.

10 (3) "COMMERCIAL RENTAL UNIT" MEANS ANY LEASED PREMISES USED
11 FOR RETAIL, COMMERCIAL, CLERICAL, OR PROFESSIONAL PURPOSES.

12 (4) "DWELLING UNIT" MEANS PREMISES THAT CONSIST OF ONE OR
13 MORE ROOMS SUITABLE FOR OCCUPANCY AS A RESIDENCE AND THAT CONTAIN
14 KITCHEN AND BATHROOM FACILITIES.

15 (5) "OFFICE BUILDING" MEANS ONE OR MORE BUILDINGS THAT EACH
16 CONTAIN TWO OR MORE COMMERCIAL RENTAL UNITS.

17 (6) "SHOPPING CENTER" MEANS ANY COMBINATION OF PRIVATELY
18 OWNED COMMERCIAL, PROFESSIONAL, OR RETAIL ESTABLISHMENTS TO WHICH THE
19 GENERAL PUBLIC IS INVITED FOR BUSINESS PURPOSES.

20 (7) "SUBMETERING" MEANS THE INSTALLATION OF EQUIPMENT TO
21 DETERMINE THE ACTUAL USE OF GAS OR ELECTRICITY FOR EACH:

22 (I) RESIDENTIAL UNIT IN AN APARTMENT HOUSE; OR

23 (II) COMMERCIAL RENTAL UNIT IN AN OFFICE BUILDING OR
24 SHOPPING CENTER.

25 (B) IN GENERAL.

26 AN APARTMENT HOUSE, OFFICE BUILDING, OR SHOPPING CENTER THAT
27 CONTAINS A COMBINATION OF DWELLING UNITS OR COMMERCIAL RENTAL UNITS IS
28 INCLUDED UNDER THE REQUIREMENTS OF THIS SECTION.

29 (C) SUBMETERING EQUIPMENT -- ADOPTION OF REGULATIONS.

30 (1) NOTWITHSTANDING ANY OTHER LAW, THE COMMISSION SHALL
31 ADOPT REGULATIONS TO ESTABLISH STANDARDS:

32 (I) BY WHICH AN OWNER, OPERATOR, OR MANAGER OF AN
33 APARTMENT HOUSE, OFFICE BUILDING, OR SHOPPING CENTER MAY INSTALL
34 SUBMETERING EQUIPMENT FOR EACH DWELLING UNIT OR COMMERCIAL RENTAL
35 UNIT THAT IS NOT INDIVIDUALLY METERED FOR GAS OR ELECTRICITY; AND

1 (II) TO ALLOCATE FAIRLY THE COST OF EACH UNIT'S GAS OR
2 ELECTRICAL CONSUMPTION.

3 (2) (I) AN OWNER, OPERATOR, OR MANAGER OF AN APARTMENT
4 HOUSE, OFFICE BUILDING, OR SHOPPING CENTER WHO INSTALLS SUBMETERING
5 EQUIPMENT UNDER THIS SECTION TO PROVIDE BULK METERED SERVICE MAY NOT
6 IMPOSE ON A UNIT IN THE FACILITY ANY UTILITY COST EXCEPT THE CHARGES THAT
7 THE COMMISSION AUTHORIZES AND THAT THE GAS COMPANY OR ELECTRIC
8 COMPANY ACTUALLY IMPOSES ON THE OWNER, OPERATOR, OR MANAGER.

9 (II) THE CHARGES IMPOSED UNDER SUBPARAGRAPH (I) OF THIS
10 PARAGRAPH SHALL BE ALLOCATED AMONG THE UNITS IN PROPORTION TO THE
11 ACTUAL USAGE OF CUBIC FEET OR KILOWATT HOURS BY THE UNIT.

12 (III) THE OWNER, OPERATOR, OR MANAGER OF AN APARTMENT
13 HOUSE, OFFICE BUILDING, OR SHOPPING CENTER MAY COLLECT AN ADDITIONAL
14 SERVICE CHARGE NOT EXCEEDING \$1 PER UNIT PER MONTH TO COVER
15 ADMINISTRATIVE COSTS AND BILLING.

16 (3) (I) THE REQUIREMENTS OF THIS PARAGRAPH DO NOT APPLY TO
17 UNITS CONSTRUCTED, MANAGED, OPERATED, DEVELOPED, OR SUBSIDIZED BY A
18 LOCAL HOUSING AUTHORITY ESTABLISHED UNDER ARTICLE 44A OF THE CODE.

19 (II) IF THE OWNER, OPERATOR, OR MANAGER OF AN APARTMENT
20 HOUSE, OFFICE BUILDING, OR SHOPPING CENTER INSTALLS SUBMETERS DURING
21 THE TERM OF A LEASE OR AGREEMENT THAT INCLUDES THE COST OF GAS OR
22 ELECTRICITY CONSUMED FOR THE UNIT, THE OWNER, OPERATOR, OR MANAGER
23 SHALL:

24 1. DETERMINE THE AMOUNT OF GAS OR ELECTRIC COSTS
25 SAVED BY THAT UNIT; AND

26 2. PASS THAT AMOUNT ON TO THE UNIT'S OCCUPANT AS A
27 PAYMENT OR REDUCTION IN RENT.

28 (4) ALL SUBMETERING EQUIPMENT UNDER THIS SECTION IS SUBJECT
29 TO:

30 (I) THE REGULATIONS AND STANDARDS THAT THE COMMISSION
31 ADOPTS FOR THE ACCURACY, TESTING, AND RECORD KEEPING OF METERS THAT GAS
32 COMPANIES OR ELECTRIC COMPANIES INSTALL; AND

33 (II) THE METER REQUIREMENTS OF §§ 7-301 AND 7-302 OF THIS
34 SUBTITLE.

35 (D) SAME -- REQUIRED TERMS.

36 THE REGULATIONS THAT THE COMMISSION ADOPTS UNDER THIS SECTION
37 SHALL:

1 (1) INCLUDE APPROPRIATE SAFEGUARDS FOR THE OCCUPANT OF THE
2 DWELLING UNIT OR COMMERCIAL RENTAL UNIT;

3 (2) REQUIRE THAT THE UTILITY COSTS AND CHARGES ON EACH UNIT BE
4 IMPOSED IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION; AND

5 (3) REQUIRE THAT THE OWNER, OPERATOR, OR MANAGER OF THE
6 APARTMENT HOUSE, OFFICE BUILDING, OR SHOPPING CENTER:

7 (I) MAINTAIN ADEQUATE RECORDS REGARDING SUBMETERING;
8 AND

9 (II) ALLOW THE OCCUPANT OF THE UNIT TO INSPECT THE
10 RECORDS DURING REASONABLE BUSINESS HOURS.

11 (E) ENFORCEMENT OF REGULATIONS.

12 A REGULATION OR STANDARD THAT THE COMMISSION ADOPTS UNDER THIS
13 SECTION MAY BE ENFORCED UNDER §§ 3-104 AND 13-101 OF THIS ARTICLE.

14 (F) APARTMENT HOUSES AND COMMERCIAL BUILDINGS NOT TO BE
15 CONSIDERED A PUBLIC SERVICE COMPANY.

16 THE OWNER, OPERATOR, OR MANAGER OF AN APARTMENT HOUSE, OFFICE
17 BUILDING, OR SHOPPING CENTER:

18 (1) MAY NOT BE CONSIDERED A PUBLIC SERVICE COMPANY; AND

19 (2) MAY USE METERING EQUIPMENT ONLY TO ALLOCATE FAIRLY THE
20 COSTS OF GAS OR ELECTRIC SERVICE AMONG THE OCCUPANTS OF THE APARTMENT
21 HOUSE, OFFICE BUILDING, OR SHOPPING CENTER IN ACCORDANCE WITH
22 SUBSECTION (D) OF THIS SECTION.

23 (G) OCCUPANT COMPLAINTS.

24 (1) A COMPLAINT BY AN OCCUPANT OF A DWELLING UNIT OR
25 COMMERCIAL RENTAL UNIT AGAINST AN OWNER, OPERATOR, OR MANAGER OF AN
26 APARTMENT HOUSE, OFFICE BUILDING, OR SHOPPING CENTER UNDER THIS
27 SECTION MAY BE FILED IN THE COUNTY OR MUNICIPAL CORPORATION WHERE THE
28 APARTMENT HOUSE, OFFICE BUILDING, OR SHOPPING CENTER IS LOCATED.

29 (2) A COMPLAINT FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION
30 MAY BE HANDLED BY:

31 (I) THE LANDLORD-TENANT COMMISSION, IF ONE EXISTS, OF THE
32 COUNTY OR MUNICIPAL CORPORATION;

33 (II) THE CONSUMER PROTECTION AGENCY, IF ONE EXISTS, OF THE
34 COUNTY OR MUNICIPAL CORPORATION IF THERE IS NOT A LANDLORD-TENANT
35 COMMISSION IN THE COUNTY OR MUNICIPAL CORPORATION;

1 (III) THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE
2 ATTORNEY GENERAL, IF THERE IS NOT A CONSUMER PROTECTION AGENCY IN THE
3 COUNTY OR MUNICIPAL CORPORATION; OR

4 (IV) ANY OTHER STATE OR LOCAL GOVERNMENT UNIT OR OFFICE
5 DESIGNATED TO HANDLE TENANTS' COMPLAINTS.

6 (H) REDISTRIBUTION OF GAS OR ELECTRICITY BY OWNER, OPERATOR, OR
7 MANAGER OF APARTMENT HOUSE OR COMMERCIAL BUILDING.

8 THIS SECTION DOES NOT AFFECT THE RIGHT OF AN OWNER, OPERATOR, OR
9 MANAGER OF AN APARTMENT HOUSE, OFFICE BUILDING, OR SHOPPING CENTER TO
10 REDISTRIBUTE GAS OR ELECTRICITY TO TENANTS OR OCCUPANTS.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 78, § 54G.

13 In subsection (a)(2)(i) of this section, the reference to "occupied" dwelling
14 units is substituted for the former reference to "rented" dwelling units for
15 consistency with subsection (a)(2)(ii) of this section.

16 In subsection (a)(5) of this section, the former reference to building units
17 used for "clerical, ... professional, or retail ..." purposes is deleted as
18 included in the reference to "commercial rental units".

19 In subsections (b), (c)(1)(i), (d)(1), and (g)(1) of this section, the former
20 references to "store[s]" are deleted as included in the references to a
21 "commercial rental unit".

22 In subsections (c)(1) and (4), (d), and (e) of this section, the former
23 reference to "rules" is deleted as unnecessary. See General Revisor's Note
24 to this article.

25 In subsection (c)(1) of this section, the reference to the authority of the
26 Commission "to establish" standards is added for clarity.

27 In subsection (c)(2)(i) of this section, the language limiting an owner,
28 operator, or manager of an apartment house, office building, or shopping
29 center to imposing only those charges authorized by the Commission on a
30 unit "in the facility" is added for clarity.

31 In subsection (e) of this section, the former reference to adoption of
32 regulations and standards under this section being "deemed to have been
33 entered or adopted under [Art. 78]" is deleted as implicit in the
34 organization of this article.

35 In the introductory language of subsection (f) of this section, the former
36 introductory reference to "implementing this section," is deleted as
37 redundant.

1 Also in the introductory language of subsection (f) of this section, the
2 reference to "the owner, operator, or manager of" an apartment house,
3 office building, or shopping center is added for clarity.

4 In subsection (f)(1) of this section, the former reference to a "public service
5 company engaged in the business of distributing or reselling gas or
6 electricity" is deleted in light of the use of the defined term "public service
7 company".

8 In subsection (f)(2) of this section, the limitation that an owner "may use
9 metering equipment only to allocate fairly" utility services is substituted
10 for the former reference to being "limited in all respects to using metering
11 equipment for [their] fair allocation" for brevity.

12 In subsection (g)(1) of this section, the reference to a complaint "filed" in a
13 county or municipal corporation is substituted for the former reference to a
14 complaint "handled" in those entities for clarity.

15 In subsection (g)(2)(iv) of this section, the reference to a "State or local
16 government" agency is added for clarity.

17 Defined terms: "Apartment house" § 7-303

18 "Commercial rental unit" § 7-303

19 "Commission" § 1-101

20 "County" § 1-101

21 "Dwelling unit" § 7-303

22 "Electric company" § 1-101

23 "Gas company" § 1-101

24 "Office building" § 7-303

25 "Public service company" § 1-101

26 "Record" § 1-101

27 "Shopping center" § 7-303

28 "Submetering" § 7-303

29 7-304. ENERGY ALLOCATION EQUIPMENT -- APARTMENTS.

30 (A) DEFINITIONS.

31 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
32 INDICATED.

33 (2) "APARTMENT HOUSE" HAS THE MEANING STATED IN § 7-303(A) OF
34 THIS SUBTITLE.

35 (3) "DWELLING UNIT" HAS THE MEANING STATED IN § 7-303(A) OF THIS
36 SUBTITLE.

37 (4) "ENERGY ALLOCATION SYSTEM" MEANS A METHOD OF
38 DETERMINING THE APPROXIMATE ENERGY USE WITHIN AN INDIVIDUAL DWELLING
39 UNIT BY A MEASURING DEVICE THAT THE COMMISSION APPROVES.

1 (B) APPROVAL OF ENERGY ALLOCATION EQUIPMENT AND PROCEDURES BY
2 COMMISSION.

3 (1) APPROVAL FROM THE COMMISSION IS REQUIRED BEFORE ENERGY
4 ALLOCATION EQUIPMENT AND PROCEDURES MAY BE USED BY THE OWNER,
5 OPERATOR, OR MANAGER OF AN APARTMENT HOUSE TO DETERMINE THE AMOUNT
6 OF GAS OR ELECTRICITY USED BY AN INDIVIDUAL DWELLING UNIT, IF THE AMOUNT
7 OF GAS OR ELECTRICITY IS DETERMINED BY MEANS OTHER THAN BY ACTUAL
8 MEASUREMENT OF FUEL OR ELECTRIC POWER CONSUMED BY THE UNIT.

9 (2) AN ENERGY ALLOCATION SYSTEM MAY NOT BE USED FOR DIRECT
10 BILLING OF ENERGY COSTS TO THE TENANT OF AN INDIVIDUAL DWELLING UNIT
11 UNLESS THE COMMISSION APPROVES THE SYSTEM IN ACCORDANCE WITH THIS
12 SUBSECTION.

13 (C) ADOPTION OF REGULATIONS.

14 (1) THE COMMISSION SHALL ADOPT REGULATIONS THAT SPECIFY THE
15 CONDITIONS UNDER WHICH THE ENERGY ALLOCATION EQUIPMENT AND
16 PROCEDURES APPROVED BY IT UNDER SUBSECTION (B) OF THIS SECTION MAY BE
17 IMPLEMENTED.

18 (2) THE REGULATIONS SHALL INCLUDE REQUIREMENTS THAT THE
19 OWNER, OPERATOR, OR MANAGER OF AN APARTMENT HOUSE SHALL USE TO INFORM
20 CONSUMERS ABOUT ESTIMATED ENERGY COSTS.

21 (D) COMPLAINTS.

22 THE COMMISSION SHALL SEND ANY COMPLAINT IT RECEIVES ABOUT AN
23 INDIVIDUAL DWELLING UNIT'S GAS OR ELECTRIC POWER CONSUMPTION TO THE
24 OFFICE OF THE ATTORNEY GENERAL, CONSUMER PROTECTION DIVISION, IF THE
25 DWELLING UNIT'S GAS OR ELECTRIC POWER CONSUMPTION IS DETERMINED BY THE
26 USE OF ENERGY ALLOCATION EQUIPMENT AND PROCEDURES APPROVED BY THE
27 COMMISSION UNDER SUBSECTION (B) OF THIS SECTION.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 78, § 54H.

30 In this section, the references to a "dwelling unit" are substituted for the
31 former references to an "apartment unit" for consistency since "dwelling
32 unit" is a defined term.

33 In subsections (b)(1) and (c)(2) of this section, the references to the use of
34 energy allocation equipment and procedures by "the owner, operator, or
35 manager of an apartment house" are added for clarity.

36 Former Art. 78, § 54H(a)(5), which defined "individual apartment unit", is
37 deleted as unnecessary.

1 Defined terms: "Apartment house" § 7-304

2 "Commission" § 1-101

3 "Dwelling unit" § 7-304

4 "Energy allocation system" § 7-304

5 7-305. CUSTOMER BILLING.

6 (A) IN GENERAL.

7 A GAS COMPANY OR ELECTRIC COMPANY MAY BILL ITS CUSTOMERS FOR GAS,
8 ELECTRICITY, OR ANY OTHER SERVICE IT RENDERS ONLY ON THE BASIS OF THE NET
9 TOTAL COST OF THE SERVICE UNDER THE APPLICABLE RATE THAT IS FILED FOR
10 THAT SERVICE.

11 (B) ADDITIONAL CHARGES.

12 (1) THE COMMISSION MAY AUTHORIZE A GAS COMPANY OR ELECTRIC
13 COMPANY TO APPLY AN ADDITIONAL CHARGE OVER THE NET TOTAL COST TO ANY
14 BILL OR PART OF A BILL THAT IS NOT PAID:

15 (I) WITHIN 20 DAYS FOR A RESIDENTIAL CUSTOMER OR
16 RESIDENTIAL COOPERATIVE; OR

17 (II) WITHIN 15 DAYS FOR ANY OTHER CUSTOMER.

18 (2) (I) THE ADDITIONAL CHARGE THAT IS APPLIED BY A GAS
19 COMPANY OR ELECTRIC COMPANY UNDER THIS SUBSECTION MAY NOT EXCEED 5%
20 OF THE NET BILL OR PART OF THE BILL.

21 (II) UNLESS THE COMMISSION APPROVES THE IMPOSITION OF
22 DIFFERENT CHARGES ON DIFFERENT CLASSES OF CUSTOMERS, ANY ADDITIONAL
23 CHARGES APPLIED BY A GAS COMPANY OR ELECTRIC COMPANY UNDER THIS
24 SUBSECTION SHALL BE UNIFORM FOR ALL CUSTOMERS.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 78, § 54C.

27 In subsection (a) of this section, the reference to any "other" service is
28 added for clarity.

29 In subsection (b)(1) and (2) of this section, the references to the application
30 of additional charges by "a gas company or electric company" are added for
31 clarity.

32 Defined terms: "Commission" § 1-101

33 "Electric company" § 1-101

34 "Gas company" § 1-101

35 7-306. NET ENERGY METERING.

36 (A) DEFINITIONS.

1 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (2) "ELIGIBLE CUSTOMER-GENERATOR" MEANS A CUSTOMER THAT:

4 (I) IS SERVED BY AN ELECTRIC COMPANY AT A SINGLE-FAMILY
5 DWELLING WHICH IS:

6 1. A RESIDENCE OF THE CUSTOMER ON A RESIDENTIAL
7 SERVICE TARIFF; OR

8 2. THE PRINCIPAL RESIDENCE OF THE CUSTOMER ON A
9 GENERAL SERVICE TARIFF; AND

10 (II) OWNS AND OPERATES A SOLAR ELECTRICAL GENERATING
11 FACILITY THAT:

12 1. HAS A CAPACITY OF NOT MORE THAN 80 KILOWATTS;

13 2. IS LOCATED ON THE CUSTOMER'S PREMISES;

14 3. IS INTERCONNECTED AND OPERATED IN PARALLEL WITH
15 AN ELECTRIC COMPANY'S TRANSMISSION AND DISTRIBUTION FACILITIES; AND

16 4. IS INTENDED PRIMARILY TO OFFSET ALL OR PART OF THE
17 CUSTOMER'S OWN ELECTRICITY REQUIREMENTS.

18 (3) "NET ENERGY METERING" MEANS MEASUREMENT OF THE
19 DIFFERENCE BETWEEN THE ELECTRICITY THAT IS SUPPLIED BY AN ELECTRIC
20 COMPANY AND THE ELECTRICITY THAT IS GENERATED BY AN ELIGIBLE
21 CUSTOMER-GENERATOR AND FED BACK TO THE ELECTRIC COMPANY OVER THE
22 ELIGIBLE CUSTOMER-GENERATOR'S BILLING PERIOD.

23 (B) LEGISLATIVE INTENT.

24 THE GENERAL ASSEMBLY FINDS AND DECLARES THAT A PROGRAM TO PROVIDE
25 NET ENERGY METERING FOR ELIGIBLE CUSTOMER-GENERATORS IS A MEANS TO
26 ENCOURAGE PRIVATE INVESTMENT IN RENEWABLE ENERGY RESOURCES,
27 STIMULATE IN-STATE ECONOMIC GROWTH, ENHANCE CONTINUED
28 DIVERSIFICATION OF THE STATE'S ENERGY RESOURCE MIX, AND REDUCE COSTS OF
29 INTERCONNECTION AND ADMINISTRATION.

30 (C) METER REQUIREMENT.

31 AN ELECTRIC COMPANY SERVING AN ELIGIBLE CUSTOMER-GENERATOR SHALL
32 ENSURE THAT THE METER INSTALLED FOR NET ENERGY METERING IS CAPABLE OF
33 MEASURING THE FLOW OF ELECTRICITY IN TWO DIRECTIONS.

34 (D) STANDARD CONTRACT OR TARIFF; ELIGIBILITY.

1 THE COMMISSION SHALL REQUIRE ELECTRIC UTILITIES TO DEVELOP A
2 STANDARD CONTRACT OR TARIFF FOR NET ENERGY METERING AND MAKE IT
3 AVAILABLE TO ELIGIBLE CUSTOMER-GENERATORS ON A FIRST-COME,
4 FIRST-SERVED BASIS UNTIL THE RATED GENERATING CAPACITY OWNED AND
5 OPERATED BY ELIGIBLE CUSTOMER-GENERATORS IN THE STATE REACHES 34.722
6 MEGAWATTS, 0.2% OF THE STATE'S ADJUSTED PEAK-LOAD FORECAST FOR 1998.

7 (E) TERMS OF CONTRACT OR TARIFF; PROHIBITED CHARGES.

8 (1) A NET ENERGY METERING CONTRACT OR TARIFF SHALL BE
9 IDENTICAL, IN ENERGY RATES, RATE STRUCTURE, AND MONTHLY CHARGES, TO THE
10 CONTRACT OR TARIFF THAT THE CUSTOMER WOULD BE ASSIGNED IF THE
11 CUSTOMER WERE NOT AN ELIGIBLE CUSTOMER-GENERATOR.

12 (2) (I) A NET ENERGY METERING CONTRACT OR TARIFF MAY NOT
13 INCLUDE CHARGES THAT WOULD RAISE THE ELIGIBLE CUSTOMER-GENERATOR'S
14 MINIMUM MONTHLY CHARGE ABOVE THAT OF CUSTOMERS OF THE RATE CLASS TO
15 WHICH THE ELIGIBLE CUSTOMER-GENERATOR WOULD OTHERWISE BE ASSIGNED.

16 (II) CHARGES PROHIBITED BY THIS PARAGRAPH INCLUDE NEW OR
17 ADDITIONAL DEMAND CHARGES, STANDBY CHARGES, CUSTOMER CHARGES, AND
18 MINIMUM MONTHLY CHARGES.

19 (F) CALCULATION.

20 THE ELECTRIC COMPANY SHALL CALCULATE NET ENERGY METERING,
21 SUBJECT TO THE FOLLOWING:

22 (1) NET ENERGY PRODUCED OR CONSUMED ON A MONTHLY BASIS
23 SHALL BE MEASURED IN ACCORDANCE WITH STANDARD METERING PRACTICES;

24 (2) IF ELECTRICITY SUPPLIED BY THE GRID EXCEEDS ELECTRICITY
25 GENERATED BY THE ELIGIBLE CUSTOMER-GENERATOR DURING A MONTH, THE
26 ELIGIBLE CUSTOMER-GENERATOR SHALL BE BILLED FOR THE NET ENERGY
27 SUPPLIED IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION; AND

28 (3) IF ELECTRICITY GENERATED BY THE ELIGIBLE
29 CUSTOMER-GENERATOR EXCEEDS THE ELECTRICITY SUPPLIED BY THE GRID, THE
30 ELIGIBLE CUSTOMER-GENERATOR SHALL BE REQUIRED TO PAY ONLY CUSTOMER
31 CHARGES FOR THAT MONTH IN ACCORDANCE WITH SUBSECTION (E) OF THIS
32 SECTION.

33 (G) SAFETY STANDARDS.

34 (1) A SOLAR-ELECTRIC GENERATING SYSTEM USED BY AN ELIGIBLE
35 CUSTOMER-GENERATOR SHALL MEET ALL APPLICABLE SAFETY AND PERFORMANCE
36 STANDARDS ESTABLISHED BY THE NATIONAL ELECTRICAL CODE, THE INSTITUTE OF
37 ELECTRICAL AND ELECTRONICS ENGINEERS, AND UNDERWRITERS LABORATORIES.

1 (2) THE COMMISSION MAY ADOPT BY REGULATION ADDITIONAL
2 CONTROL AND TESTING REQUIREMENTS FOR ELIGIBLE CUSTOMER-GENERATORS
3 THAT THE COMMISSION DETERMINES ARE NECESSARY TO PROTECT PUBLIC SAFETY
4 AND SYSTEM RELIABILITY.

5 (3) AN ELECTRIC COMPANY MAY NOT REQUIRE AN ELIGIBLE
6 CUSTOMER-GENERATOR WHOSE SOLAR-ELECTRIC GENERATING SYSTEM MEETS
7 THE STANDARDS OF PARAGRAPHS (1) AND (2) OF THIS SUBSECTION TO:

8 (I) INSTALL ADDITIONAL CONTROLS;

9 (II) PERFORM OR PAY FOR ADDITIONAL TESTS; OR

10 (III) PURCHASE ADDITIONAL LIABILITY INSURANCE.

11 REVISOR'S NOTE: This section formerly was Art. 78, § 54M.

12 The only changes are in style.

13 Defined terms: "Commission" § 1-101

14 "Electric company" § 1-101

15 "Eligible customer-generator" § 7-206

16 "Net energy metering" § 7-206

17 "State" § 1-101

18 7-307. TERMINATION OF SERVICE TO LOW INCOME CUSTOMERS.

19 (A) "TERMINATION OF SERVICE" DEFINED.

20 IN THIS SECTION, "TERMINATION OF SERVICE" MEANS THE TERMINATION,
21 REDUCTION, OR REFUSAL TO REINSTATE GAS OR ELECTRIC SERVICE, OR ANY OTHER
22 ACTION THAT HAS THE EFFECT OF REDUCING OR DENYING GAS OR ELECTRIC
23 SERVICE BECAUSE OF NONPAYMENT.

24 (B) REGULATIONS REQUIRED.

25 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION
26 SHALL ADOPT REGULATIONS CONCERNING THE PROHIBITION AGAINST OR
27 LIMITATION OF AUTHORITY OF A PUBLIC SERVICE COMPANY TO TERMINATE
28 SERVICE FOR GAS OR ELECTRICITY TO A LOW INCOME RESIDENTIAL CUSTOMER
29 DURING THE HEATING SEASON FOR NONPAYMENT.

30 (2) IN ADOPTING THE REGULATIONS REQUIRED UNDER PARAGRAPH (1)
31 OF THIS SUBSECTION, THE COMMISSION SHALL CONSIDER AND MAY INCLUDE
32 PROVISIONS RELATING TO:

33 (I) THE CIRCUMSTANCES UNDER WHICH SERVICE MAY AND MAY
34 NOT BE LIMITED OR TERMINATED;

35 (II) THE MINIMUM HEATING LEVELS REQUIRED TO MAINTAIN LIFE,
36 HEALTH, AND SAFETY;

1 (III) THE MEDICAL, AGE, DISABLING, OR OTHER INDIVIDUAL
2 CHARACTERISTICS THAT ARE RELEVANT TO A PROHIBITION AGAINST OR
3 LIMITATION ON THE TERMINATION OF SERVICE;

4 (IV) THE AVAILABILITY OF AND QUALIFICATION FOR STATE AND
5 FEDERAL ENERGY ASSISTANCE;

6 (V) THE FINANCIAL ELIGIBILITY STANDARDS RELEVANT TO A
7 PROHIBITION AGAINST OR LIMITATION ON THE TERMINATION OF SERVICE;

8 (VI) THE AVAILABILITY AND APPROPRIATENESS OF EQUIPMENT
9 DESIGNED TO LIMIT THE FLOW OF SERVICE FOR GAS OR ELECTRICITY;

10 (VII) THE SHORT-TERM AND LONG-TERM ALTERNATIVE PAYMENT
11 PLANS, FOR APPROPRIATE CUSTOMERS WHOSE ACCOUNTS ARE IN ARREARS, THAT
12 ARE BEST DESIGNED:

13 1. TO ALLOW PRESENT AND FUTURE CONTINUATION OF
14 SERVICE; AND

15 2. TO ENCOURAGE FULL PAYMENT OVER A PERIOD OF TIME;

16 (VIII) THE METHODS THAT A PUBLIC SERVICE COMPANY MIGHT USE
17 BEFORE AND DURING THE HEATING SEASON TO ANTICIPATE CUSTOMER
18 NONPAYMENT, TO ASSIST THOSE CUSTOMERS, AND TO AVOID TERMINATION OF
19 SERVICE;

20 (IX) THE PROCEDURES THAT A PUBLIC SERVICE COMPANY USES TO
21 MITIGATE THE PROBLEMS OF TERMINATION OF SERVICE TO CUSTOMERS,
22 INCLUDING CUSTOMER CONTACT;

23 (X) THE PROCEDURE THAT A PUBLIC SERVICE COMPANY SHALL
24 FOLLOW BEFORE TERMINATION OF SERVICE TO A CUSTOMER TO AVOID A THREAT TO
25 LIFE, HEALTH, OR SAFETY;

26 (XI) THE APPROPRIATE CUSTOMER NOTICE BEFORE THE
27 TERMINATION OF SERVICE;

28 (XII) THE APPROPRIATE OPPORTUNITY AND PROCEDURE FOR A
29 CUSTOMER TO CONTEST A PROPOSED TERMINATION OF SERVICE;

30 (XIII) THE EXISTENCE OF OTHER CIRCUMSTANCES THAT BECAUSE
31 OF AN EMERGENCY, MIGHT JUSTIFY A PROHIBITION AGAINST OR A LIMITATION ON
32 THE TERMINATION OF SERVICE; AND

33 (XIV) THE ECONOMIC IMPLICATION OF ANY RESTRICTION ON
34 TERMINATION OF SERVICE.

35 (C) ANNUAL REPORT.

1 (1) IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
2 ARTICLE, ON OR BEFORE JUNE 1 OF EACH YEAR, THE COMMISSION SHALL REPORT TO
3 THE GENERAL ASSEMBLY ON TERMINATIONS OF SERVICE BY PUBLIC SERVICE
4 COMPANIES DURING THE PREVIOUS HEATING SEASON.

5 (2) THE REPORT SHALL INCLUDE INFORMATION IN SUFFICIENT DETAIL
6 TO INDICATE THE EFFECT OF THE TERMINATIONS OF SERVICE ON VARIOUS
7 CATEGORIES OF CUSTOMERS, INCLUDING:

8 (I) INCOME LEVELS;

9 (II) GEOGRAPHIC AREAS;

10 (III) ENERGY ASSISTANCE RECIPIENTS; AND

11 (IV) ANY OTHER CATEGORY THAT THE COMMISSION DETERMINES
12 IS RELEVANT TO EVALUATE HOW THE STATE MAY BEST ADDRESS THE PROBLEM OF
13 ASSURING ADEQUATE GAS AND ELECTRIC SERVICE FOR LOW INCOME RESIDENTIAL
14 CUSTOMERS.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 78, § 54K.

17 In subsection (b)(1) of this section, the former reference to "September 1,
18 1984," is deleted as obsolete.

19 In subsection (b)(2)(iii) of this section, the reference to "disabling"
20 characteristics is substituted for the former obsolete reference to
21 "handicapping" characteristics.

22 Also in subsection (b)(2)(iii) of this section, the disjunctive "or" is
23 substituted for the former conjunctive "and" to clarify that a single
24 characteristic may be considered and that a customer need not have all of
25 the characteristics listed.

26 In subsection (b)(2)(ix) of this section, the reference to the procedures to be
27 followed by "a public service company" is added for clarity.

28 In subsection (c)(2)(iv) of this section, the reference to low income
29 "residential" customers is added for clarity.

30 Defined terms: "Commission" § 1-101

31 "Public service company" § 1-101

32 "Termination of service" § 7-307

33 7-308. NATURAL GAS VEHICLES.

34 (A) "NATURAL GAS VEHICLE" DEFINED.

35 IN THIS SECTION, "NATURAL GAS VEHICLE" MEANS A VEHICLE OPERATED ON A
36 PUBLIC ROAD AND POWERED BY NATURAL GAS.

1 (B) MOTOR FUEL SALE NOT REGULATED.

2 THE SALE BY ANY PERSON OF NATURAL GAS THAT IS RECEIVED FROM A PUBLIC
3 SERVICE COMPANY FOR USE AS A MOTOR FUEL IN A NATURAL GAS VEHICLE IS NOT
4 SUBJECT TO REGULATION BY THE COMMISSION.

5 (C) SELLER NOT A PUBLIC SERVICE COMPANY.

6 A PERSON THAT SELLS NATURAL GAS RECEIVED FROM A PUBLIC SERVICE
7 COMPANY FOR USE AS A MOTOR FUEL IN A NATURAL GAS VEHICLE IS NOT
8 CONSIDERED A PUBLIC SERVICE COMPANY FOR PURPOSES OF THIS ARTICLE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 78, § 64E.

11 In subsection (c) of this section, the reference to "this article" is retained,
12 even though this article is derived, in part, from provisions outside former
13 Article 78. No substantive change is intended.

14 Defined terms: "Commission" § 1-101

15 "Person" § 1-101

16 "Public service company" § 1-101

17 SUBTITLE 4. ENERGY CONSERVATION BUILDING STANDARDS.

18 7-401. DEFINITIONS.

19 (A) IN GENERAL.

20 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

21 REVISOR'S NOTE: This subsection is new language derived without
22 substantive change from former Art. 78, § 54J(a)(1).

23 (B) B.T.U.

24 "B.T.U." MEANS A BRITISH THERMAL UNIT WHICH IS THE QUANTITY OF HEAT
25 REQUIRED TO RAISE THE TEMPERATURE OF 1 POUND OF WATER 1 DEGREE
26 FAHRENHEIT.

27 REVISOR'S NOTE: This subsection is new language derived without
28 substantive change from former Art. 78, § 54J(a)(3).

29 (C) BUILDER.

30 "BUILDER" MEANS:

31 (1) THE PERSON WITH WHOM THE OWNER OF A BUILDING ENTERS INTO
32 A CONTRACT OR AGREEMENT TO BE PRINCIPALLY RESPONSIBLE FOR THE
33 CONSTRUCTION OF THE BUILDING, EITHER INDIVIDUALLY OR AS A GENERAL
34 CONTRACTOR; OR

1 (2) THE OWNER OF A BUILDING, IF THE OWNER CONSTRUCTS THE
2 BUILDING OR SERVES AS THE OWNER'S OWN GENERAL CONTRACTOR.

3 REVISOR'S NOTE: This subsection is new language derived without
4 substantive change from former Art. 78, § 54J(a)(4).

5 Defined term: "Person" § 1-101

6 (D) BUILDING.

7 (1) "BUILDING" MEANS ANY NEW STRUCTURE THAT:

8 (I) IS DESIGNED FOR HUMAN USE OR OCCUPANCY;

9 (II) PROVIDES A METHOD OF CONTROLLING ENERGY USAGE
10 WITHIN ITS EXTERIOR ENVELOPE; AND

11 (III) AS DESIGNED, DOES NOT HAVE A PEAK DESIGN RATE OF
12 ENERGY USAGE PER SQUARE FOOT OF FLOOR AREA OF LESS THAN 3.5 B.T.U. PER
13 HOUR OR 1 WATT.

14 (2) "BUILDING" INCLUDES ANY PORTION OF AN OTHERWISE EXCLUDED
15 NEW STRUCTURE IF THAT PORTION OF THE STRUCTURE IS PRIMARILY FOR HUMAN
16 USE OR OCCUPANCY BECAUSE THE EXTERIOR ENVELOPES, HEATING, VENTING AND
17 AIR CONDITIONING SYSTEMS, SERVICE WATER HEATING, AND ELECTRICAL
18 DISTRIBUTION AND ILLUMINATING SYSTEMS ARE DESIGNED FOR THAT PORTION OF
19 THE STRUCTURE THAT IS PRIMARILY FOR HUMAN USE OR OCCUPANCY.

20 (3) "BUILDING" DOES NOT INCLUDE:

21 (I) AN ADDITION TO AN EXISTING STRUCTURE OR A
22 SINGLE-FAMILY DWELLING THAT IS TO CONSTITUTE THE PRINCIPAL RESIDENCE OF
23 THE BUILDER;

24 (II) A STRUCTURE WITH A PERMANENT HEATING AND COOLING
25 SYSTEM THAT UTILIZES A SOURCE OTHER THAN NATURAL GAS, A PETROLEUM
26 PRODUCT, OR ELECTRICITY;

27 (III) AN INDUSTRIALIZED BUILDING AS DEFINED IN ARTICLE 83B, §
28 6-202 OF THE CODE THAT BEARS AN INSIGNIA FURNISHED BY THE DEPARTMENT OF
29 HOUSING AND COMMUNITY DEVELOPMENT UNDER ARTICLE 83B, § 6-204 OF THE
30 CODE; AND

31 (IV) A MOBILE HOME AS DEFINED IN ARTICLE 83B, § 6-202 OF THE
32 CODE THAT BEARS AN INSIGNIA ISSUED BY THE DEPARTMENT OF HOUSING AND
33 COMMUNITY DEVELOPMENT UNDER ARTICLE 83B, § 6-208 OF THE CODE.

34 REVISOR'S NOTE: This subsection is new language derived without
35 substantive change from former Art. 78, § 54J(a)(5).

36 (E) ENERGY CODE.

1 "ENERGY CODE" MEANS ENERGY CONSERVATION STANDARDS ADOPTED UNDER
2 COMAR 05.02.07.04 MARYLAND BUILDING PERFORMANCE STANDARDS (MBPS) UNDER
3 THE AUTHORITY OF ARTICLE 83B, § 6-402 OF THE CODE.

4 REVISOR'S NOTE: This subsection is new language substituted for former Art.
5 78, § 54J(a)(2).

6 The substitution of the reference to the "Maryland Building Performance
7 Standards" for the former reference to the BOCA Code reflects current
8 practice of the Department of Housing and Community Development.

9 (F) POLITICAL SUBDIVISION.

10 "POLITICAL SUBDIVISION" MEANS A COUNTY, BALTIMORE CITY, OR A
11 MUNICIPAL CORPORATION.

12 REVISOR'S NOTE: This subsection is new language derived without
13 substantive change from former Art. 78, § 54J(h)(1).

14 In this subsection, the reference to a "municipal corporation" is substituted
15 for the former reference to an "incorporated municipality" for consistency
16 with the usage in Md. Constitution Art. XI-E.

17 Defined term: "County" § 1-101

18 7-402. SCOPE OF SUBTITLE.

19 EXCEPT AS PROVIDED IN § 7-406(C) OF THIS SUBTITLE, THE PROVISIONS OF
20 THIS SUBTITLE DO NOT APPLY TO ANY BUILDING CONSTRUCTED WITHIN THE
21 BOUNDARIES OF A POLITICAL SUBDIVISION IF:

22 (1) THE POLITICAL SUBDIVISION HAS ADOPTED THE ENERGY CODE;
23 AND

24 (2) THE ENERGY CODE ADOPTED BY THE POLITICAL SUBDIVISION
25 APPLIES TO THE BUILDING BEING CONSTRUCTED.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 78, § 54J(h)(2).

28 Defined terms: "Building" § 7-401

29 "Energy Code" § 7-401

30 "Political subdivision" § 7-401

31 7-403. CERTIFICATE OF COMPLIANCE WITH ENERGY CODE.

32 (A) DUTY OF BUILDER.

33 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND §
34 7-404 OF THIS SUBTITLE, A BUILDER OF ANY BUILDING THAT IS COMPLETED AFTER
35 JULY 1, 1982 SHALL CERTIFY UNDER OATH TO THE ELECTRIC COMPANY DESIGNATED

1 TO PROVIDE ELECTRIC SERVICE TO THE BUILDING THAT THE BUILDING MEETS THE
2 LATEST EDITION OF THE ENERGY CODE.

3 (2) IF THE BUILDING WAS DESIGNED WHILE THE IMMEDIATELY
4 PRECEDING EDITION OF THE ENERGY CODE WAS IN EFFECT AND THE BUILDING WAS
5 CONSTRUCTED IN ACCORDANCE WITH THE THEN PRECEDING EDITION OF THE
6 ENERGY CODE, THE BUILDER MAY SO CERTIFY IN ORDER TO SATISFY THE
7 REQUIREMENTS OF THIS SECTION.

8 (B) CONTENTS OF CERTIFICATE.

9 (1) THE CERTIFICATION SHALL BE MADE ON A FORM THAT IS PROVIDED
10 BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

11 (2) THE CERTIFICATE SHALL CONTAIN A STATEMENT TO THE EFFECT
12 THAT ANY ACTION BROUGHT BY THE FIRST PURCHASER AGAINST THE BUILDER
13 UNDER § 7-406(B) OF THIS SUBTITLE MAY BE BROUGHT WITHIN 3 YEARS AFTER THE
14 DATE ON WHICH THE BUILDER PROVIDED THE FIRST PURCHASER WITH A COPY OF
15 THE CERTIFICATE OR THE WAIVER AS PROVIDED IN § 7-406(A) OF THIS SUBTITLE.

16 (C) FILING CERTIFICATE.

17 (1) THE BUILDER SHALL FILE THE CERTIFICATE WITH THE ELECTRIC
18 COMPANY IN PERSON OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

19 (2) IF THE BUILDER IS A CORPORATION, THE CERTIFICATE SHALL BE
20 SUBMITTED UNDER OATH BY AN OFFICER OF THE CORPORATION.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 78, § 54J(b)(1), (2), and (4).

23 In subsections (a)(1) and (c)(2) of this section, the former references to an
24 "affirmation" are deleted as included in the references to an "oath". See
25 Art. 1, § 9 of the Code.

26 In subsection (b)(1) of this section, the former reference to the certification
27 "required under this subsection" is deleted as unnecessary.

28 In subsection (b)(2) of this section, the term "certificate" is substituted for
29 the former reference to a "form" for consistency with terminology within
30 this section.

31 Defined terms: "Builder" § 7-401

32 "Building" § 7-401

33 "Electric company" § 1-101

34 "Energy Code" § 7-401

35 7-404. WAIVER.

36 (A) APPLICABILITY.

1 SUBJECT TO THE PROVISIONS OF THIS SECTION, THE DEPARTMENT OF
2 HOUSING AND COMMUNITY DEVELOPMENT MAY GRANT A WAIVER FROM THE
3 CERTIFICATION REQUIREMENTS SPECIFIED IN § 7-403 OF THIS SUBTITLE FOR ANY
4 BUILDING:

5 (1) TO WHICH A SIGNIFICANT COMMITMENT HAD BEEN MADE TO ITS
6 DESIGN OR CONSTRUCTION PRIOR TO JANUARY 1, 1982; AND

7 (2) FOR WHICH IMPOSITION OF ENERGY CONSERVATION STANDARDS
8 UNDER THIS SUBTITLE WOULD POSE A SUBSTANTIAL FINANCIAL HARDSHIP.

9 (B) WAIVER ISSUED.

10 FOR ANY WAIVER GRANTED UNDER THIS SECTION, THE DEPARTMENT SHALL
11 ISSUE A WRITTEN STATEMENT THAT CLEARLY IDENTIFIES THE BUILDING AFFECTED
12 AND THAT SPECIFIES THAT THE DEPARTMENT HAS GRANTED A WAIVER FROM THE
13 ENERGY CONSERVATION REQUIREMENTS OF THIS SUBTITLE.

14 (C) FILING WAIVER.

15 TO BE EFFECTIVE, THE BUILDER SHALL FILE THE STATEMENT OF WAIVER
16 ISSUED BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT IN
17 PERSON OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, WITH THE ELECTRIC
18 COMPANY DESIGNATED TO PROVIDE ELECTRIC SERVICE TO THE BUILDING.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 78, § 54J(d).

21 In subsection (a) of this section, the term "certification" is added for clarity.

22 Defined terms: "Builder" § 7-401

23 "Building" § 7-401

24 "Electric company" § 1-101

25 7-405. DUTIES OF ELECTRIC COMPANY.

26 (A) ELECTRIC SERVICE.

27 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN
28 ELECTRIC COMPANY MAY NOT PROVIDE ELECTRIC SERVICE TO ANY BUILDING ON
29 WHICH CONSTRUCTION IS COMPLETED AFTER JULY 1, 1982, UNLESS THE BUILDER
30 HAS FILED WITH THE COMPANY THE CERTIFICATE OR STATEMENT OF WAIVER THAT
31 IS REQUIRED UNDER THIS SUBTITLE.

32 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO THE
33 TEMPORARY PROVISION OF ELECTRIC SERVICE FOR USE ONLY DURING THE
34 PROCESS OF CONSTRUCTING A BUILDING.

35 (B) ELECTRIC COMPANY IMMUNE FROM LIABILITY.

1 IF IT IS LATER DETERMINED THAT A BUILDING DID NOT CONFORM TO THE
2 ENERGY CONSERVATION STANDARDS TO WHICH THE BUILDER HAS CERTIFIED OR
3 THAT A FALSE WAIVER WAS PROVIDED TO THE ELECTRIC COMPANY BY THE
4 BUILDER, THE ELECTRIC COMPANY MAY NOT BE HELD LIABLE FOR THAT
5 NONCOMPLIANCE.

6 (C) DUTIES OF ELECTRIC COMPANY -- COPIES AVAILABLE TO PUBLIC.

7 (1) CERTIFICATES AND STATEMENTS OF WAIVER FILED WITH AN
8 ELECTRIC COMPANY UNDER THIS SUBTITLE SHALL BE MADE AVAILABLE TO THE
9 PUBLIC.

10 (2) THE ELECTRIC COMPANY:

11 (I) SHALL PROVIDE A COPY OF ANY CERTIFICATE OR STATEMENT
12 OF WAIVER THAT IT HAS ON FILE TO ANY PERSON ON REQUEST WITHIN A
13 REASONABLE TIME NOT TO EXCEED 5 WORKING DAYS; AND

14 (II) MAY CHARGE A REASONABLE FEE FOR ANY COPY OF A
15 CERTIFICATE OR STATEMENT OF WAIVER THAT IT PROVIDES.

16 (3) THE ELECTRIC COMPANY IS NOT REQUIRED TO RETAIN A
17 CERTIFICATE OR A STATEMENT OF WAIVER FILED WITH THE ELECTRIC COMPANY
18 UNDER THIS SUBSECTION BEYOND 3 YEARS FROM THE DATE THE CERTIFICATE OR
19 STATEMENT OF WAIVER WAS FILED WITH THE ELECTRIC COMPANY.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 78, § 54J(c) and (b)(3) and (5).

22 Throughout subsections (a) and (c) of this section, the terms "statement of
23 waiver" and "statements of waiver" are substituted for the former
24 references to "waiver" and "waivers", respectively, for consistency with the
25 term "statement of waiver" used throughout this subtitle.

26 Defined terms: "Builder" § 7-401

27 "Building" § 7-401

28 "Company" § 1-101

29 "Electric company" § 1-101

30 "Person" § 1-101

31 7-406. DUTIES AND LIABILITIES OF BUILDER TO PURCHASER.

32 (A) DUTY TO FURNISH NOTICE.

33 (1) A BUILDER SUBJECT TO THE PROVISIONS OF THIS SUBTITLE SHALL:

34 (I) PROVIDE THE FIRST PURCHASER OF THE BUILDING WITH A
35 COPY OF THE CERTIFICATE THAT IS FILED WITH THE ELECTRIC COMPANY; OR

1 (II) IF THE BUILDER WAS ISSUED A WAIVER UNDER § 7-404 OF THIS
2 SUBTITLE, PROVIDE THE FIRST PURCHASER WITH A COPY OF THE STATEMENT OF
3 WAIVER.

4 (2) IF THE FIRST PURCHASER OF THE BUILDING RESELLS THE
5 BUILDING WITHOUT HAVING OCCUPIED OR RENTED IT, AT THE TIME OF THE
6 RESALE, THE FIRST PURCHASER SHALL PROVIDE THE NEXT PURCHASER WITH THE
7 COPY OF THE CERTIFICATE OR THE STATEMENT OF WAIVER.

8 (B) LIABILITY OF BUILDER FOR FAILURE TO FURNISH NOTICE.

9 (1) IF A BUILDER FAILS TO COMPLY WITH THE ENERGY CONSERVATION
10 STANDARDS REQUIRED FOR CERTIFICATION UNDER THIS SUBTITLE, OR THE
11 BUILDER FAILS TO OBTAIN A STATEMENT OF WAIVER UNDER THIS SUBTITLE, THE
12 BUILDER IS LIABLE TO THE FIRST PURCHASER WHO EITHER OCCUPIES OR RENTS
13 THE BUILDING FOR AN AMOUNT NOT TO EXCEED \$2,000 AND FOR:

14 (I) THE COST OF BRINGING THE BUILDING INTO COMPLIANCE
15 WITH THE STANDARDS REQUIRED UNDER THIS SUBTITLE;

16 (II) THE REASONABLE ATTORNEY'S FEES AND COURT COSTS OF
17 THE PURCHASER; AND

18 (III) ANY REASONABLE COSTS INCURRED BY THE PURCHASER IN
19 DETERMINING THAT THE BUILDER DID NOT COMPLY WITH THE ENERGY
20 CONSERVATION STANDARDS REQUIRED UNDER THIS SUBTITLE.

21 (2) AN ACTION UNDER THIS SUBSECTION MAY NOT BE BROUGHT MORE
22 THAN 3 YEARS AFTER THE DATE ON WHICH THE BUILDER PROVIDED THE
23 PURCHASER WITH A COPY OF THE CERTIFICATE OR THE WAIVER.

24 (3) IF THE BUILDER IS A CORPORATION AND THE CORPORATION IS
25 DISSOLVED, THE PURCHASER MAY BRING ANY ACTION AUTHORIZED UNDER THIS
26 SUBSECTION AGAINST ANY PERSON WHO WAS AN OFFICER OF THE CORPORATION AT
27 THE TIME THAT THE ALLEGED VIOLATION OCCURRED.

28 (C) LIABILITY OF BUILDER IN POLITICAL SUBDIVISION.

29 (1) IN ANY POLITICAL SUBDIVISION THAT HAS ADOPTED THE ENERGY
30 CODE, IF A BUILDER OF A BUILDING THAT IS COMPLETED AFTER JULY 1, 1982
31 WILLFULLY DEVIATES FROM THE APPROVED PLANS FOR THE BUILDING, THE
32 BUILDER IS LIABLE TO THE FIRST PURCHASER WHO EITHER OCCUPIES OR RENTS
33 THE BUILDING FOR AN AMOUNT NOT TO EXCEED \$2,000 AND FOR:

34 (I) THE COST OF BRINGING THE BUILDING INTO COMPLIANCE
35 WITH THE ENERGY CODE;

36 (II) THE REASONABLE ATTORNEY'S FEES AND COURT COSTS OF
37 THE PURCHASER; AND

1 (III) ANY REASONABLE COSTS INCURRED BY THE PURCHASER IN
2 DETERMINING THAT THE BUILDER DID NOT COMPLY WITH THE ENERGY CODE.

3 (2) AN ACTION UNDER THIS SUBSECTION MAY NOT BE BROUGHT MORE
4 THAN 3 YEARS AFTER THE DATE ON WHICH A USE AND OCCUPANCY PERMIT IS
5 ISSUED FOR THE BUILDING BY THE POLITICAL SUBDIVISION IN WHICH THE
6 BUILDING IS LOCATED.

7 (3) IF THE BUILDER IS A CORPORATION AND THE CORPORATION IS
8 DISSOLVED, THE PURCHASER MAY BRING ANY ACTION AUTHORIZED UNDER THIS
9 SUBSECTION AGAINST ANY PERSON WHO WAS AN OFFICER OF THE CORPORATION AT
10 THE TIME THAT THE ALLEGED VIOLATION OCCURRED.

11 (4) THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION ARE IN
12 ADDITION TO ANY OTHER REMEDIES AVAILABLE UNDER STATE OR LOCAL LAW.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 78, § 54J(e), (f), and (h)(3).

15 In subsections (a)(1) and (b)(1) of this section, the former references to a
16 builder "of any structure" and "of a building" are deleted as unnecessary in
17 light of the definition for "builder" provided in § 7-401 of this subtitle.

18 In the introductory language of subsection (b)(1) of this section, the former
19 reference to a builder's failure to comply "after July 1, 1982" is deleted as
20 obsolete.

21 In subsections (b)(2) and (c)(2) of this section, the former references to an
22 action "by a first purchaser against a builder" are deleted as unnecessary.

23 In subsection (c)(4) of this section, the reference to remedies "available"
24 under State or local law is substituted for the former reference to remedies
25 "at law or equity" to reflect the abolition of the distinction between law and
26 equity. See Md. Rule 2-301.

27 Defined terms: "Builder" § 7-401

28 "Building" § 7-401

29 "Electric company" § 1-101

30 "Energy Code" § 7-401

31 "Person" § 1-101

32 "Political subdivision" § 7-401

33 7-407. PENALTIES.

34 (A) PERSON.

35 A PERSON WHO FAILS OR CAUSES ANOTHER TO FAIL TO SUBMIT A
36 CERTIFICATION OR STATEMENT OF WAIVER TO AN ELECTRIC COMPANY AS
37 REQUIRED BY THIS SUBTITLE AND A PERSON WHO KNOWINGLY SUBMITS OR
38 KNOWINGLY CAUSES TO BE SUBMITTED A FALSE CERTIFICATION OR STATEMENT OF

1 WAIVER, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE
2 NOT EXCEEDING \$5,000.

3 (B) ELECTRIC COMPANY.

4 AN ELECTRIC COMPANY THAT KNOWINGLY PROVIDES SERVICE IN VIOLATION
5 OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT
6 TO A FINE NOT EXCEEDING \$5,000.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 78, § 54J(g).

9 In subsection (a) of this section, the references to a "statement of waiver"
10 are substituted for the former references to a "waiver" for consistency with
11 the term "statement of waiver" used throughout this subtitle.

12 Defined terms: "Electric company" § 1-101

13 "Person" § 1-101

14 7-408. SHORT TITLE.

15 THIS SUBTITLE MAY BE CITED AS THE ENERGY CONSERVATION BUILDING
16 STANDARDS ACT.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 78, § 54J(i).

19 Defined term: "Building" § 7-401

20 TITLE 8. TELEGRAPH AND TELEPHONE COMPANIES.

21 SUBTITLE 1. EASEMENTS AND DAMAGES.

22 8-101. SCOPE.

23 (A) IN GENERAL.

24 THIS SUBTITLE APPLIES TO:

25 (1) A TELEGRAPH COMPANY; OR

26 (2) A TELEPHONE COMPANY THAT OWNED LINES AND PROVIDED LOCAL
27 EXCHANGE OR INTEREXCHANGE SERVICE IN THE STATE AS OF OCTOBER 1, 1993,
28 WITH THE APPROVAL OF THE COMMISSION.

29 (B) EXCLUSION.

30 EXCEPT AS OTHERWISE PROVIDED BY LAW, THE PROVISIONS OF THIS SUBTITLE
31 ARE NOT SUBJECT TO THE JURISDICTION OF THE COMMISSION.

1 REVISOR'S NOTE: Subsection (a) of this section is new language derived
2 without substantive change from former Art. 23, § 326.

3 Subsection (b) of this section is new language added to distinguish those
4 provisions subject to the jurisdiction of the Commission derived from
5 former Article 78, from those provisions outside the jurisdiction of the
6 Commission derived from other articles of the Code.

7 In subsection (a)(2) of this section, the reference to telephone companies
8 that owned lines and provided local exchange or interexchange service "as
9 of October 1, 1993" is added to reflect the effective date of the limited
10 expansion of the class of telephone companies with condemnation
11 authority. See Ch. 219, Acts of 1993.

12 The Public Utility Companies Article Review Committee notes, for the
13 consideration of the General Assembly, that telephone companies have
14 largely superseded telegraph companies in providing telecommunication
15 services in the State. It is likely that, due to rapid technological changes,
16 telegraph companies as a whole will be obsolete within very few years. The
17 Committee recommends that the General Assembly consider consolidating
18 telephone and telegraph companies as a single class of public service
19 company, and eliminating the separate references to telegraph companies
20 in Maryland statutes.

21 As to the reference to a "telegraph company" in this section, see General
22 Revisor's Note to this title.

23 Defined terms: "Commission" § 1-101

24 "Telegraph company" § 1-101

25 "Telephone company" § 1-101

26 8-102. FORMATION.

27 CORPORATIONS MAY BE FORMED AS PROVIDED IN THE CORPORATIONS AND
28 ASSOCIATIONS ARTICLE TO OWN, LEASE, CONSTRUCT, OR OPERATE TELEGRAPH OR
29 TELEPHONE LINES AS PROVIDED IN § 8-103 OF THIS SUBTITLE.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 23, § 317.

32 The former reference to lines operated "through this State, or from or to
33 any point or points within this State, or upon the boundaries thereof" is
34 deleted in light of § 8-103(a) of this subtitle, which provides that authority.

35 The reference to the Corporations and Associations Article is substituted
36 for the former reference to corporations being "formed as hereinabove
37 provided". Chapter 311, Acts of 1975, revised in the Corporations and
38 Associations Article those provisions on the formation of corporations that
39 were formerly codified in Art. 23, §§ 2 to 135.

1 As to the reference to "telephone lines" in this section, see General
2 Revisor's Note to this title.

3 As to the reference to "telegraph ... lines" in this section, see General
4 Revisor's Note to this title.

5 Defined terms: "Telegraph lines" § 1-101

6 "Telephone lines" § 1-101

7 8-103. CONSTRUCTION OF LINES AND FIXTURES -- GENERALLY.

8 (A) AUTHORITY TO CONSTRUCT LINES AND FIXTURES; LIMITATION.

9 (1) A TELEGRAPH OR TELEPHONE COMPANY MAY CONSTRUCT
10 TELEGRAPH OR TELEPHONE LINES:

11 (I) THROUGH THE STATE;

12 (II) FROM OR TO ANY POINT IN THE STATE;

13 (III) ON THE BOUNDARIES OF THE STATE;

14 (IV) ALONG AND ON A ROAD, STREET, OR HIGHWAY; AND

15 (V) ACROSS BRIDGES AND THE WATERS IN THE STATE.

16 (2) A TELEGRAPH OR TELEPHONE COMPANY MAY ERECT FIXTURES,
17 INCLUDING POLES, PIERS, OR ABUTMENTS NECESSARY TO SUSTAIN THE LINES.

18 (3) THIS SECTION DOES NOT AUTHORIZE A TELEGRAPH OR TELEPHONE
19 COMPANY TO CONSTRUCT A BRIDGE ACROSS ANY OF THE NAVIGABLE WATERS OF
20 THE STATE.

21 (B) FIXTURES ARE NOT A PUBLIC NUISANCE.

22 A TELEGRAPH OR TELEPHONE LINE CONSTRUCTED UNDER SUBSECTION (A) OF
23 THIS SECTION IS NOT A PUBLIC NUISANCE AND IS NOT SUBJECT TO ABATEMENT BY
24 A PRIVATE PARTY IF THE TELEGRAPH OR TELEPHONE LINE DOES NOT INTERFERE
25 WITH OR DISTURB:

26 (1) THE PUBLIC USE OF ROADS, HIGHWAYS, AND BRIDGES;

27 (2) THE NAVIGATION OF THE WATERS OF THE STATE; OR

28 (3) THE CONVENIENCE OF A LANDOWNER MORE THAN IS
29 UNAVOIDABLE.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 23, § 318 as it related to the authority of a
32 telephone or telegraph company to construct telephone and telegraph
33 lines.

1 In subsections (a)(1)(iv) and (b)(1) of this section, the former references to
2 "postal roads" and "postal routes" are deleted as included in the references
3 to "road[s]" and "highway[s]".

4 In subsection (b)(1) of this section, the former references to "incommod[ing]
5 injuriously" and "injuriously interrupt[ing]" certain uses are deleted as
6 surplusage in light of the reference to "interfer[ing]" with those uses.

7 As to the reference to a "telephone line" in this section, see General
8 Revisor's Note to this title.

9 As to the references to a "telegraph ... company" and "telegraph ... lines" in
10 this section, see General Revisor's Note to this title.

11 Defined terms: "Telegraph company" § 1-101

12 "Telegraph lines" § 1-101

13 "Telephone company" § 1-101

14 "Telephone lines" § 1-101

15 8-104. SAME -- LIABILITY FOR DAMAGES GENERALLY.

16 NOTWITHSTANDING THE PROVISIONS OF § 8-103(B) OF THIS SUBTITLE, A
17 TELEGRAPH OR TELEPHONE COMPANY IS RESPONSIBLE FOR DAMAGE A PERSON
18 MAY SUSTAIN THROUGH THE ERECTION, CONTINUANCE, OR USE OF TELEGRAPH OR
19 TELEPHONE FACILITIES.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 23, § 318 as it stated that a telephone or telegraph
22 company is responsible for damage caused by its lines.

23 In this section and §§ 8-105 and 8-106 of this subtitle, the term "telegraph
24 and telephone facilities" is substituted for the former term "fixtures" for
25 clarity. This does not constitute a substantive change.

26 As to the reference to a "telephone company" in this section, see General
27 Revisor's Note to this title.

28 As to the reference to a "telegraph ... company" and "telegraph ... facilities"
29 in this section, see General Revisor's Note to this title.

30 The Public Utility Companies Article Review Committee notes, for the
31 consideration of the General Assembly, that the provisions of this section
32 may be obsolete, and should be substantively reexamined. The provisions
33 of this section, concerning suits for damages after failure to remove a
34 telephone or telegraph line, appear to be included in the common law cause
35 of action for trespass.

36 Defined terms: "Person" § 1-101

37 "Telegraph company" § 1-101

38 "Telephone company" § 1-101

1 8-105. SAME -- SUIT FOR DAMAGES BROUGHT BY OWNER OR POSSESSOR OF LAND.

2 (A) SUIT MAY BE BROUGHT AFTER DUE NOTICE TO REMOVE.

3 IF, WITHIN A REASONABLE TIME AFTER DUE NOTICE, A TELEGRAPH OR
4 TELEPHONE COMPANY FAILS OR REFUSES TO REMOVE TELEGRAPH OR TELEPHONE
5 FACILITIES CAUSING DAMAGE, THE OWNER OR POSSESSOR OF LAND OR A POLITICAL
6 SUBDIVISION MAY SUE FOR DAMAGES.

7 (B) AWARD OF DAMAGES.

8 (1) IF THE PERSON FILING SUIT FOR DAMAGES UNDER THIS SECTION
9 PREVAILS, THE TELEGRAPH OR TELEPHONE COMPANY MAY ELECT TO PAY DAMAGES
10 FOR ALLOWING THE TELEGRAPH OR TELEPHONE COMPANY TO MAINTAIN THE
11 TELEGRAPH OR TELEPHONE FACILITIES PERMANENTLY.

12 (2) IF THE DAMAGES PAID INCLUDE DAMAGES FOR ALLOWING THE
13 TELEGRAPH OR TELEPHONE COMPANY TO MAINTAIN THE TELEGRAPH OR
14 TELEPHONE FACILITIES PERMANENTLY, THE RIGHT OF THE TELEGRAPH OR
15 TELEPHONE COMPANY TO MAINTAIN THE TELEGRAPH OR TELEPHONE FACILITIES
16 PERMANENTLY SHALL BE CONFIRMED AS IF THE RIGHT WERE GRANTED BY THE
17 PARTIES TO THE SUIT.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 23, § 318 as it authorized an owner or possessor of
20 land to recover for damages caused by telephone or telegraph lines.

21 In subsection (a) of this section, the reference to the "owner or possessor of
22 land" is substituted for the former reference to a "person ... entitled to sue"
23 to reflect the persons with an interest in land subject to damage by
24 placement of telegraph or telephone facilities.

25 Also in subsection (a) of this section, the term "political subdivision" is
26 substituted for the former archaic term "body politic".

27 In subsection (b)(1) of this section, the reference to a person filing suit and
28 prevailing is new language added to state expressly that which only was
29 implied by the former law, i.e., the telegraph or telephone company would
30 only pay damages to a plaintiff that prevails in a law suit.

31 As to the reference to a telephone company in this section, see General
32 Revisor's Note to this title.

33 As to the references to a "telegraph ... company" and "telegraph ...
34 facilities" in this section, see General Revisor's Note to this title.

35 Defined terms: "Person" § 1-101

36 "Telegraph company" § 1-101

37 "Telephone company" § 1-101

1 8-106. SAME -- EASEMENT FOR TELEGRAPH OR TELEPHONE FACILITIES.

2 (A) TELEGRAPH OR TELEPHONE COMPANY MAY APPLY TO A JUDGE FOR AN
3 EASEMENT.

4 TO OBTAIN AN EASEMENT, THE PRESIDENT AND DIRECTORS OF A TELEGRAPH
5 OR TELEPHONE COMPANY MAY APPLY TO THE CIRCUIT COURT OF THE COUNTY
6 CONTAINING THE LAND OR BRIDGE WHERE THE TELEGRAPH OR TELEPHONE
7 FACILITIES WILL BE PLACED TO EMPANEL A JURY TO APPRAISE THE LOSS OR
8 DAMAGE THAT WILL BE SUSTAINED BY THE OWNER OR POSSESSOR OF THE LAND OR
9 BRIDGE.

10 (B) INQUISITION.

11 (1) (I) THE JURY SHALL MAKE A RETURN AND INQUISITION IN
12 WRITING THAT IS SIGNED AND SEALED BY EACH JUROR.

13 (II) THE RETURN AND INQUISITION SHALL STATE THE AMOUNT OF
14 THE LOSS OR DAMAGE.

15 (2) (I) THE COUNTY SHERIFF SHALL RETURN THE JURY'S
16 INQUISITION TO THE CLERK OF THE CIRCUIT COURT OF THE COUNTY.

17 (II) THE CLERK SHALL FILE THE INQUISITION WITH THE COURT.

18 (3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THE
19 COURT SHALL CONFIRM THE INQUISITION OF THE JURY AND THE CLERK SHALL
20 RECORD THE INQUISITION AT THE EXPENSE OF THE TELEGRAPH OR TELEPHONE
21 COMPANY.

22 (4) FOR GOOD CAUSE, THE COURT MAY SET ASIDE THE INQUISITION
23 AND DIRECT ANOTHER INQUISITION TO BE TAKEN AS PROVIDED IN THIS SECTION.

24 (C) WHEN VALUE OF LOSS OR DAMAGE PAID OR TENDERED.

25 (1) WHEN THE VALUE OF THE LOSS OR DAMAGE IS PAID OR TENDERED
26 TO THE OWNER OF THE LAND OR THE LEGAL REPRESENTATIVE OF THE OWNER OF
27 THE LAND, THE TELEGRAPH OR TELEPHONE COMPANY IS ENTITLED TO THE
28 EASEMENT AS IF THE OWNER OF THE LAND CONVEYED THE EASEMENT TO THE
29 TELEGRAPH OR TELEPHONE COMPANY.

30 (2) IF THE VALUE IS NOT RECEIVED WHEN TENDERED, IT MAY BE
31 RECEIVED AT ANY TIME WITHOUT COSTS BY THE OWNER OF THE LAND OR THE
32 LEGAL REPRESENTATIVE OF THE OWNER OF THE LAND.

33 REVISOR'S NOTE: Subsections (a), (b)(1)(i), and (2) through (4), and (c) of this
34 section are new language derived without substantive change from former
35 Art. 23, §§ 319, 320, and, as it authorized a telephone or telegraph
36 company to sue for an easement, § 318.

1 Subsection (b)(1)(ii) of this section is new language added to state explicitly
2 that which was only implied in the former law, i.e., that the return and
3 inquisition "state the amount of the loss or damage".

4 In subsection (a) of this section, the reference to an "easement" is added to
5 state expressly that which only was implied by the former law.

6 Also in subsection (a) of this section, the reference to an "owner or
7 possessor of the land or bridge" is substituted for the former reference to
8 "any person or corporation, on or over whose lands or bridges" the facilities
9 will be placed, for consistency with § 8-105 of this title.

10 In subsections (a) and (b) of this section, the former references to a "just
11 and equitable appraisalment", "true" return by the jury, and "judge" are
12 deleted as surplusage.

13 In subsection (b)(1)(i) of this section, the word "signed" is substituted for
14 the former archaic phrase "under their hands".

15 As to the references to a "telephone company" in this section, see General
16 Revisor's Note to this title.

17 As to the references to a "telegraph ... company" and "telegraph ...
18 facilities" in this section, see General Revisor's Note to this title.

19 The Public Utility Companies Article Review Committee notes, for the
20 consideration of the General Assembly, that the provisions of this section
21 may be obsolete, and should be substantively reexamined. The provisions
22 of this section, establishing a judicial procedure for a telephone or
23 telegraph company to obtain an easement appears to duplicate the
24 provisions of § 5-410 of this article.

25 Defined terms: "County" § 1-101

26 "Telegraph company" § 1-101

27 "Telephone company" § 1-101

28 8-107. OWNER OF TIMBER NOT LIABLE FOR DAMAGE TO LINES.

29 (A) OWNER OF TIMBER NOT LIABLE FOR DAMAGE TO LINES.

30 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE OWNER OF
31 TIMBER GROWING ALONG A TELEGRAPH OR TELEPHONE LINE IS NOT SUBJECT TO
32 AN ACTION FOR DAMAGES IF:

33 (1) THE TELEGRAPH OR TELEPHONE LINE PREVENTS THE OWNER OF
34 THE TIMBER FROM CUTTING AND FELLING THE TIMBER; AND

35 (2) IN CUTTING OR FELLING THE TIMBER, THE OWNER DAMAGES THE
36 TELEGRAPH OR TELEPHONE LINE.

1 (B) EXCEPTION.

2 AN OWNER OF TIMBER IS SUBJECT TO AN ACTION FOR DAMAGES IF, IN
3 CUTTING AND FELLING THE TIMBER, THE OWNER WILLFULLY AND INTENTIONALLY
4 INJURES THE TELEGRAPH OR TELEPHONE LINE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 23, § 325.

7 In subsections (a) and (b) of this section, the references to "wires", "cords",
8 "posts", and "pole[s]", are deleted because the defined terms "telegraph
9 lines" and "telephone lines" cover all these fixtures.

10 In subsection (b) of this section, the former reference to "having [timber]
11 cut or felled" is deleted as surplusage.

12 As to the reference to a "telephone line" in this section, see General
13 Revisor's Note to this title.

14 As to the reference to a "telegraph ... line" in this section, see General
15 Revisor's Note to this title.

16 The Public Utility Companies Article Review Committee notes, for the
17 consideration of the General Assembly, that this section appears to be
18 obsolete.

19 Defined terms: "Telegraph lines" § 1-101

20 "Telephone lines" § 1-101

21 8-108. DUTY TO TRANSMIT TELEGRAMS; LIABILITY FOR DAMAGES.

22 (A) DUTY TO TRANSMIT TELEGRAMS WITHOUT DISCRIMINATION.

23 A TELEGRAPH COMPANY DOING BUSINESS IN THIS STATE SHALL:

24 (1) RECEIVE TELEGRAMS FROM AND FOR OTHER TELEGRAPH
25 COMPANIES AND FROM OR FOR ANY INDIVIDUAL; AND

26 (2) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,
27 TRANSMIT TELEGRAMS RECEIVED:

28 (I) IN THE MANNER ESTABLISHED BY THE RULES AND
29 REGULATIONS OF THE TELEGRAPH COMPANY;

30 (II) IN THE ORDER RECEIVED; AND

31 (III) WITH IMPARTIALITY AND GOOD FAITH.

32 (B) EXCEPTION.

1 SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO A TELEGRAPH
2 COMPANY THAT MAKES AN ARRANGEMENT WITH NEWSPAPERS FOR THE
3 TRANSMISSION OF INFORMATION OF GENERAL AND PUBLIC INTEREST OUT OF THE
4 ORDER RECEIVED FOR THE PURPOSE OF PUBLICATION.

5 (C) PENALTY.

6 A TELEGRAPH COMPANY THAT VIOLATES SUBSECTION (A) OF THIS SECTION IS
7 LIABLE TO THE PERSON SENDING OR DESIRING TO SEND THE TELEGRAM FOR:

8 (1) \$100 FOR EACH INSTANCE OF NEGLIGENCE OR REFUSAL TO RECEIVE OR
9 TRANSMIT A TELEGRAM; AND

10 (2) THE COSTS OF THE SUIT.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 23, § 322.

13 In subsections (a)(1) and (2) and (c) of this section, the term "telegram[s]" is
14 substituted for the former archaic term "despatch".

15 As to the reference to a "telegraph company" and "telegrams" in this
16 section, see General Revisor's Note to this title.

17 Defined terms: "Person" § 1-101

18 "Telegraph company" § 1-101

19 SUBTITLE 2. TELEPHONE REQUIREMENTS.

20 8-201. TELEPHONE LIFELINE SERVICE.

21 (A) DEFINITIONS.

22 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

24 (2) "TELEPHONE LIFELINE SERVICE" MEANS A LOCAL TELEPHONE
25 SERVICE PROVIDED TO ELIGIBLE SUBSCRIBERS THAT, AT A DISCOUNT, PROVIDES AN
26 INDIVIDUAL RESIDENTIAL LOCAL EXCHANGE DIAL ACCESS LINE PLUS THE FIRST 30
27 RESIDENTIAL LOCAL UNTIMED MESSAGES PER BILLING MONTH.

28 (3) "ELIGIBLE SUBSCRIBER" MEANS AN INDIVIDUAL WHO IS CERTIFIED
29 TO THE LOCAL TELEPHONE COMPANY IN WHOSE SERVICE AREA THE INDIVIDUAL IS
30 APPLYING FOR SERVICE BY THE DEPARTMENT OF HUMAN RESOURCES AS
31 RECEIVING ASSISTANCE UNDER ARTICLE 88A, §§ 44A THROUGH 53 OF THE CODE,
32 RECEIVING STATE-FUNDED PUBLIC ASSISTANCE BENEFITS, OR RECEIVING
33 SUPPLEMENTAL SECURITY INCOME UNDER TITLE XVI OF THE FEDERAL SOCIAL
34 SECURITY ACT.

35 (B) OFFER OF SERVICES TO ELIGIBLE SUBSCRIBERS.

1 A LOCAL TELEPHONE COMPANY WITH MORE THAN 10,000 SUBSCRIBERS SHALL
2 OFFER TELEPHONE LIFELINE SERVICE TO ELIGIBLE SUBSCRIBERS SUBJECT TO THE
3 FOLLOWING CONDITIONS:

4 (1) NO OTHER LOCAL VOICE TELEPHONE SERVICE MAY BE PROVIDED TO
5 THE DWELLING UNIT OF THE ELIGIBLE SUBSCRIBER APPLYING FOR TELEPHONE
6 LIFELINE SERVICE;

7 (2) EXCEPT FOR TONE SIGNALING CAPABILITY, PREMIUM SERVICES,
8 INCLUDING FOREIGN ZONE OR FOREIGN EXCHANGE SERVICE, ARE NOT PROVIDED
9 TO THE ELIGIBLE SUBSCRIBER; AND

10 (3) AN INSIDE WIRING MAINTENANCE PLAN IS NOT PROVIDED TO THE
11 ELIGIBLE SUBSCRIBER.

12 (C) RATE CHARGED FOR SERVICE.

13 (1) THE RATE THAT A TELEPHONE COMPANY CHARGES FOR TELEPHONE
14 LIFELINE SERVICE SHALL BE 50% OF THE LOWEST APPLICABLE AND APPROVED
15 FEDERAL AND STATE TARIFF RATES FOR AN INDIVIDUAL RESIDENTIAL LOCAL
16 EXCHANGE DIAL ACCESS LINE AND FOR RESIDENTIAL LOCAL UNTIMED MESSAGES
17 PER MONTH, LESS ANY WAIVERS OF FEDERAL TARIFF PROVISIONS APPLICABLE TO
18 ELIGIBLE CUSTOMERS ALLOWED BY FEDERAL STATUTE, ORDER, RULE, OR
19 REGULATION, PLUS ALL APPLICABLE FEDERAL, STATE, AND LOCAL TAXES AND FEES.

20 (2) (I) IF AN ELIGIBLE SUBSCRIBER ELECTS TO SUBSCRIBE TO TONE
21 SIGNALING CAPABILITY, THE RATE CHARGED SHALL BE 50% OF THE APPLICABLE
22 AND APPROVED FEDERAL AND STATE TARIFF RATES FOR THIS SERVICE, PLUS ALL
23 APPLICABLE FEDERAL, STATE, AND LOCAL TAXES.

24 (II) FOR AN ELIGIBLE SUBSCRIBER, REPAIRS TO INSIDE WIRING
25 WILL BE CHARGED AT 50% OF THE APPLICABLE FILED TARIFF.

26 (3) (I) WHENEVER INITIAL INSTALLATION OR CONNECTION OF
27 SERVICE IS REQUIRED, THE RATE CHARGED SHALL BE 50% OF THE APPLICABLE AND
28 APPROVED FEDERAL AND STATE TARIFF CHARGES FOR THE INSTALLATION AND
29 CONNECTION OF RESIDENTIAL DIAL ACCESS SERVICE TO ONE TERMINATING
30 LOCATION WITHIN THE ELIGIBLE SUBSCRIBER'S DWELLING UNIT, PLUS ALL
31 APPLICABLE FEDERAL, STATE, AND LOCAL TAXES.

32 (II) CUSTOM INSTALLATION OR CONSTRUCTION CHARGES SHALL
33 BE CHARGED AT THE APPLICABLE APPROVED FEDERAL AND STATE TARIFF RATES.

34 (4) (I) A TELEPHONE COMPANY MAY NOT REQUIRE THE PAYMENT OF
35 AN ORDER PROCESSING CHARGE OR LINE CHANGE CHARGE FOR AN ELIGIBLE
36 SUBSCRIBER'S CHANGE TO TELEPHONE LIFELINE SERVICE FROM ANY OTHER CLASS
37 OF RESIDENTIAL SERVICE.

38 (II) A SUBSCRIBER TO TELEPHONE LIFELINE SERVICE WHO NO
39 LONGER QUALIFIES AS AN ELIGIBLE SUBSCRIBER MAY NOT BE CHARGED A FEE FOR

1 DISCONNECTING FROM TELEPHONE LIFELINE SERVICE AND CONNECTING TO
2 ANOTHER CLASS OF TELEPHONE SERVICE.

3 (5) ALL OTHER SERVICES PROVIDED TO ELIGIBLE SUBSCRIBERS,
4 INCLUDING ALL LOCAL MESSAGES AFTER THE FIRST 30 WITHIN A GIVEN BILLING
5 MONTH, SHALL BE CHARGED AT THE APPLICABLE AND APPROVED FEDERAL AND
6 STATE TARIFF RATES.

7 (D) DEPOSITS REQUIRED FOR SERVICE.

8 (1) A TELEPHONE COMPANY MAY NOT REQUEST A DEPOSIT TO SECURE
9 PAYMENT IN CONNECTION WITH THE INITIAL INSTALLATION OR CONNECTION OF
10 TELEPHONE LIFELINE SERVICE.

11 (2) AN ELIGIBLE SUBSCRIBER APPLYING FOR SERVICE MAY BE DENIED
12 SERVICE IF THE ELIGIBLE SUBSCRIBER:

13 (I) HAS AN OUTSTANDING UNPAID NET TELEPHONE DEBT OF \$100
14 OR MORE FOR PRIOR TELEPHONE SERVICE; AND

15 (II) HAS NOT ESTABLISHED A REASONABLE PAYMENT PLAN TO
16 SATISFY THE DEBT.

17 (3) AN ELIGIBLE SUBSCRIBER MAY NOT BE DENIED SERVICE IF THE
18 ELIGIBLE SUBSCRIBER HAS AN OUTSTANDING UNPAID NET TELEPHONE DEBT OF
19 LESS THAN \$100 FOR PRIOR TELEPHONE SERVICE.

20 REVISOR'S NOTE: This section formerly was Art. 78, § 26A(a) through (d).

21 In subsection (a) of this section, the former reference to Art. 78, § 26, now
22 § 4-503 of this article, is deleted as surplusage.

23 In subsection (c)(4) of this section, the former reference to an eligible
24 subscriber "under subsection (a)(2) of this section" is deleted as surplusage.

25 The Public Utility Companies Article Review Committee notes, for the
26 consideration of the General Assembly, that the distinction between "tone
27 signaling capability", as referred to in subsection (c)(2) of this section, and
28 pulse signaling capability appears to be obsolete as a practical matter.

29 Also the Public Utility Companies Article Review Committee notes, for the
30 consideration of the General Assembly, that subsection (b) of this section
31 includes a reference to "a local telephone company", a term that is not, but
32 perhaps should be, defined in the Code.

33 Former Art. 78, § 26A(e) is deleted as obsolete. The Public Service
34 Commission has issued the one-time report required by that subsection.
35 See Public Service Commission of Maryland, "A Report on Telephone
36 Lifeline Service by the Maryland Public Service Commission", submitted to
37 the Maryland General Assembly, January 1, 1992.

1 The only other changes are in style.

2 Defined terms: "Rate" § 1-101

3 "Telephone company" § 1-101

4 8-202. CHARGES FOR DIRECTORY ASSISTANCE.

5 (A) NO SEPARATE CHARGE FOR FIRST TWO CALLS.

6 (1) THE COMMISSION MAY NOT AUTHORIZE TELEPHONE COMPANY
7 CHARGES TO BE LEVIED FOR DIRECTORY ASSISTANCE CALLS MADE BY RESIDENTIAL
8 CUSTOMERS ON THE FIRST TWO CALLS MADE TO DIRECTORY ASSISTANCE FROM
9 EACH RESIDENTIAL SERVICE PER MONTHLY BILLING CYCLE.

10 (2) THE COMMISSION MAY AUTHORIZE CHARGES ON OTHER DIRECTORY
11 ASSISTANCE CALLS IF THE COMMISSION FINDS, AFTER NOTICE AND EVIDENTIARY
12 HEARING, THAT THE CHARGES:

13 (I) PROTECT CONSUMERS BY PROVIDING AFFORDABLE AND
14 REASONABLY PRICED DIRECTORY ASSISTANCE SERVICE;

15 (II) ENCOURAGE THE DEVELOPMENT OF COMPETITION; AND

16 (III) ARE IN THE PUBLIC INTEREST.

17 (B) NO SEPARATE CHARGES FOR CALLS BY DISABLED INDIVIDUALS.

18 THE COMMISSION MAY NOT AUTHORIZE TELEPHONE COMPANY CHARGES TO
19 BE LEVIED FOR DIRECTORY ASSISTANCE ON AN INDIVIDUAL WHO SUFFERS FROM A
20 PHYSICAL OR VISUAL DISABILITY THAT PRECLUDES THE USE OF A TELEPHONE
21 DIRECTORY.

22 (C) OTHER EXEMPTIONS.

23 THE COMMISSION MAY PROVIDE OTHER EXEMPTIONS FROM TELEPHONE
24 COMPANY CHARGES TO BE LEVIED FOR DIRECTORY ASSISTANCE IF THE
25 EXEMPTIONS ARE JUST AND REASONABLE.

26 REVISOR'S NOTE: This section formerly was Art. 78, § 68(b).

27 In subsection (b) of this section, the term "disability" is substituted for the
28 former term "handicap" for consistency with similar provisions in other
29 revised articles of the Code.

30 Also in subsection (b) of this section, the reference to an "individual" is
31 substituted for the former reference to a "person" because only an
32 "individual", and not other types of entities included in the defined term
33 "person", can suffer a "physical or visual [disability] that precludes the use
34 of a telephone directory".

35 The only other changes are in style.

1 As to former Art. 78, § 68(a) regarding the power of the Commission to
2 determine rates of public service companies, see Title 4 of this article.

3 Defined terms: "Commission" § 1-101

4 "Telephone company" § 1-101

5 8-203. LOCAL MEASURED RATES.

6 (A) MANDATORY CHARGES BASED ON A MEASURED TIME PERIOD UNIT RATE
7 PROHIBITED.

8 (1) THE COMMISSION MAY NOT AUTHORIZE MANDATORY TELEPHONE
9 COMPANY CHARGES BASED ON A MEASURED TIME PERIOD UNIT RATE FOR LOCAL
10 MESSAGES.

11 (2) THE COMMISSION MAY STUDY OR EVALUATE MANDATORY
12 TELEPHONE COMPANY CHARGES.

13 (B) CONDITIONS FOR APPROVING CHARGES BASED ON A MEASURED TIME
14 PERIOD UNIT RATE.

15 IF THE COMMISSION AUTHORIZES A TELEPHONE COMPANY TO OFFER TO
16 RESIDENTIAL CUSTOMERS THE OPTION OF TELEPHONE CHARGES BASED ON A
17 MEASURED TIME PERIOD UNIT RATE FOR LOCAL MESSAGES, THE COMMISSION ALSO
18 SHALL REQUIRE THE TELEPHONE COMPANY TO OFFER TO RESIDENTIAL
19 CUSTOMERS:

20 (1) THE OPTION OF AN UNLIMITED NUMBER AND DURATION OF LOCAL
21 CALLS; AND

22 (2) THE OPTION OF A SPECIFIC CHARGE PER LOCAL CALL, REGARDLESS
23 OF THE DURATION OF THE LOCAL CALL.

24 (C) ORDER PROCESSING OR LINE CHANGE CHARGES AUTHORIZED.

25 A TELEPHONE COMPANY MAY NOT REQUIRE THE PAYMENT OF AN ORDER
26 PROCESSING CHARGE OR LINE CHANGE CHARGE FOR A RESIDENTIAL CUSTOMER'S
27 FIRST CHANGE FROM LOCAL TELEPHONE SERVICE BASED ON CHARGES FOR
28 MEASURED TIME PERIOD UNIT RATES, IF THE CHANGE OCCURS WITHIN 18 MONTHS
29 AFTER THE DATE THAT THE CONSUMER ELECTS THIS TELEPHONE SERVICE.

30 (D) CHARGES FOR THE DISTANCE OF A CALL WITHIN A LOCAL CALLING AREA
31 PROHIBITED.

32 THE COMMISSION MAY NOT AUTHORIZE A TELEPHONE COMPANY TO CHARGE
33 FOR THE DISTANCE OF A CALL WITHIN A LOCAL CALLING AREA.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 78, § 68(c)(1), (2), (3), (5), and (6).

36 The only other changes are in style.

1 Former Art. 78, § 68(c)(4), which prohibited certain charges on a
2 residential customer's change of service until December 1, 1985, is deleted
3 as obsolete.

4 Defined terms: "Commission" § 1-101

5 "Rate" § 1-101

6 "Telephone company" § 1-101

7 8-204. TELEPHONE SOLICITATION; AUTOMATED DIALING.

8 (A) SCOPE OF SECTION.

9 THIS SECTION DOES NOT APPLY TO:

10 (1) A UNIT OF FEDERAL, STATE, OR LOCAL GOVERNMENT THAT USES AN
11 AUTOMATED DIALING PRERECORDED MESSAGE MACHINE FOR EMERGENCY
12 PURPOSES; OR

13 (2) A PERSON WHO HAS A PREEXISTING BUSINESS RELATIONSHIP WITH,
14 OR THE CONSENT OF, THE PERSON CALLED.

15 (B) GENERAL PROHIBITION.

16 A PERSON MAY NOT USE AN AUTOMATED DIALING, PUSH-BUTTON, OR
17 TONE-ACTIVATED ADDRESS SIGNALING SYSTEM WITH A PRERECORDED MESSAGE
18 TO:

19 (1) SOLICIT PERSONS TO PURCHASE, LEASE, OR RENT GOODS OR
20 SERVICES;

21 (2) OFFER A GIFT OR PRIZE;

22 (3) CONDUCT A POLL; OR

23 (4) REQUEST SURVEY INFORMATION IF THE RESULTS WILL BE USED
24 DIRECTLY TO SOLICIT PERSONS TO PURCHASE, LEASE, OR RENT GOODS OR
25 SERVICES.

26 (C) SENDER TO DISCONNECT WITHIN 5 SECONDS OF TERMINATION OF CALL.

27 THE SENDER OF AN AUTOMATED DIALING, PUSH-BUTTON, OR
28 TONE-ACTIVATED ADDRESS SIGNALING CALL SHALL DISCONNECT THE
29 PRERECORDED MESSAGE MACHINE FROM THE RECIPIENT'S TELEPHONE LINE
30 WITHIN 5 SECONDS AFTER THE TERMINATION OF THE CALL BY EITHER THE PERSON
31 CALLING OR THE PERSON CALLED.

32 (D) PENALTY FOR VIOLATION.

33 A PERSON WHO VIOLATES A PROVISION OF SUBSECTION (B) OR (C) OF THIS
34 SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE:

1 (1) NOT EXCEEDING \$1,000 FOR THE FIRST OFFENSE; AND

2 (2) NOT EXCEEDING \$5,000 FOR EACH SUBSEQUENT OFFENSE.

3 REVISOR'S NOTE: This section formerly was Art. 78, § 55C.

4 In subsection (a) of this section, the reference to a "unit" of government is
5 substituted for the former reference to an "agency". See General Revisor's
6 Note to this article.

7 In subsection (d) of this section, the former reference to an "additional"
8 offense is deleted as surplusage.

9 The only other changes are in style.

10 Defined terms: "Person" § 1-101

11 "Telephone lines" § 1-101

12 SUBTITLE 3. MISCELLANEOUS PROVISIONS.

13 8-301. SCOPE.

14 EXCEPT AS OTHERWISE PROVIDED BY LAW, THE PROVISIONS OF THIS SUBTITLE
15 ARE NOT SUBJECT TO THE JURISDICTION OF THE COMMISSION.

16 REVISOR'S NOTE: This section is new language added to distinguish those
17 provisions subject to the jurisdiction of the Commission derived from
18 former Article 78, from those provisions outside the jurisdiction of the
19 Commission derived from other articles of the Code.

20 Defined term: "Commission" § 1-101

21 8-302. CALLS TO OPERATOR AT PAY PHONE.

22 (A) CALLS TO OPERATOR WITHOUT COINS.

23 A TELEPHONE COMPANY DOING BUSINESS IN THE STATE THAT HAS COIN PAY
24 TELEPHONES LOCATED ON OUTDOOR SITES SHALL PROVIDE A METHOD TO PLACE
25 CALLS TO THE OPERATOR WITHOUT REQUIRING THE INSERTION OF COINS INTO THE
26 TELEPHONE.

27 (B) COST A REASONABLE AND NECESSARY COST OF PROVIDING SERVICE.

28 THE COST OF PROVIDING THE METHOD OF PLACING CALLS REQUIRED IN
29 SUBSECTION (A) OF THIS SECTION IS A REASONABLE AND NECESSARY COST OF
30 PROVIDING TELEPHONE SERVICE.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 23, § 326A.

33 In subsection (a) of this section, the reference to the former effective date

1 "January 1, 1981" is deleted as obsolete.

2 Defined term: "Telephone company" § 1-101

3 8-303. TELEGRAMS TO SHOW TIMES SENT AND RECEIVED.

4 (A) REQUIREMENT TO SHOW TIMES FILED AND RECEIVED.

5 A TELEGRAPH COMPANY ENGAGED IN THE BUSINESS OF TRANSMITTING
6 COMMUNICATIONS BY TELEGRAPH IN THE STATE AND CHARGING TOLLS FOR
7 PROVIDING THIS SERVICE SHALL SHOW CONSPICUOUSLY ON EACH TELEGRAM
8 DELIVERED:

9 (1) UNDER THE CAPTION "TIME FILED", THE TIME THE TELEGRAM WAS
10 FILED AT THE PLACE OF ORIGIN FOR TRANSMISSION; AND

11 (2) UNDER THE CAPTION "TIME RECEIVED", THE TIME THE TELEGRAM
12 WAS RECEIVED AT THE OFFICE FROM WHICH IT IS TO BE DELIVERED.

13 (B) PENALTY.

14 A TELEGRAPH COMPANY IS LIABLE FOR A FINE OF NOT LESS THAN \$10 AND NOT
15 MORE THAN \$200 FOR EACH TELEGRAM IT DELIVERS IN VIOLATION OF SUBSECTION
16 (A) OF THIS SECTION.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 23, § 327.

19 As to the references to a "telegraph company" in this section, see General
20 Revisor's Note to this title.

21 Defined term: "Telegraph company" § 1-101

22 GENERAL REVISOR'S NOTE TO TITLE:

23 Former Art. 23, § 326 provided that the provisions of former Art. 23, §§ 317
24 through 325 apply "to telephone companies that own lines and provide local exchange
25 or interexchange service in this State with the approval of the Public Service
26 Commission". Sections 8-102 through 8-107 of this title are revised to include
27 references to telephone companies and telephone lines, in order to reflect the
28 application of former Art. 23, § 326.

29 Former Art. 23, § 326B, relating to telephones that prevent the effective use of
30 hearing aids, is revised in CL § 14-25A-01.

1 TITLE 9. CARRIER COMPANIES.

2 SUBTITLE 1. GENERAL PROVISIONS.

3 9-101. COMMON CARRIERS -- INTERCHANGE OF PASSENGERS.

4 (A) IN GENERAL.

5 EACH COMMON CARRIER SHALL PROVIDE REASONABLE, PROPER, AND EQUAL
6 FACILITIES FOR THE PROMPT INTERCHANGE AND TRANSFER OF PASSENGERS
7 BETWEEN ITS LINES AND THE LINES OF EVERY OTHER COMMON CARRIER.

8 (B) DISCRIMINATION AMONG COMMON CARRIERS PROHIBITED.

9 A COMMON CARRIER MAY NOT DISCRIMINATE AGAINST OTHER COMMON
10 CARRIERS IN TRANSFERRING, RECEIVING, OR FORWARDING PASSENGERS TO OR
11 FROM OTHER COMMON CARRIERS.

12 (C) USE OF TRACK OR TERMINAL FACILITIES NOT MANDATORY.

13 A COMMON CARRIER IS NOT REQUIRED TO ALLOW ANY OTHER COMMON
14 CARRIER TO USE ITS TRACKS OR TERMINAL FACILITIES.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 78, § 29.

17 Defined term: "Common carrier" § 1-101

18 9-102. SAME -- COMPENSATION FOR TRANSPORTATION OVER SAME LINE.

19 UNLESS THE COMMISSION ORDERS OTHERWISE, A COMMON CARRIER MAY NOT
20 CHARGE OR RECEIVE AN EQUAL OR GREATER COMPENSATION IN THE AGGREGATE
21 TO TRANSPORT PASSENGERS UNDER SUBSTANTIALLY SIMILAR CIRCUMSTANCES
22 FOR A SHORTER DISTANCE THAN FOR A LONGER DISTANCE OVER THE SAME LINE
23 AND IN THE SAME DIRECTION.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 78, § 30.

26 The former reference to transportation of "a like kind of property" is
27 deleted as obsolete. The Public Service Commission no longer regulates
28 common carriage of freight.

29 The former phrase "which includes the shorter", which modified the phrase
30 "the same direction", is deleted as implicit.

31 Defined terms: "Commission" § 1-101

32 "Common carrier" § 1-101

1 9-103. SAME -- TARIFF SCHEDULES.

2 (A) IN GENERAL.

3 THE COMMISSION SHALL PRESCRIBE A FORM OF TARIFF SCHEDULES FOR
4 COMMON CARRIERS THAT IS AS NEARLY AS PRACTICABLE THE SAME AS THAT
5 REQUIRED BY THE SURFACE TRANSPORTATION BOARD FOR THE PARTICULAR KIND
6 OF CARRIER.

7 (B) INFORMATION REQUIRED.

8 IN ADDITION TO OTHER INFORMATION THAT THE COMMISSION REQUIRES, THE
9 TARIFF SCHEDULES OF EACH COMMON CARRIER SHALL SHOW:

10 (1) ALL OF THE CURRENT RATES, FARES, AND CHARGES, INCLUDING
11 THOSE SPECIFIED IN § 4-503 OF THIS ARTICLE, FOR THE TRANSPORTATION OF
12 PASSENGERS WITHIN THE STATE BETWEEN:

13 (I) EACH POINT ON THE COMMON CARRIER'S ROUTE AND ALL
14 OTHER POINTS ON THE OTHER ROUTES IT OWNS; AND

15 (II) EACH POINT ON THE COMMON CARRIER'S ROUTE AND ALL
16 POINTS ON THE ROUTE OF EACH OTHER COMMON CARRIER THAT IS SHOWN IN THE
17 SCHEDULE WHENEVER A THROUGH ROUTE OR JOINT RATE IS ESTABLISHED
18 BETWEEN THOSE POINTS;

19 (2) THE POINTS BETWEEN WHICH PASSENGERS WILL BE CARRIED;

20 (3) THE CLASSIFICATION OF PASSENGERS;

21 (4) THE PRIVILEGES OR FACILITIES GRANTED; AND

22 (5) ALL RULES AND REGULATIONS THAT MAY CHANGE, AFFECT, OR
23 DETERMINE ANY PART OF THE AGGREGATE OF THE RATES, FARES, OR CHARGES OR
24 THE VALUE OF THE SERVICE RENDERED.

25 (C) FILING OF EVIDENCE OF ACCEPTANCE OF JOINT RATE REQUIRED.

26 EACH COMMON CARRIER THAT IS A PARTY TO A JOINT RATE SHOWN IN THE
27 TARIFF SCHEDULE OF ANOTHER COMMON CARRIER SHALL FILE WITH THE
28 COMMISSION EVIDENCE OF ACCEPTANCE OF THE JOINT RATE, AS REQUIRED BY THE
29 COMMISSION.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 78, § 31.

32 In subsection (a) of this section, the reference to the "Surface
33 Transportation Board" is substituted for the former reference to the
34 "Interstate Commerce Commission" to reflect the provisions of Public Law
35 104-88, the ICC Termination Act of 1995, which abolished the Interstate
36 Commerce Commission and transferred its functions to the Surface

1 Transportation Board. For a general statement of the transfer of authority,
2 see 49 U.S.C. § 702.

3 In subsection (b)(5) of this section, the phrase "in any manner", which
4 formerly modified the phrase "may ... change, affect, or determine", is
5 deleted as surplusage.

6 In subsection (c) of this section, the phrase "of the joint rate" is substituted
7 for the former word "thereof" for clarity.

8 Defined terms: "Commission" § 1-101

9 "Common carrier" § 1-101

10 GENERAL REVISOR'S NOTE TO SUBTITLE:

11 Former Art. 23, § 212, relating to the sale of unclaimed freight by a common
12 carrier, is revised in BR § 19-102(b).

13 Former Art. 23, § 213, relating to the sale of livestock and perishable or
14 damaged freight by a common carrier, is revised in BR § 19-102(c).

15 Former Art. 23, § 214, relating to the sale of unclaimed baggage by a common
16 carrier, is revised in BR § 19-102(d).

17 Former Art. 23, § 215, which defined the scope of common carriers authorized to
18 sell freight, livestock, perishable or damaged freight, and baggage, is revised in BR §
19 19-102(a).

20 SUBTITLE 2. MOTOR CARRIER COMPANIES.

21 9-201. PERMITS FOR COMMON CARRIERS.

22 (A) PERMIT REQUIRED.

23 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A MOTOR CARRIER
24 PERMIT IS REQUIRED FOR A PASSENGER MOTOR VEHICLE USED IN THE
25 TRANSPORTATION OF PERSONS FOR HIRE.

26 (B) PERMIT NOT REQUIRED.

27 A MOTOR CARRIER PERMIT IS NOT REQUIRED FOR:

28 (1) A MOTOR VEHICLE USED EXCLUSIVELY FOR THE TRANSPORTATION
29 OF PUPILS TO AND FROM PUBLIC OR PRIVATE SCHOOLS;

30 (2) A MOTOR VEHICLE OPERATED FOR A PERIOD OF NOT MORE THAN 3
31 MONTHS IN ANY REGISTRATION YEAR IN THE TRANSPORTATION OF PERSONS
32 EMPLOYED AT A CANNERY LOCATED IN A COUNTY;

33 (3) TAXICABS;

1 (4) PUBLIC TRANSPORTATION FOR HIRE AUTHORIZED TO OPERATE ON
2 THE BOARDWALK IN OCEAN CITY;

3 (5) A VANPOOL OPERATION AS DEFINED IN § 11-175.1 OF THE
4 TRANSPORTATION ARTICLE;

5 (6) THE PUBLIC TRANSPORTATION SYSTEM FOR WASHINGTON COUNTY
6 ESTABLISHED UNDER § 1-603 OF THE CODE OF PUBLIC LOCAL LAWS OF WASHINGTON
7 COUNTY, ARTICLE 22 OF THE CODE OF PUBLIC LOCAL LAWS OF MARYLAND; OR

8 (7) THE PUBLIC TRANSPORTATION SYSTEM FOR ALLEGANY COUNTY
9 ESTABLISHED UNDER § 23-24 OF THE CODE OF PUBLIC LOCAL LAWS OF ALLEGANY
10 COUNTY, ARTICLE 1 OF THE CODE OF PUBLIC LOCAL LAWS OF MARYLAND.

11 (C) PUBLIC DUTIES OF COMMON CARRIER NOT IMPOSED.

12 THE PUBLIC DUTIES OF A COMMON CARRIER MAY NOT BE IMPOSED ON A
13 PERSON WITH RESPECT TO A VEHICLE FOR WHICH A MOTOR CARRIER PERMIT IS
14 REQUIRED UNDER THIS SECTION, IF THE VEHICLE IS NOT ACTUALLY ENGAGED IN
15 PUBLIC TRANSPORTATION.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 78, § 32.

18 Throughout this section, the term "motor carrier permit" is substituted for
19 the former references to a "permit" for consistency throughout this
20 subtitle.

21 In subsection (a) of this section, the defined term "transportation of
22 persons for hire" is substituted for the former defined term "transportation
23 of passengers for hire" for consistency within this article.

24 In subsection (b)(3) of this section, the former phrase, "[t]his subheading
25 does not apply to", is deleted as unnecessary in light of the introductory
26 language of this subsection, which excludes taxicabs from the
27 requirements of this subtitle.

28 In subsection (b)(5) of this section, the specific reference to "§ 11-175.1" of
29 the Transportation Article is added for clarity.

30 Defined terms: "Common carrier" § 1-101

31 "County" § 1-101

32 "Person" § 1-101

33 "Taxicab" § 1-101

34 "Transportation of persons for hire" § 1-101

35 9-202. STANDARD FOR ISSUANCE OF PERMIT.

36 A MOTOR CARRIER PERMIT MAY NOT BE ISSUED UNLESS THE COMMISSION,
37 AFTER CONSIDERING THE NUMBER OF VEHICLES THE APPLICANT WILL USE, THE

1 RATE THE APPLICANT WILL CHARGE, THE POTENTIAL DEMAND, THE
2 QUALIFICATIONS OF THE APPLICANT, AND ANY OTHER FACTORS THAT THE
3 COMMISSION CONSIDERS RELEVANT, DETERMINES THAT THE ISSUANCE OF A
4 MOTOR CARRIER PERMIT WILL BE BEST FOR THE PUBLIC WELFARE AND
5 CONVENIENCE.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 78, § 33.

8 The reference to the Commission "determin[ing]" is substituted for the
9 former reference to the Commissioner "deem[ing]" for clarity.

10 The term "motor carrier permit" is substituted for the former reference to
11 a "permit" for consistency throughout this subtitle.

12 Defined term: "Commission" § 1-101

13 9-203. TERMS, CONDITIONS, AND DURATION OF PERMIT.

14 (A) IN GENERAL.

15 SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, THE COMMISSION
16 MAY SUBJECT A MOTOR CARRIER PERMIT TO TERMS AND CONDITIONS THAT THE
17 COMMISSION CONSIDERS APPROPRIATE.

18 (B) DURATION OF PERMIT.

19 THE DURATION OF A MOTOR CARRIER PERMIT MAY NOT EXCEED 20 YEARS.

20 (C) SEASONAL PERMITS.

21 THE COMMISSION MAY AUTHORIZE SEASONAL MOTOR CARRIER PERMITS FOR A
22 PART OF THE YEAR.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 78, § 34(a).

25 In subsection (a) of this section, the reference to "subsections (b) and (c) of
26 this section," is added to state expressly that which formerly only was
27 implied by the conditions specifically included in this section and to
28 conform to the reorganization of these conditions into separate
29 subsections.

30 In subsection (b) of this section, the former phrase "as the Commission
31 may prescribe" is deleted as unnecessary in light of the general grant of
32 authority provided by subsection (a) of this section.

33 In subsection (c) of this section, the term "motor carrier permit[s]" is
34 substituted for the former reference to a "permit" for consistency
35 throughout this subtitle.

1 Defined term: "Commission" § 1-101

2 9-204. DENIAL, SUSPENSION, AND REVOCATION OF PERMIT.

3 THE COMMISSION MAY SUSPEND, REVOKE, OR SUBSEQUENTLY DENY A MOTOR
4 CARRIER PERMIT IF THE HOLDER VIOLATES A PROVISION OF THIS ARTICLE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 78, § 34(b).

7 In this section, the reference to disciplinary actions for violating a
8 provision of "this article" is retained, although this article is derived, in
9 part, from provisions outside former Article 78. No substantive change is
10 intended.

11 The former reference to suspension or revocation or subsequent denial "for
12 such period as the Commission may determine" is deleted as implicit in the
13 Commission's authority to take these disciplinary actions.

14 Defined term: "Commission" § 1-101

15 9-205. ROUTES AND SCHEDULES.

16 (A) CHANGE OR ABANDONMENT OF ROUTE OR SCHEDULE.

17 (1) A ROUTE OR SCHEDULE OF A MOTOR VEHICLE FOR WHICH A MOTOR
18 CARRIER PERMIT IS GRANTED MAY NOT BE CHANGED OR ABANDONED WITHOUT
19 WRITTEN PERMISSION FROM THE COMMISSION.

20 (2) THE COMMISSION MAY ONLY GRANT PERMISSION UNDER
21 PARAGRAPH (1) OF THIS SUBSECTION IF THE COMMISSION FINDS THAT THE PUBLIC
22 WELFARE AND CONVENIENCE ARE NOT PREJUDICED BY THE CHANGE.

23 (3) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE
24 HOLDER OF A MOTOR CARRIER PERMIT MAY TEMPORARILY OPERATE SUBSTITUTE
25 OR RESERVE VEHICLES, WHEN NECESSARY IN AN EMERGENCY, TO MAINTAIN THE
26 REQUIRED SCHEDULES OVER THE HOLDER'S ROUTE.

27 (B) POWER OF CITIES AND TOWNS TO ADOPT TRAFFIC REGULATIONS NOT
28 LIMITED.

29 THIS SUBTITLE DOES NOT LIMIT THE POWER OF A MUNICIPAL CORPORATION
30 TO ADOPT REASONABLE TRAFFIC REGULATIONS, INCLUDING THE POWER TO:

31 (1) DESIGNATE STREETS; AND

32 (2) PROHIBIT THE USE OF CERTAIN STREETS OR THE PARKING OF
33 VEHICLES ON THOSE STREETS IF THE USE OR PARKING MAY THREATEN PUBLIC
34 SAFETY OR UNDULY CONGEST TRAFFIC.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 78, § 35.

3 In subsection (a)(3) of this section, the reference to "the holder of a motor
4 carrier permit" is substituted for the former reference to "an owner" to
5 state expressly that which formerly only was implied by the former
6 reference.

7 In subsection (b) of this section, the term "municipal corporation" is
8 substituted for the former reference to "incorporated cities and towns" for
9 consistency with Article XI-E of the Maryland Constitution and other
10 revised articles of the Code.

11 Defined term: "Commission" § 1-101

12 9-206. SMOKING ON MOTOR CARRIERS.

13 (A) OWNER OR OPERATOR TO PROHIBIT SMOKING OF TOBACCO PRODUCTS ON
14 BUS.

15 THE OWNER AND OPERATOR OF AN INTRASTATE MOTOR BUS CARRIER SHALL
16 PROHIBIT THE SMOKING OF TOBACCO PRODUCTS WHILE THE BUS IS IN PUBLIC
17 SERVICE.

18 (B) SMOKING TOBACCO PRODUCTS ON BUS PROHIBITED.

19 A PERSON MAY NOT SMOKE TOBACCO PRODUCTS ON A BUS OF AN INTRASTATE
20 MOTOR BUS CARRIER.

21 (C) AUTHORITY OF COMMISSION TO ADOPT RULES AND REGULATIONS.

22 THE COMMISSION MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS
23 OF THIS SECTION.

24 (D) PENALTY.

25 A PERSON WHO VIOLATES A PROVISION OF THIS SECTION IS SUBJECT TO A
26 CIVIL PENALTY NOT EXCEEDING \$25.

27 REVISOR'S NOTE: This section formerly was Art. 78, § 35A.

28 In subsection (b) of this section, the reference to "on a bus", describing
29 where the prohibition applies, is substituted for the former reference to "in
30 any area" for consistency with the description in subsection (a) of this
31 section. Subsection (a) does not describe a particular area where the
32 prohibition applies.

33 In subsection (c) of this section, as to the deletion of the former reference to
34 "rules", see General Revisor's Note to this article.

35 The only other changes are in style.

1 Defined terms: "Commission" § 1-101

2 "Person" § 1-101

3 SUBTITLE 3. MARYLAND RAILROAD COMPANIES.

4 9-301. "MARYLAND RAILROAD COMPANY" DEFINED.

5 IN THIS SUBTITLE, "MARYLAND RAILROAD COMPANY" MEANS A RAILROAD
6 COMPANY ORGANIZED UNDER THE LAWS OF THIS STATE.

7 REVISOR'S NOTE: This section is new language added to avoid repetition of
8 the phrase, "any railroad company heretofore incorporated under the laws
9 of this State, whether incorporated under the provisions of this article or
10 by special act".

11 Defined terms: "Company" § 1-101

12 "Railroad" § 1-101

13 9-302. SCOPE.

14 EXCEPT AS OTHERWISE PROVIDED BY LAW, THE PROVISIONS OF THIS SUBTITLE
15 ARE NOT SUBJECT TO THE JURISDICTION OF THE COMMISSION.

16 REVISOR'S NOTE: This section is new language added to distinguish those
17 provisions subject to the jurisdiction of the Commission derived from
18 former Article 78, from those provisions outside the jurisdiction of the
19 Commission derived from other articles of the Code.

20 Defined term: "Commission" § 1-101

21 9-303. POWERS.

22 (A) IN GENERAL.

23 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
24 MARYLAND RAILROAD COMPANY MAY LOCATE, CONSTRUCT, MAINTAIN, AND
25 OPERATE A RAILROAD IN THE STATE IF THE RAILROAD IS NOT MORE THAN 100 FEET
26 WIDE AT THE GRADED SURFACE.

27 (2) A RAILROAD MAY BE WIDER THAN 100 FEET WIDE IF THE MARYLAND
28 RAILROAD COMPANY DETERMINES THAT IT IS NECESSARY FOR:

29 (I) CUTS AND FILLS FOR A SLOPE OR EMBANKMENT;

30 (II) MULTIPLE SETS OF TRACKS; OR

31 (III) SIDETRACKS, TURNOUTS, DEPOTS, BUILDINGS AND OTHER
32 WORKS CONNECTED WITH THE OPERATION OF THE RAILROAD.

33 (B) ACQUISITION OF LAND FOR RAILROAD.

1 (1) A MARYLAND RAILROAD COMPANY MAY ACQUIRE LAND AND OTHER
2 PROPERTY THAT IT DETERMINES IS CONVENIENT OR NECESSARY FOR THE SITE OF
3 THE RAILROAD OR FOR ADDITIONS TO THE RAILROAD BY:

4 (I) PURCHASE, EITHER IN FEE SIMPLE OR ANY LESSER ESTATE, IN
5 ACCORDANCE WITH LAW; OR

6 (II) CONDEMNATION UNDER TITLE 5, SUBTITLE 4 OF THIS ARTICLE
7 AND TITLE 12 OF THE REAL PROPERTY ARTICLE.

8 (2) A MARYLAND RAILROAD COMPANY MAY ACQUIRE BY PURCHASE OR
9 GIFT LANDS NEAR THE RAILROAD THAT IT DETERMINES ARE NECESSARY TO SECURE
10 THE RIGHT-OF-WAY OR AID IN THE CONSTRUCTION OF THE RAILROAD.

11 (C) DISPOSITION OF LAND.

12 (1) LAND THAT A MARYLAND RAILROAD COMPANY ACQUIRES MAY BE
13 HELD OR CONVEYED AS DETERMINED BY THE BOARD OF DIRECTORS OF THE
14 MARYLAND RAILROAD COMPANY.

15 (2) DEEDS AND CONVEYANCES MADE BY A MARYLAND RAILROAD
16 COMPANY SHALL BE SIGNED BY THE PRESIDENT OF THE COMPANY UNDER ITS
17 CORPORATE SEAL.

18 (D) LIMITATIONS.

19 THIS SECTION DOES NOT AUTHORIZE A MARYLAND RAILROAD COMPANY TO
20 CONDEMN, USE, OR OCCUPY ANY PART OF A HIGHWAY, INCLUDING THE SPACE
21 UNDER OR OVER A HIGHWAY, WITHOUT THE CONSENT OF THE PROPER AUTHORITIES
22 OF THE MUNICIPAL CORPORATION OR COUNTY WHERE THE HIGHWAY IS LOCATED.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 23, § 197, as it related to the general powers of a
25 Maryland railroad to construct and operate a railroad, and § 202.

26 In subsection (a)(1) of this section, the former reference to railroad
27 companies "which may hereafter be incorporated under the laws of this
28 State" is deleted as unnecessary since the grant of authority to railroad
29 companies is not limited to already established railroad companies.

30 In subsections (a)(1) and (b)(1) of this section, the word "may" is
31 substituted for the former references to having "all the rights and powers"
32 for brevity.

33 In subsection (a)(2) of this section, the former phrase "between the termini
34 named in its certificate or charter" is deleted as obsolete. The requirement
35 that termini be named in a railroad company's certificate or charter was
36 repealed in 1967 when the specific incorporation requirements for
37 railroads were abolished. Railroad companies now follow the general
38 incorporation procedures set out in the Corporations and Associations

1 Article, which do not require termini to be named.

2 In subsection (b)(1)(ii) of this section, the cross-references to Title 5,
3 Subtitle 4 of this article and Title 12 of the Real Property Article have been
4 added for clarity.

5 In subsection (b)(2) of this section, the former references to land "through
6 which" the railroad may pass and lands that "may be granted" are deleted
7 as surplusage.

8 In subsection (d) of this section, the former reference to the "Mayor and
9 City Council of Baltimore" is deleted since the defined term "county"
10 includes Baltimore City.

11 Also in subsection (d) of this section, the term "municipal corporation" is
12 substituted for the former term "city" for clarity.

13 Also in subsection (d) of this section, the former reference to "the powers of
14 the said local authorities" as such powers existed prior to April 18, 1918,
15 with regard "to the use of, any portion of any public highway of this State"
16 is deleted as obsolete.

17 The third and fourth clauses of the first sentence of former Art. 23, § 197,
18 which restated that railroad companies may exercise the rights and
19 powers granted to them by this section and that this section shall not be
20 construed to limit any rights already conferred upon such railroad
21 company, are deleted as surplusage.

22 The Public Utility Companies Article Review Committee notes, for the
23 consideration of the General Assembly, that the provisions of this section,
24 prohibiting a Maryland railroad company from condemning a public
25 highway without consent of the proper authorities, are difficult to reconcile
26 with § 5-407 of this article, which generally allows a railroad company to
27 condemn a public highway, and with § 9-306 of this subtitle, which allows
28 a railroad company to cross or divert a highway subject to specific
29 conditions, and with Title 8, Subtitle 6, Part VIII of the Transportation
30 Article, which also governs railroad crossings of public highways. Deleting
31 this section and § 9-306 of this article in favor of the provisions in the
32 Transportation Article, while perhaps appropriate, would constitute a
33 substantive change of the law. Therefore the Committee notes the
34 inconsistencies, and recommends that the General Assembly study the
35 issue and develop an appropriate solution to it.

36 Defined terms: "County" § 1-101

37 "Maryland railroad company" § 9-301

38 "Railroad" § 1-101

39 9-304. CROSSING STREAMS.

40 (A) POWER TO CROSS OR DIVERT STREAMS.

1 (1) A MARYLAND RAILROAD COMPANY MAY CROSS OR DIVERT AN
2 UNNAVIGABLE STREAM WHENEVER IT IS NECESSARY TO CONSTRUCT A RAILROAD.

3 (2) A MARYLAND RAILROAD COMPANY THAT DIVERTS A STREAM IS
4 LIABLE FOR DAMAGE CAUSED BY THE DIVERSION.

5 (B) CROSSING NAVIGABLE STREAMS OR CANALS; APPROVAL BY BOARD OF
6 PUBLIC WORKS.

7 A MARYLAND RAILROAD COMPANY MAY CROSS A CANAL OR A NAVIGABLE
8 STREAM IF THE COMPANY:

9 (1) SUBMITS TO THE BOARD OF PUBLIC WORKS A PLAN FOR THE CANAL
10 OR STREAM CROSSING THAT INCLUDES THE LOCATION AND BUILDING PLANS OF
11 THE BRIDGE AND OTHER NECESSARY FIXTURES; AND

12 (2) RECEIVES WRITTEN APPROVAL FROM THE BOARD OF PUBLIC
13 WORKS.

14 (C) CIRCUIT COURT REVIEW.

15 (1) IF THE BOARD OF PUBLIC WORKS DISAPPROVES A PLAN SUBMITTED
16 BY A MARYLAND RAILROAD COMPANY OR FAILS TO APPROVE THE PLAN WITHIN 20
17 DAYS AFTER FILING, THE MARYLAND RAILROAD COMPANY MAY APPLY TO THE
18 CIRCUIT COURT OF THE COUNTY WHERE THE CANAL OR STREAM CROSSING IS
19 PLANNED OR TO ANOTHER COURT OF COMPETENT JURISDICTION.

20 (2) THE COURT SHALL:

21 (I) PROVIDE REASONABLE NOTICE TO THE BOARD OF PUBLIC
22 WORKS;

23 (II) FOR GOOD CAUSE SHOWN, APPOINT A DISINTERESTED AND
24 COMPETENT ENGINEER, WHO DOES NOT RESIDE IN A COUNTY THROUGH WHICH THE
25 MARYLAND RAILROAD COMPANY'S RAILROAD PASSES AND WHO, WITHIN 20 DAYS OF
26 BEING APPOINTED:

27 1. SHALL EXAMINE THE CANAL OR STREAM CROSSING; AND

28 2. SHALL ESTABLISH A PLAN AND ANY CONDITIONS
29 NECESSARY TO CROSS THE CANAL OR STREAM IN A WAY THAT WILL NOT IMPEDE
30 NAVIGATION; AND

31 (III) EXAMINE THE ENGINEER'S PLAN AND CONDITIONS FOR THE
32 CANAL OR STREAM CROSSING, AND UNLESS GOOD CAUSE IS SHOWN, APPROVE THE
33 PLAN AND CONDITIONS.

34 (3) AN ORDER BY THE COURT APPROVING THE PLAN AND CONDITIONS
35 FOR THE CANAL OR STREAM CROSSING SHALL BE SUFFICIENT AUTHORITY FOR THE
36 MARYLAND RAILROAD COMPANY TO ELECT, USE, AND OCCUPY THE BRIDGE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 23, § 206 and the second and sixth clauses and, as
3 it related to crossing or diverting a stream, the first clause of § 203.

4 Throughout this section, the word "stream" is substituted for the former
5 words "water" and "stream of water" to provide consistency and clarity.

6 In subsection (a)(1) of this section, the former reference to the "existing
7 location or bed" of a stream is deleted as surplusage.

8 In subsection (c)(1) of this section, the former reference to any "judge
9 thereof in vacation" is deleted as obsolete.

10 In subsection (c)(2)(ii) of this section, the former reference to an engineer
11 making "his return" to the court is deleted as surplusage.

12 Also in subsection (c)(2)(ii) of this section, the former phrase "subject to
13 exception by either party" is deleted since the right of the parties to contest
14 the engineer's plan is already granted in subsection (c)(2)(iii).

15 In subsection (c)(2)(iii) of this section, the former reference to the court's
16 examination of the plan "at the next term after the filing of said return" is
17 deleted as obsolete.

18 Also in subsection (c)(2)(iii) of this section, the former word "confirm" is
19 deleted as surplusage and already included in the meaning of the word
20 "approve".

21 In subsection (c)(3) of this section, the former reference to the authority to
22 erect, use, and occupy the bridge "in accordance with such plan" is deleted
23 as implicit in the granting of authority.

24 In this section, the former limitation contained in former Art. 23, § 206, on
25 constructing a railroad bridge less than 12 feet above the waterline of a
26 canal, and leaving clear passage for the tow path, is deleted as obsolete.

27 The Public Utility Companies Article Review Committee notes for the
28 consideration of the General Assembly that it is unclear whether the
29 procedure for applying to the Board of Public Works for a crossing under
30 this section has been superseded. Section 5-502 of the Environment
31 Article, requires every person to obtain a permit from the Maryland
32 Department of the Environment in order to, "appropriate or use or begin to
33 construct any plant, building, or structure which may appropriate or use
34 any waters of the State ...". Diverting or crossing unnavigable waters, as
35 authorized by Art. 23, § 203, and crossing navigable waters by bridge or
36 tunnel, as authorized by Art. 23, § 206, are activities that are considered to
37 use or appropriate State waters and would therefore seem to be subject to
38 the permitting requirements of § 5-502 of the Environment Article. The
39 General Assembly may wish to delete this section.

1 Defined terms: "County" § 1-101

2 "Maryland railroad company" § 9-301

3 9-305. CROSSING OTHER RAILROADS.

4 (A) POWER TO CROSS OTHER RAILROADS.

5 (1) WHENEVER NECESSARY IN THE CONSTRUCTION OF A RAILROAD, A
6 MARYLAND RAILROAD COMPANY MAY CROSS THE TRACKS OF ANOTHER RAILROAD
7 COMPANY.

8 (2) CROSSINGS MAY BE MADE AT, OVER, OR UNDER GRADE.

9 (B) CONDEMNATION OF EASEMENTS.

10 IF A MARYLAND RAILROAD COMPANY IS UNABLE TO AGREE ON THE TERMS FOR
11 A CROSSING WITH THE RAILROAD COMPANY WHOSE TRACK IS TO BE CROSSED, THEN
12 THE MARYLAND RAILROAD COMPANY MAY CONDEMN THE EASEMENT OF THE
13 CROSSING UNDER § 5-405 OF THIS ARTICLE.

14 (C) GRADE CROSSINGS.

15 (1) A MARYLAND RAILROAD COMPANY THAT CONSTRUCTS A CROSSING
16 AT GRADE SHALL:

17 (I) AT ITS OWN EXPENSE, ERECT A PROPER SIGNAL STATION AT
18 THE CROSSING AND KEEP A WATCHMAN THERE; AND

19 (II) GIVE PRECEDENCE TO THE TRAINS OF THE RAILROAD
20 COMPANY WHOSE TRACKS ARE CROSSED.

21 (2) A MARYLAND RAILROAD COMPANY THAT CONSTRUCTS AN
22 UNDERGRADE OR OVERGRADE CROSSING SHALL CONSTRUCT THE CROSSING SO AS
23 NOT TO INTERFERE WITH THE PASSAGE OF THE TRAINS OF THE RAILROAD COMPANY
24 WHOSE TRACKS ARE BEING CROSSED.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 23, § 230.

27 In subsection (a)(1) of this section, the former reference to railroad
28 companies "heretofore or hereafter incorporated" is deleted as unnecessary
29 since the grant of authority to railroad companies is not limited to already
30 established railroad companies. Similarly, the former reference to railroads
31 "hereafter constructed" is also deleted as unnecessary since the authority
32 to cross a railroad is not limited to only existing railroads.

33 In subsection (a)(1) of this section, the word "may" is substituted for the
34 former reference to being "hereby authorized" for brevity.

35 Also in subsection (a)(1) of this section, the former reference to "lateral
36 branch" is deleted as included in the word "railroad".

1 In subsection (b) of this section, the former reference to "compensation" is
2 deleted as included in the reference to the "terms" of the crossing.

3 Also in subsection (b) of this section, the reference to the revised § 5-405 of
4 this article, which prescribes how a company may condemn property, is
5 substituted for the former reference to "[Article 23,] § 193".

6 Also in subsection (b) of this section, the former words "companies",
7 "railroads", and "crossings" are deleted in light of the words "company",
8 "railroad", and "crossing" and Art. 1, § 8 of the Code, which provides that
9 the singular includes the plural.

10 Defined terms: "Maryland railroad company" § 9-301

11 "Railroad" § 1-101

12 9-306. CROSSING HIGHWAYS.

13 (A) POWER TO CROSS HIGHWAYS.

14 (1) A MARYLAND RAILROAD COMPANY MAY:

15 (I) CROSS OR DIVERT A HIGHWAY WHENEVER NECESSARY FOR
16 THE CONSTRUCTION OF A RAILROAD;

17 (II) AT ITS OWN COST AND EXPENSE, CARRY A HIGHWAY OVER ITS
18 TRACK BY AN OVERGRADE CROSSING, OR UNDER ITS TRACK BY AN UNDERGRADE
19 CROSSING IF THE MARYLAND RAILROAD COMPANY CONSIDERS THAT THE HIGHWAY
20 CROSSING IS DANGEROUS; AND

21 (III) EXERCISE THE POWERS OF CONDEMNATION, UNDER TITLE 5,
22 SUBTITLE 4 OF THIS ARTICLE AND TITLE 12 OF THE REAL PROPERTY ARTICLE, TO
23 ACQUIRE ADDITIONAL PROPERTY AND RIGHTS NECESSARY TO CONSTRUCT AN
24 OVERGRADE OR UNDERGRADE CROSSING.

25 (2) WHENEVER A MARYLAND RAILROAD COMPANY CROSSES OR
26 DIVERTS A HIGHWAY, IT SHALL, WITHOUT NECESSARY DELAY, RETURN THE
27 HIGHWAY TO ITS FORMER USEFULNESS.

28 (B) CONSTRUCTION OF OVERGRADE AND UNDERGRADE CROSSINGS;
29 LIMITATIONS.

30 (1) OVERGRADE AND UNDERGRADE CROSSINGS SHALL BE AT LEAST 20
31 FEET WIDE, AND THE GRADES APPROACHING THE CROSSINGS MAY NOT BE GREATER
32 THAN A RISE OF 6 FEET IN ONE HUNDRED.

33 (2) THE HEIGHT OF AN UNDERGRADE CROSSING FROM THE SURFACE
34 OF THE ROADWAY SHALL BE AT LEAST 14 FEET.

1 (3) WHEN CONSTRUCTING THE APPROACHES TO AN OVERGRADE OR
2 UNDERGRADE CROSSING, THE MARYLAND RAILROAD COMPANY MAY CHANGE THE
3 GRADE OF THE ROAD OR HIGHWAY TO BE CARRIED ON THE NEW CROSSING.

4 (4) IF THE GRADE IS CHANGED UNDER PARAGRAPH (3) OF THIS
5 SUBSECTION:

6 (I) THE GRADE CHANGE OF THE ROAD SHALL BE AT THE EXPENSE
7 OF THE MARYLAND RAILROAD COMPANY; AND

8 (II) THE MARYLAND RAILROAD COMPANY HAS THE SAME RIGHTS
9 AND LIABILITIES THAT COUNTY OFFICIALS HAVE IN CHANGING THE GRADES OF
10 PUBLIC HIGHWAYS.

11 (C) CLOSING GRADE CROSSINGS; PROHIBITION AGAINST NEW GRADE
12 CROSSINGS; LIMITATIONS.

13 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
14 WHENEVER A MARYLAND RAILROAD COMPANY CONSTRUCTS AN OVERGRADE OR
15 UNDERGRADE CROSSING, ALL GRADE CROSSINGS WITHIN 600 YARDS OF THE NEW
16 CROSSING MAY BE CLOSED BY THE MARYLAND RAILROAD COMPANY AND ANOTHER
17 CROSSING MAY NOT BE OPENED WITHIN 600 YARDS OF THE NEW CROSSING.

18 (2) THE PROHIBITION AGAINST THE MAINTENANCE AND OPENING OF A
19 GRADE CROSSING WITHIN 600 YARDS OF A NEWLY CONSTRUCTED OVERGRADE OR
20 UNDERGRADE CROSSING DOES NOT APPLY:

21 (I) IN A MUNICIPAL CORPORATION, WITHOUT THE CONSENT OF
22 THE MAYOR AND COUNCIL; AND

23 (II) IN AN UNINCORPORATED AREA OF A COUNTY WITH A
24 POPULATION OF 2,000 OR MORE PEOPLE, WITHOUT THE CONSENT OF THE LOCAL
25 GOVERNING BODY.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 23, § 237 and the third, fourth, fifth, and seventh
28 clauses and, as it related to crossing or diverting a highway, the first clause
29 of § 203.

30 Throughout this section, the terms "overgrade crossing" and "undergrade
31 crossing" are substituted for the former references to bridges, tunnels, and
32 overhead crossings for simplicity and consistency.

33 In subsection (a) of this section, the former term "public highway" has been
34 deleted as unnecessary since it is included in the term "highway". In
35 former Art. 23, § 237, the authority granted to a railroad to cross by
36 overgrade or undergrade was limited to public highways. However, former
37 Art. 23, § 203 granted the same authority to cross "any public or private
38 road".

1 Also in subsection (a) of this section, the former word "tracks" is deleted in
2 light of the word "track" and Art. 1, § 8 of the Code, which provides that the
3 singular includes the plural.

4 In the introductory language of subsection (a) of this section, the word
5 "may" is substituted for the former phrases "it shall be lawful" and "shall
6 have the right" for simplicity and consistency.

7 In subsection (a)(1)(ii) of this section, the former reference to a railroad
8 that "hereafter" crosses a public or private road is deleted as unnecessary
9 since the grant of authority to railroad companies is not limited to already
10 existing crossings.

11 Also in subsection (a)(1)(ii) of this section, the former reference to a
12 railroad company's authority to direct a road from its "present or existing
13 location" is deleted since this authority is already granted to a railroad
14 company in subsection (a)(1)(i) of this section, where authority to "divert" a
15 road or highway is given to a railroad company.

16 In subsection (a)(1)(iii) of this section, the cross-references to Title 5,
17 Subtitle 4 of this article and Title 12 of the Real Property Article have been
18 added for clarity.

19 In subsection (b) of this section, the former explanation of what constitutes
20 a "tunnel" is deleted since it is unnecessary given the use of the general
21 term "overgrade and undergrade crossings".

22 In subsection (b)(4)(ii) of this section, the term "county officials" is
23 substituted for the former reference to "county commissioners" to include
24 counties that do not have commissioners.

25 In subsection (c) of this section, the former references to a crossing that is
26 "properly laid out" or constructed "under the terms of this section" are
27 deleted as surplusage.

28 Also in subsection (c) of this section, the former reference to the duty of the
29 county commissioners to "close the old road and grade crossings" is deleted
30 as inconsistent with the provisions that grant that authority to the
31 railroad companies unless the crossing is in a city or county that has a
32 population of 2,000 or more people.

33 In subsection (c)(2)(i) of this section, the term "municipal corporation" is
34 substituted for the former term "towns".

35 In subsection (c)(2)(ii) of this section, the term "local governing body" is
36 substituted for the former reference to "county commissioners" and
37 "municipal authorities" for clarity and consistency with other revised
38 articles of the Code.

39 The Public Utility Companies Article Review Committee notes for the

1 consideration of the General Assembly that this section authorizes a
2 railroad company to create a grade separation without the approval of any
3 governmental entity. This creates a direct conflict with § 8-640(a) of the
4 Transportation Article which provides that at each grade crossing of a
5 highway and a railroad, the railroad company shall, subject to the
6 approval of the Administration, construct a railroad grade separation or
7 maintain the at-grade crossing in safe manner. Existing provisions of the
8 Transportation Article clearly contemplate that the Administration will
9 have complete oversight authority of and responsibility for grade
10 separation construction. This is further evidenced by the fact that under §
11 8-642 of the Transportation Article, the Administration is required to pay
12 75% of the construction costs for grade separations. The Committee
13 believes that this section is obsolete. The General Assembly may wish to
14 repeal it.

15 Defined terms: "Maryland railroad company" § 9-301

16 "Railroad" § 1-101

17 9-307. ABANDONMENT OF RIGHT-OF-WAY OR LOCATION BY UNFINISHED
18 RAILROAD.

19 IF THE RIGHT-OF-WAY OR LOCATION OF ANY PART OF AN UNFINISHED
20 RAILROAD REMAINS UNUSED FOR RAILROAD PURPOSES FOR 10 YEARS OR LONGER,
21 THE RIGHT-OF-WAY OR LOCATION IS DEEMED ABANDONED AND MAY BE
22 PURCHASED OR CONDEMNED BY A RAILROAD COMPANY UNDER TITLE 5, SUBTITLE 4
23 OF THIS ARTICLE AND TITLE 12 OF THE REAL PROPERTY ARTICLE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 23, § 195.

26 In this section, the reference to Title 5, Subtitle 4 of this article is
27 substituted for the former reference to "this article" to reflect the
28 codification of former railroad condemnation provisions derived from Art.
29 23.

30 Also in this section, the cross-reference to Title 12 of the Real Property
31 Article, has been added for clarity.

32 Defined term: "Railroad" § 1-101

33 9-308. POWER TO OWN OR OBTAIN INTERESTS IN OTHER TRANSPORTATION
34 COMPANIES.

35 (A) RAILROAD COMPANIES AND INLAND, COAST, OR OCEAN TRANSPORTATION
36 COMPANIES.

37 SUBJECT TO § 6-101(C) OF THIS ARTICLE, A MARYLAND RAILROAD COMPANY
38 MAY ACQUIRE, OWN, HOLD, PLEDGE, SELL, DISPOSE OF, ENDORSE, GUARANTEE, OR
39 ASSUME THE STOCKS, BONDS, AND OTHER SECURITIES OF:

- 1 (1) A MARYLAND RAILROAD COMPANY;
- 2 (2) A RAILROAD COMPANY OF ANY OTHER STATE; AND
- 3 (3) AN INLAND, COAST, OR OCEAN TRANSPORTATION COMPANY.
- 4 (B) STEAMSHIP COMPANIES.

5 A MARYLAND RAILROAD COMPANY MAY OWN AND OPERATE A LINE OF
6 STEAMSHIPS OR STEAMBOATS IF THEY CAN BE USED WHOLLY OR PARTLY, IN
7 CONNECTION WITH THE BUSINESS OF THE MARYLAND RAILROAD COMPANY.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 23, §§ 226 and 236.

10 In the introductory language of subsection (a) of this section, the
11 qualification "[s]ubject to § 6-101(c) of this article" is added to reflect the
12 securities ownership limitation of Maryland railroad companies as public
13 service companies subject to the Commission.

14 Also in the introductory language of subsection (a) of this section, the word
15 "may" is substituted for the former phrase "[i]t shall be lawful" for clarity
16 and brevity.

17 In subsection (b) of this section, the former reference to subscribing to or
18 holding the "stock of any company owning and operating such steamships
19 or steamboats" is deleted since it repeats the provisions in subsection (a) of
20 this section. Subsection (a) of this section, authorizes a Maryland railroad
21 company to have a variety of ownership interests in other transportation
22 companies.

23 Defined terms: "Company" § 1-101

24 "Maryland railroad company" § 9-301

25 "Railroad" § 1-101

26 9-309. LIABILITY FOR INJURIES TO LIVESTOCK AND DAMAGES FROM FIRE.

27 (A) SCOPE OF SECTION.

28 THE PRESUMPTION OF NEGLIGENCE ESTABLISHED IN THIS SECTION DOES NOT
29 APPLY IF:

30 (1) THE DAMAGES OR INJURIES WERE CAUSED BY A FIRE THAT
31 OCCURRED IN OR ABOUT A RAILROAD TERMINAL THAT RECEIVES, DELIVERS, OR
32 TRANSHIPS FREIGHT; AND

33 (2) THE FIRE MAY HAVE RESULTED FROM THE NEGLIGENCE OF AN
34 INDIVIDUAL WHO WORKS IN OR ABOUT THE TERMINAL BUT IS NOT EMPLOYED BY OR
35 UNDER THE CONTROL OF THE RAILROAD COMPANY.

36 (B) PRESUMPTION OF NEGLIGENCE.

1 UNLESS A RAILROAD COMPANY PROVES THAT DAMAGES OR INJURIES WERE
2 NOT THE RESULT OF ANY NEGLIGENCE ON THE PART OF THE COMPANY, A RAILROAD
3 COMPANY IS LIABLE IN A CIVIL ACTION FOR:

4 (1) INJURIES TO LIVESTOCK THAT OCCUR ON THE COMPANY'S TRACKS;
5 AND

6 (2) DAMAGES THAT RESULT FROM A FIRE THAT ORIGINATED FROM THE
7 COMPANY'S ENGINES OR CARS.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 23, § 231.

10 In this section, the former references to "servants" and "agents" are deleted
11 in light of the laws of agency.

12 Also in this section, the references to "damages" are added for clarity.

13 In subsection (a) of this section, the former reference to "waterfront" is
14 deleted in light of the broad reference to "railroad terminal".

15 In subsection (a)(2) of this section, the former reference to freight "in the
16 handling of which and the ordinary conduct of business therein" certain
17 individuals are involved, is deleted as unnecessary.

18 In the introductory language of subsection (b) of this section, the former
19 reference to "any negligence on the part of ... agents" of a railroad company
20 is deleted as included in the reference to any negligence "on the part of the
21 company".

22 In subsection (b)(1) of this section, the reference to "livestock" is
23 substituted for the former list "cattle, horses, sheep, hogs, and so forth" for
24 brevity.

25 Also in subsection (b)(1) of this section, the former reference to "death" and
26 injuries "otherwise inflicted" is deleted in light of the comprehensive
27 reference to "injuries" to livestock.

28 Defined terms: "Company" § 1-101

29 "Railroad" § 1-101

30 9-310. USE OF CROSSING OR CONNECTING TRACKS.

31 (A) AUTHORIZATION.

32 A RAILROAD THAT CROSSES OR CONNECTS WITH ANOTHER RAILROAD MAY USE
33 THE TRACK OR ROADWAY OF THE OTHER RAILROAD, FOR UP TO 5 MILES, TO MOVE
34 LOCOMOTIVES, CARS, AND TONNAGE.

35 (B) RATES.

1 THE RATE OF TOLLS THAT A RAILROAD CHARGES UNDER THIS SECTION FOR
2 LOCOMOTIVES, CARS, AND TONNAGE MAY NOT EXCEED THE RATE PER TON PER
3 MILE, OR PROPORTIONATE PART OF A MILE USED, THAT THE RAILROAD CHARGES
4 FOR THROUGH FREIGHT PER TON PER MILE.

5 (C) PENALTY.

6 A RAILROAD COMPANY THAT VIOLATES THIS SECTION IS LIABLE TO AN
7 AGGRIEVED PARTY IN A CIVIL ACTION FOR AN AMOUNT NOT LESS THAN \$500 AND
8 NOT EXCEEDING \$1,000 FOR EACH DAY OF NONCOMPLIANCE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 23, §§ 216 and 217.

11 In subsection (a) of this section, the former reference to railroads "within
12 this State" and "which may hereafter be so constructed or built" are
13 deleted as implicit in the scope of the statute.

14 Also in subsection (a) of this section, the phrase "may use the track or
15 roadway" is substituted for the former phrase "shall permit the road so
16 crossing or connecting to use their track or roadway" for clarity.

17 In subsection (b) of this section, the reference to tolls "that a railroad
18 charges under this section" is added for clarity.

19 In subsection (c) of this section, the reference to liability "to an aggrieved
20 party in a civil action" is substituted for the former reference to an
21 aggrieved party's "right to recover" for clarity.

22 Also in subsection (c) of this section, the former reference to "any court of
23 this State that has jurisdiction" is deleted as unnecessary.

24 Defined terms: "Company" § 1-101

25 "Railroad" § 1-101

26 "Rate" § 1-101

27 9-311. PROTECTION OF HIGHWAY CROSSING -- IN GENERAL.

28 (A) AUTHORITY OF A COUNTY TO ORDER PROTECTION OF CROSSING.

29 (1) AT LEAST 30 DAYS BEFORE MAKING A DETERMINATION, THE LOCAL
30 GOVERNING BODY OF A COUNTY SHALL NOTIFY A RAILROAD COMPANY THAT THE
31 COUNTY WILL CONSIDER THE NEED TO PROTECT A RAILROAD CROSSING OVER A
32 PUBLIC HIGHWAY IF:

33 (I) THE CROSSING IS IN THE COUNTY BUT OUTSIDE OF A
34 MUNICIPAL CORPORATION;

35 (II) THE CROSSING IS AT GRADE; AND

1 (III) THE HIGHWAY IS BELIEVED TO BE OF A CHARACTER AS TO
2 RENDER DANGEROUS THE PASSAGE OF LOCOMOTIVES AND TRAINS ON IT.

3 (2) A COUNTY SHALL GIVE THE NOTICE BY SERVING WRITTEN NOTICE
4 ON THE SUPERINTENDENT OR OTHER AGENT OF THE RAILROAD COMPANY IN THE
5 COUNTY.

6 (3) AFTER THE 30-DAY PERIOD, THE LOCAL GOVERNING BODY OF A
7 COUNTY MAY DETERMINE THAT PROTECTION IS NECESSARY AT THE CROSSING.

8 (4) THE COUNTY SHALL NOTIFY THE RAILROAD COMPANY THROUGH ITS
9 SUPERINTENDENT OR TICKET AGENT IN THE COUNTY THAT, WITHIN 60 DAYS, THE
10 RAILROAD COMPANY SHALL:

11 (I) PLACE A FLAGMAN OR A SYSTEM OF ELECTRIC ALARM BELLS
12 AT THE CROSSING TO GIVE TIMELY NOTICE TO ALL PERSONS USING THE CROSSING
13 OF THE APPROACH OF TRAINS;

14 (II) ERECT SAFETY GATES AT THE CROSSING THAT SHALL BE
15 CLOSED NOT LESS THAN ONE-HALF MINUTE BEFORE THE PASSAGE AND DURING
16 THE PASSAGE OF A TRAIN; OR

17 (III) CHANGE THE AT GRADE CROSSING TO AN UNDERGRADE OR
18 OVERGRADE CROSSING.

19 (B) FAILURE TO COMPLY WITH COUNTY REQUIREMENTS.

20 IF A RAILROAD COMPANY DOES NOT COMPLY WITH THE REQUIREMENTS OF A
21 COUNTY UNDER SUBSECTION (A)(4) OF THIS SECTION, THE RAILROAD COMPANY IS
22 SUBJECT TO A FINE OF \$25 PER DAY FOR EACH DAY THAT THE COMPANY IS NOT IN
23 COMPLIANCE.

24 (C) ENFORCEMENT OF COUNTY REQUIREMENTS.

25 (1) AS OTHER FINES ARE COLLECTED, THE LOCAL GOVERNING BODY OF
26 A COUNTY SHALL ENFORCE THE PAYMENT OF FINES IMPOSED BY SUBSECTION (B)
27 OF THIS SECTION IN THE CIRCUIT COURT FOR THE COUNTY.

28 (2) THE STATE'S ATTORNEY OF THE COUNTY SHALL PROSECUTE UNDER
29 THIS SUBSECTION WHEN THE LOCAL GOVERNING BODY OF THE COUNTY SO
30 DIRECTS.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 23, §§ 227, 228, and 229.

33 In subsections (a)(1) and (3) and (c)(1) of this section, the references to the
34 "local governing body" of a county are substituted for the former references
35 to "county commissioners" to recognize the authority of the governing
36 bodies of all forms of county government, with or without home rule.

1 Also in subsection (a)(1) of this section, the reference to a "railroad
2 company" is substituted for the former reference to "the company owning
3 or operating the railroad at such point" for consistency with subsections
4 (a)(2), (b), and (d) of this section.

5 Also in subsection (a)(1) of this section, the former reference to "further"
6 protection of a crossing is deleted as surplusage.

7 In subsection (a)(1)(i) of this section, the reference to a "municipal
8 corporation" is substituted for the former reference to "the corporate limits
9 of cities" for clarity and consistency with the usage of Md. Const. Art. XI-E.

10 In subsection (a)(1)(iii) of this section, the former reference to being
11 dangerous to "life and property" is deleted as implicit in the general
12 reference to being "dangerous".

13 In subsection (a)(3) of this section, the former reference to "a majority" of
14 the governing officials of a county is deleted as an unnecessary statement
15 of customary procedures.

16 In subsection (a)(4)(i) and (ii) of this section, the former references to
17 "locomotives" are deleted in light of the references to "trains".

18 In subsection (a)(4)(iii) of this section, the former phrase, "in which case
19 neither a flagman nor safety gate shall be required", is deleted as
20 unnecessary in light of the revised structure of this section.

21 In subsection (c)(2) of this section, the former reference to "suits" is deleted
22 as unnecessary.

23 For other provisions relating to grade crossings under the jurisdiction of
24 the State Highway Administration, see TR §§ 8-639 through 8-643.

25 The Public Utility Companies Article Review Committee notes, for the
26 consideration of the General Assembly, that the provisions of this section
27 and §§ 9-312 and 9-313 of this subtitle, which grant authority over
28 highway crossings at grade to county governments, appear to overlap and
29 in part conflict with other provisions that grant authority over these
30 crossings to the Secretary of Transportation. See TR §§ 8-639 through
31 8-643. Because eliminating these three sections would constitute a
32 substantive change, the Committee recommends that the General
33 Assembly study the issue and resolve it in an appropriate manner.

34 Defined terms: "Company" § 1-101

35 "County" § 1-101

36 "Railroad" § 1-101

37 9-312. SAME -- REFLECTORS AT SAFETY GATES.

38 (A) REFLECTORS REQUIRED.

1 EACH SAFETY GATE AT A GRADE CROSSING IN THE STATE SHALL HAVE
2 REFLECTORS OF SUFFICIENT SIZE TO ENSURE VISIBILITY AT NIGHT.

3 (B) REGULATIONS.

4 THE SECRETARY OF TRANSPORTATION SHALL ADOPT REGULATIONS TO CARRY
5 OUT THIS SECTION.

6 (C) PENALTY.

7 A RAILROAD COMPANY THAT DOES NOT COMPLY WITH AN ORDER OF THE
8 SECRETARY OF TRANSPORTATION TO PROVIDE OR MAINTAIN REFLECTORS UNDER
9 THIS SECTION IS SUBJECT TO A FINE OF \$100 PER DAY FOR EACH DAY THAT THE
10 COMPANY IS NOT IN COMPLIANCE.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 23, § 229A.

13 In subsection (a) of this section, the former reference to a crossing "with
14 any public highway or street anywhere" in the State is deleted as implicit
15 in the reference to each "crossing in the State".

16 Also in subsection (a) of this section, the former reference to reflectors
17 "mounted ... or attached" is deleted as surplusage.

18 In subsection (b) of this section, the former requirement that the Secretary
19 of Transportation enforce "this [sub]section and such regulations" is
20 deleted in light of the requirement that the Secretary "carry out this
21 section".

22 In subsection (c) of this section, the former reference to a "lawful" order is
23 deleted as surplusage.

24 Defined terms: "Company" § 1-101

25 "Railroad" § 1-101

26 9-313. SAME -- WARNING SIGNS.

27 (A) SIGNS AT HIGHWAY CROSSINGS.

28 AT EACH PLACE WHERE ITS TRACKS CROSS A PUBLIC HIGHWAY, A MARYLAND
29 RAILROAD COMPANY SHALL ERECT SIGNS HIGH ENOUGH TO ALLOW ALL VEHICLES
30 TO PASS AND WITH LARGE AND DISTINCT LETTERS THAT WARN OF THE PROXIMITY
31 OF THE RAILROAD CROSSING AND OF THE NECESSITY TO LOOK FOR TRAINS.

32 (B) LIABILITY.

33 A MARYLAND RAILROAD COMPANY THAT NEGLECTS OR REFUSES TO COMPLY
34 WITH THE REQUIREMENTS OF THIS SECTION IS LIABLE FOR ANY RESULTING
35 INJURIES TO INDIVIDUALS OR DAMAGES TO PROPERTY.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 23, § 205.

3 In subsection (a) of this section, the reference to "highway" is substituted
4 for the former reference to "road" for consistency with the Transportation
5 Article.

6 Defined terms: "Maryland railroad company" § 9-301

7 "Railroad" § 1-101

8 SUBTITLE 4. COMMISSION PROVISIONS ON RAILROAD COMPANIES.

9 9-401. MEETING ANTICIPATED TRANSPORTATION DEMANDS.

10 (A) REQUIRED CARS AND MOTIVE POWER.

11 UNLESS THE COMMISSION ORDERS OTHERWISE, A RAILROAD COMPANY SHALL
12 HAVE SUFFICIENT CARS AND MOTIVE POWER TO MEET ALL REQUIREMENTS THAT
13 REASONABLY MAY BE ANTICIPATED TO TRANSPORT PASSENGERS, PROPERTY, AND
14 FREIGHT.

15 (B) FAILURE TO HAVE SUFFICIENT CARS.

16 (1) IF A RAILROAD COMPANY DOES NOT HAVE SUFFICIENT CARS TO
17 MEET THE DEMAND TO TRANSPORT FREIGHT IN CARLOAD LOTS, THE RAILROAD
18 COMPANY SHALL DISTRIBUTE AVAILABLE CARS TO SHIPPERS THAT APPLY.

19 (2) EXCEPT FOR GIVING PRIORITY TO TRANSPORTING LIVESTOCK OR
20 PERISHABLE PROPERTY, A RAILROAD COMPANY MAY NOT DISCRIMINATE IN ANY
21 WAY, INCLUDING PREFERENCES AS TO SHIPPERS, LOCALITIES, OR COMPETITIVE OR
22 NONCOMPETITIVE POINTS, WHEN SUPPLYING CARS UNDER THIS SECTION.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 78, § 36.

25 In subsection (a) of this section, the former reference to a "street railroad
26 company" and its operating requirements are deleted as obsolete.

27 Defined terms: "Commission" § 1-101

28 "Company" § 1-101

29 "Railroad" § 1-101

30 9-402. RECEIPT AND HAULING OF FREIGHT CARS FROM OTHER RAILROAD
31 COMPANIES.

32 (A) SCOPE OF SECTION.

33 THIS SECTION DOES NOT AFFECT THE DUTIES OF A RAILROAD COMPANY OR
34 THE POWERS OF THE COMMISSION REGARDING JOINT RATES.

1 (B) RECEIPT AND HAULING OF CARS.

2 A RAILROAD COMPANY SHALL RECEIVE FREIGHT CARS OF PROPER STANDARD
3 FROM OTHER RAILROAD COMPANIES AT CONNECTING POINTS AND HAUL THE CARS:

4 (1) TO THEIR DESTINATION; OR

5 (2) BY THE ROUTE BILLED, TO THE CONNECTING POINT WITH THE NEXT
6 CONNECTING CARRIER.

7 (C) TERMS FOR INTERCHANGING CARS.

8 EXCEPT ON TERMS AND CONDITIONS THAT THE COMMISSION ESTABLISHES,
9 RAILROAD COMPANIES MAY NOT BE REQUIRED TO INTERCHANGE CARS.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 78, § 37.

12 In subsection (c) of this section, the former reference to "street railroad
13 companies" is deleted as obsolete.

14 Defined terms: "Commission" § 1-101

15 "Company" § 1-101

16 "Railroad" § 1-101

17 "Rate" § 1-101

18 9-403. SWITCH CONNECTIONS AND SIDETRACKS FOR SHIPPERS.

19 (A) CONNECTIONS PROVIDED BY RAILROAD COMPANY.

20 IF SAFE TO INSTALL, REASONABLY PRACTICABLE, AND JUSTIFIED BY THE
21 VOLUME OF BUSINESS, A RAILROAD COMPANY, ON THE APPLICATION OF A SHIPPER,
22 SHALL CONSTRUCT, MAINTAIN, AND OPERATE ON REASONABLE TERMS:

23 (1) A SWITCH CONNECTION OR A CONNECTION WITH A LATERAL LINE
24 OF RAILROAD OR PRIVATE SIDETRACK OWNED BY THE SHIPPER; OR

25 (2) A SIDETRACK AND SWITCH CONNECTION FOR THE SHIPPER ON
26 PROPERTY OWNED BY THE RAILROAD COMPANY.

27 (B) REGULATION OF CONNECTIONS.

28 THE COMMISSION SHALL REGULATE INSTALLATION, MAINTENANCE, AND
29 COMPENSATION UNDER THIS SECTION.

30 (C) TERMINATION OF CONNECTIONS.

31 A RAILROAD COMPANY MAY TERMINATE CONNECTIONS THAT IT PROVIDES
32 UNDER THIS SECTION IF THE COMMISSION DETERMINES THAT THE REQUIRED
33 CONDITIONS ARE NO LONGER SATISFIED.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 78, § 38.

3 In subsection (c) of this section, the reference to a "railroad company" is
4 added for clarity.

5 Defined terms: "Commission" § 1-101

6 "Company" § 1-101

7 "Railroad" § 1-101

8 GENERAL REVISOR'S NOTE TO TITLE:

9 Former Art. 23, §§ 207 through 210, which regulated consolidations of railroad
10 companies, leases between railroad companies, and purchases and sales of the assets
11 of railroad companies, are apparently obsolete. However, to avoid any inadvertent
12 substantive effect their repeal might have, they are transferred to the Session Laws.

13 Former Art. 23, §§ 232 and 234, which allowed an action for damages for certain
14 injuries caused by railroad companies to be brought in a court of competent
15 jurisdiction and provided for default judgments against railroad companies, are
16 deleted as unnecessary in light of current tort law, which authorizes actions for
17 damages for injuries, and Maryland Rules 2-613, 3-306, and 3-509, which provide for
18 default judgments.

19 Former Art. 23, §§ 249 through 255, which required railroad corporations to
20 offer for sale mileage books for use by travelers on passenger trains, regulated the
21 sale and usage of the mileage books, and provided penalties for violations by railroad
22 corporations, are deleted as obsolete.

23 Former Art. 89, §§ 83 through 103 of the Code, under which the Commissioner of
24 Labor and Industry regulated railroad safety and health, are transferred to and
25 revised in Title 5.5 of the Labor and Employment Article.

26 Former Art. 89, § 82, which declared the legislative intent of the former subtitle
27 on railroad safety and health, is revised in LE § 5.5-102.

28 Former Art. 89, § 83, which defined terms relating to railroad safety and health,
29 is revised in LE § 5.5-101.

30 Former Art. 89, § 84, which established the authority of the Commissioner of
31 Labor and Industry over all aspects of railroad safety and health, is revised in LE §§
32 5.5-104, 5.5-108(a), 5.5-112(a), 5.5-113(a), 5.5-116(a), and 5.5-123(a).

33 The first and second sentences of former Art. 89, § 85, which provided for the
34 adoption of railroad safety and health regulations and standards, are deleted as
35 duplicative of SG Title 10, Subtitle 1. The remainder of former Art. 89, § 85 is revised
36 in LE §§ 5.5-103 and 5.5-108.

37 Former Art. 89, § 86, which authorized the Commissioner to grant variances
38 from regulations and standards, is revised in LE § 5.5-112.

1 Former Art. 89, § 87, relating to required accident reports, is revised in LE §
2 5.5-121.

3 Former Art. 89, § 88, relating to notices of violation, is revised in LE § 5.5-115.

4 Former Art. 89, § 89, relating to inspections and investigations, is revised in LE
5 §§ 5.5-113 and 5.5-114.

6 Former Art. 89, § 90, relating to citations for violations, is revised in LE §
7 5.5-116.

8 Former Art. 89, § 91, which provided for notification of railroad companies,
9 hearings, and final orders on citations and penalties, is revised in LE §§ 5.5-117 and
10 5.5-118.

11 Former Art. 89, § 92, which provided for appeals and petitions concerning
12 regulations, standards, and orders of the Commissioner, is revised in LE § 5.5-119.

13 Former Art. 89, § 93, relating to injunctive relief sought by the Commissioner, is
14 revised in LE § 5.5-120.

15 Former Art. 89, § 94, which provided for enforcement of orders, decisions, and
16 civil penalties assessed by the Commissioner, is revised in LE § 5.5-107.

17 Former Art. 89, § 95, which imposed fines for violating the former subtitle,
18 regulations, standards, and orders, is revised in LE § 5.5-123.

19 Former Art. 89, § 96, which established penalties for false statements, for
20 providing advance warning of inspections, and for certain violations causing death, is
21 revised in LE § 5.5-122.

22 Former Art. 89, § 97, which allowed the Commissioner to assign functions and
23 duties to the Chief Inspector for Railroad Safety and Health, is revised in LE §
24 5.5-104(d).

25 Former Art. 89, § 99, relating to assessments for purposes of administering the
26 former subtitle, is revised in LE § 5.5-106.

27 Former Art. 89, § 100, relating to clearance certificates for applications for
28 building permits within certain distances of a railroad track, is revised in LE §
29 5.5-105.

30 Former Art. 89, § 101, relating to yard track margins and sidetracks, is revised
31 in LE §§ 5.5-111 and 5.5-123(c).

32 Former Art. 89, § 102, which established requirements for health, sanitation,
33 safety, and lighting standards, is revised in LE §§ 5.5-110 and 5.5-123(d).

34 Former Art. 89, § 103, which established sanitary requirements for locomotives,
35 is revised in LE §§ 5.5-109 and 5.5-122(a).

1 TITLE 10. FOR-HIRE DRIVING SERVICES.

2 SUBTITLE 1. GENERAL PROVISIONS.

3 10-101. DEFINITIONS.

4 (A) IN GENERAL.

5 IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

6 REVISOR'S NOTE: This subsection is new language derived without
7 substantive change from former Art. 78, § 50A(a).

8 In this subsection, the reference to this "title" is substituted for the former
9 reference to this "subtitle" to reflect the organization of material derived
10 from the former subtitle on for-hire driving services generally, and from
11 the former subtitle on taxicab services.

12 (B) FOR-HIRE DRIVER'S LICENSE.

13 "FOR-HIRE DRIVER'S LICENSE" INCLUDES:

14 (1) A PASSENGER-FOR-HIRE LICENSE; AND

15 (2) A TAXICAB DRIVER'S LICENSE.

16 REVISOR'S NOTE: This subsection formerly was Art. 78, § 50A(b).

17 Defined term: "Taxicab" § 1-101

18 (C) OPERATE A MOTOR VEHICLE FOR HIRE.

19 (1) "OPERATE A MOTOR VEHICLE FOR HIRE" MEANS TO TRANSPORT OR
20 OFFER TO TRANSPORT A PERSON IN A MOTOR VEHICLE IN EXCHANGE FOR
21 REMUNERATION.

22 (2) "OPERATE A MOTOR VEHICLE FOR HIRE" INCLUDES:

23 (I) PROVIDING PASSENGER-FOR-HIRE SERVICES; AND

24 (II) PROVIDING TAXICAB SERVICES.

25 REVISOR'S NOTE: This subsection is new language derived without
26 substantive change from former Art. 78, § 50A(c).

27 In paragraph (1) of this subsection, the defined term "person" is
28 substituted for the former reference to a "passenger" in light of the term
29 "transportation of persons for hire" defined in § 1-101 of this article.

30 Defined terms: "Person" § 1-101

31 "Provide taxicab services" § 10-101

1 "Remuneration" § 10-101

2 (D) PROVIDE TAXICAB SERVICES.

3 "PROVIDE TAXICAB SERVICES" MEANS TO OPERATE A MOTOR VEHICLE FOR
4 HIRE THAT, IN ADDITION TO OTHER SERVICES:

5 (1) PICKS UP AND DISCHARGES PASSENGERS AT RANDOM OR WHO HAIL
6 THE VEHICLE FROM THE STREET;

7 (2) SOLICITS CUSTOMERS AT A PUBLIC OR PRIVATE TAXI STAND; AND

8 (3) IS DISPATCHED TO PICK UP CUSTOMERS WHO CALL FOR A TAXICAB.

9 REVISOR'S NOTE: This subsection formerly was Art. 78, § 50A(d).

10 The only changes are in style.

11 Defined terms: "Operate a motor vehicle for hire" § 10-101

12 "Taxicab" § 1-101

13 (E) REMUNERATION.

14 "REMUNERATION" INCLUDES:

15 (1) A FARE;

16 (2) A FEE;

17 (3) A TOLL;

18 (4) A GRATUITY; AND

19 (5) PERSONAL SERVICES.

20 REVISOR'S NOTE: This subsection formerly was Art. 78, § 50A(e).

21 (F) TAXICAB DRIVER'S LICENSE.

22 "TAXICAB DRIVER'S LICENSE" MEANS A LICENSE ISSUED BY THE COMMISSION
23 TO AN INDIVIDUAL THAT PROVIDES TAXICAB SERVICES.

24 REVISOR'S NOTE: This subsection is new language added to distinguish
25 between a taxicab driver's license issued by the Commission to a taxicab
26 driver in Baltimore City and a license or authorization issued by a county
27 or municipal corporation that regulates taxicab services located within its
28 jurisdiction.

29 Defined terms: "Commission" § 1-101

30 "Provide taxicab services" § 10-101

31 "Taxicab" § 1-101

1 10-102. SCOPE OF REGULATION.

2 (A) CONSTRUCTION.

3 THIS SUBTITLE SUPPLEMENTS OTHER LAW RELATING TO THE OPERATION AND
4 LICENSING OF MOTOR VEHICLES.

5 (B) MOTOR VEHICLES SUBJECT TO TITLE.

6 EXCEPT FOR MOTOR VEHICLES DESIGNED TO TRANSPORT MORE THAN 15
7 PERSONS, THIS TITLE APPLIES TO ANY MOTOR VEHICLE USED IN THE
8 TRANSPORTATION OF PERSONS IN EXCHANGE FOR REMUNERATION.

9 (C) AUTHORITY OF POLITICAL SUBDIVISIONS.

10 THIS SUBTITLE DOES NOT LIMIT THE POWER OF A POLITICAL SUBDIVISION OF
11 THE STATE TO ADOPT REASONABLE TRAFFIC REGULATIONS SUCH AS:

12 (1) THE DESIGNATION OF TAXICAB STANDS; AND

13 (2) THE RESTRICTION OR PROHIBITION OF CRUISING ALONG A PUBLIC
14 STREET WHEN THE CRUISING WOULD MENACE THE PUBLIC SAFETY OR UNDULY
15 CONGEST TRAFFIC.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 78, §§ 50(a) and 50B(a).

18 In subsection (a) of this section, the former phrase "relating to taxicab
19 companies" is deleted as in light of the expansion of Commission regulation
20 to include passenger-for-hire services as well as taxicab services.

21 Also in subsection (a) of this section, the word "other" is substituted for the
22 former word "existing" for clarity.

23 Also in subsection (a) of this section, the former phrase "and not in
24 substitution for" is deleted as unnecessary.

25 In subsection (b) of this section, the references to "persons" are substituted
26 for the former references to "passengers" in light of the defined term
27 "transportation of persons for hire".

28 Also in subsection (b) of this section, the reference to this "title" is
29 substituted for the former reference to this "subtitle", to reflect the
30 organization of provisions relating to for-hire driving services in general.
31 Although this title includes material derived, in part, from former
32 provisions on taxicabs that were outside the former subtitle, no
33 substantive change is intended.

34 Defined terms: "Person" § 1-101

35 "Remuneration" § 10-101

36 "Taxicab" § 1-101

1 10-103. FOR-HIRE DRIVER'S LICENSE REQUIRED.

2 (A) IN GENERAL.

3 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON MAY
4 NOT OPERATE A MOTOR VEHICLE FOR HIRE IN THE STATE UNDER A PERMIT OR
5 AUTHORIZATION TO TRANSPORT PASSENGERS ISSUED BY THE COMMISSION OR THE
6 APPROPRIATE LOCAL AUTHORITY UNLESS THE PERSON HOLDS A FOR-HIRE
7 DRIVER'S LICENSE ISSUED BY THE COMMISSION.

8 (B) LICENSING REQUIREMENTS FOR POLITICAL SUBDIVISION.

9 (1) A COUNTY OR MUNICIPAL CORPORATION MAY LICENSE TAXICAB
10 DRIVERS WHO DRIVE TAXICABS THAT ARE BASED IN THAT COUNTY OR MUNICIPAL
11 CORPORATION IF, AT A MINIMUM, THE COUNTY OR MUNICIPAL CORPORATION
12 CONDUCTS A CRIMINAL RECORD CHECK AND DRIVING RECORD CHECK OF EACH
13 APPLICANT FOR A LICENSE.

14 (2) A TAXICAB DRIVER LICENSED BY A COUNTY OR MUNICIPAL
15 CORPORATION IS NOT REQUIRED TO BE LICENSED BY THE COMMISSION.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 78, §§ 50B(b) and 50N.

18 In subsection (b) of this section, the references to a "municipal corporation"
19 are substituted for the former references to a "municipality" to conform to
20 the usage of Md. Constitution Art. XI-E.

21 Defined terms: "Commission" § 1-101

22 "County" § 1-101

23 "For-hire driver's license" § 10-101

24 "Operate a motor vehicle for hire" § 10-101

25 "Person" § 1-101

26 "Taxicab" § 1-101

27 10-104. APPLICATION FOR LICENSE.

28 (A) IN GENERAL.

29 (1) AN APPLICANT FOR A FOR-HIRE DRIVER'S LICENSE SHALL:

30 (I) SUBMIT TO THE COMMISSION A COMPLETED APPLICATION ON
31 THE FORM THAT THE COMMISSION PROVIDES;

32 (II) STATE ON THE FORM THAT THE APPLICANT IS APPLYING FOR A
33 PASSENGER-FOR-HIRE DRIVER'S LICENSE OR A TAXICAB DRIVER'S LICENSE;

34 (III) PAY TO THE COMMISSION AN APPLICATION FEE SET BY THE
35 COMMISSION;

1 (IV) FILE WITH THE APPLICATION TWO RECENT PHOTOGRAPHS, OF
2 A SIZE THAT MAY BE EASILY ATTACHED TO THE LICENSE; AND

3 (V) BE FINGERPRINTED.

4 (2) THE COMMISSION SHALL:

5 (I) REQUIRE A CRIMINAL RECORD CHECK AND A DRIVING RECORD
6 CHECK OF THE APPLICANT;

7 (II) ATTACH ONE OF THE PHOTOGRAPHS TO THE FOR-HIRE
8 DRIVER'S LICENSE WHEN ISSUED; AND

9 (III) FILE THE OTHER PHOTOGRAPH WITH THE APPLICATION IN THE
10 COMMISSION'S OFFICE.

11 (B) ISSUANCE OF LICENSE.

12 (1) AFTER VERIFICATION BY THE CRIMINAL JUSTICE INFORMATION
13 SYSTEM, THE COMMISSION SHALL ISSUE A PASSENGER-FOR-HIRE DRIVER'S
14 LICENSE OR A TAXICAB DRIVER'S LICENSE, AS APPROPRIATE, TO EACH APPLICANT
15 THAT MEETS THE REQUIREMENTS OF THIS TITLE.

16 (2) THE PASSENGER-FOR-HIRE DRIVER'S LICENSE AND THE TAXICAB
17 DRIVER'S LICENSE SHALL BE IN THE FORM THAT THE COMMISSION PROVIDES.

18 (C) GROUNDS FOR DENIAL.

19 THE COMMISSION MAY DENY AN APPLICANT A LICENSE IF THE APPLICANT HAS
20 BEEN CONVICTED OF A CRIME THAT BEARS A DIRECT RELATIONSHIP TO THE
21 APPLICANT'S FITNESS TO SERVE THE PUBLIC AS A FOR-HIRE DRIVER.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 78, §§ 50C, 50D, and, as it related to license
24 issuance, the first sentence of 50E.

25 In subsection (a)(1)(i) of this section, the reference to a "completed
26 application" is substituted for the former requirement that "all information
27 required by the form must be completed" for brevity.

28 Also in subsection (a)(1)(i) of this section, the former phrase "or prescribed"
29 is deleted as surplusage.

30 In subsection (a)(2)(ii) of this section, the reference to the "for-hire
31 driver's" license is added for clarity.

32 For provisions on the fees for issuing, renewing, and duplicating taxicab
33 licenses, see § 2-111(c) of this article.

34 Defined terms: "Commission" § 1-101

35 "For-hire driver's license" § 10-101

1 "Taxicab" § 1-101

2 10-105. DENIAL OF LICENSE; HEARING; JUDICIAL REVIEW.

3 (A) DECISION TO DENY LICENSE.

4 AFTER AN ADMINISTRATIVE REVIEW, THE COMMISSION SHALL DENY AN
5 APPLICATION FOR A LICENSE IF THE PUBLIC CONVENIENCE AND NECESSITY
6 REQUIRES THE DENIAL BECAUSE OF:

7 (1) THE PHYSICAL OR MENTAL CONDITION OF THE APPLICANT; OR

8 (2) THE CRIMINAL RECORD OF THE APPLICANT.

9 (B) RIGHT TO HEARING.

10 (1) IF AN APPLICANT'S APPLICATION FOR A LICENSE IS DENIED UNDER
11 SUBSECTION (A) OF THIS SECTION, THE APPLICANT MAY REQUEST A HEARING BY
12 THE COMMISSION.

13 (2) THE COMMISSION MAY HAVE THE LICENSE HEARING OFFICER
14 CONDUCT THE HEARING IN ACCORDANCE WITH § 10-110 OF THIS SUBTITLE.

15 (C) JUDICIAL REVIEW.

16 IF THE COMMISSION REFUSES TO ISSUE A LICENSE, THE APPLICANT MAY SEEK
17 JUDICIAL REVIEW OF THE REFUSAL UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 78, § 50J.

20 In subsection (a) of this section, the former phrase "[w]here it shall appear"
21 is deleted as unnecessary.

22 In subsection (b)(2) of this section, the phrase "in accordance with § 10-110
23 of this subtitle" is added for clarity.

24 In subsection (c) of this section, the reference to "judicial review ... under
25 Title 3, Subtitle 2 of this article" is substituted for the former references to
26 "right to appeal" and "in the same manner as appeals may now be taken
27 from other actions of the Public Service Commission" to reflect the
28 consolidation of the Commission's judicial review provisions in this article.

29 Defined term: "Commission" § 1-101

30 10-106. TERM AND RENEWAL.

31 (A) TERM OF LICENSE.

32 THE TERM OF A FOR-HIRE DRIVER'S LICENSE IS NOT LESS THAN 1 YEAR AND
33 NOT MORE THAN 3 YEARS, AS THE COMMISSION SETS.

1 (B) APPLICATION FOR RENEWAL OF LICENSE.

2 (1) AN APPLICANT FOR A RENEWAL OF A FOR-HIRE DRIVER'S LICENSE
3 SHALL SUBMIT TO THE COMMISSION AN APPLICATION ON THE FORM THAT THE
4 COMMISSION PROVIDES.

5 (2) THE COMMISSION MAY RENEW THE FOR-HIRE DRIVER'S LICENSE BY
6 APPROPRIATE ENDORSEMENT ON THE LICENSE.

7 (C) RECORD OF LICENSES.

8 THE COMMISSION SHALL KEEP ON FILE WITH THE ORIGINAL APPLICATION OF
9 A DRIVER A COMPLETE RECORD OF:

10 (1) EACH FOR-HIRE DRIVER'S LICENSE ISSUED TO THE DRIVER; AND

11 (2) ANY RENEWAL, SUSPENSION, AND REVOCATION OF A FOR-HIRE
12 DRIVER'S LICENSE ISSUED TO THE DRIVER.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 78, §§ 50G and 50H.

15 In subsection (a) of this section, the former phrase "and, if not suspended
16 or revoked by the Commission, will then lapse unless renewed" is deleted
17 as surplusage.

18 Defined terms: "Commission" § 1-101

19 "For-hire driver's license" § 10-101

20 10-107. TEMPORARY LICENSE AND BADGE.

21 THE COMMISSION MAY ISSUE A TEMPORARY LICENSE AND, IF APPLICABLE, A
22 BADGE TO AN APPLICANT FOR A PERIOD NOT EXCEEDING 30 DAYS.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 78, § 50K.

25 Defined term: "Commission" § 1-101

26 10-108. DISPLAY OF LICENSE.

27 (A) POSSESSION OF LICENSE.

28 A FOR-HIRE DRIVER SHALL HAVE THE FOR-HIRE TAXICAB DRIVER'S LICENSE
29 IN THE DRIVER'S POSSESSION WHENEVER OPERATING A MOTOR VEHICLE FOR HIRE.

30 (B) DEFACING LICENSE.

31 (1) A FOR-HIRE DRIVER MAY NOT DEFACE, REMOVE, OR OBLITERATE AN
32 OFFICIAL ENTRY MADE ON THE FOR-HIRE DRIVER'S LICENSE.

1 (2) A VIOLATION OF THIS SUBSECTION SHALL BE PUNISHED BY
2 SUSPENSION OR REVOCATION OF THE FOR-HIRE DRIVER'S LICENSE AS PROVIDED
3 UNDER § 10-110 OF THIS SUBTITLE.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 78, § 50E, the second sentence and as it pertains
6 to the possession of a driver's license, the first sentence.

7 In subsection (a) of this section, the reference to a "for-hire" driver is
8 added for clarity.

9 In subsection (b)(1) of this section, the reference to a "for-hire driver" is
10 substituted for the former reference to a "licensee" for clarity.

11 In subsection (b)(2) of this section, the reference to "§ 10-110 of this
12 subtitle" is substituted for the former phrase "hereinafter provided" for
13 clarity.

14 Defined terms: "For-hire driver's license" § 10-101

15 "Operate a motor vehicle for hire" § 10-101

16 10-109. TOLL CHARGES.

17 IF A PASSENGER ELECTS TO USE A ROUTE WHERE A HIGHWAY OR BRIDGE TOLL
18 CHARGE OCCURS, THE FOR-HIRE DRIVER SHALL ASSESS THE PASSENGER THE COST
19 OF THE HIGHWAY OR BRIDGE TOLL CHARGE.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 78, § 50L(j).

22 In this section, the reference to the "for-hire driver" is added for clarity.

23 10-110. LICENSE HEARING OFFICER.

24 (A) POSITION CREATED; APPOINTMENT; SALARY.

25 (1) THERE IS A POSITION OF LICENSE HEARING OFFICER.

26 (2) THE LICENSE HEARING OFFICER SHALL BE APPOINTED BY THE
27 COMMISSION.

28 (3) THE LICENSE HEARING OFFICER SERVES AT THE PLEASURE OF THE
29 COMMISSION.

30 (4) THE LICENSE HEARING OFFICER IS ENTITLED TO COMPENSATION IN
31 ACCORDANCE WITH THE STATE BUDGET.

32 (B) AUTHORITY TO HOLD HEARINGS.

33 THE LICENSE HEARING OFFICER MAY HOLD A HEARING INVOLVING A
34 VIOLATION OF THIS ARTICLE OR THE COMMISSION'S REGULATIONS:

1 (1) BY A FOR-HIRE DRIVER LICENSED BY THE COMMISSION; AND

2 (2) EXCEPT FOR A VIOLATION RELATING TO RATES, BY A HOLDER OF A
3 TAXICAB PERMIT ISSUED BY THE COMMISSION.

4 (C) AUTHORITY TO MAKE RECOMMENDATIONS.

5 THE LICENSE HEARING OFFICER MAY RECOMMEND TO THE COMMISSION:

6 (1) THE IMPOSITION OF A CIVIL PENALTY UNDER § 10-402 OF THIS TITLE
7 OR § 13-202 OF THIS ARTICLE;

8 (2) THE SUSPENSION OF A FOR-HIRE DRIVER'S LICENSE OR TAXICAB
9 PERMIT FOR THE PERIOD OF TIME THAT APPEARS JUSTIFIED BY THE NATURE OF
10 THE OFFENSE; OR

11 (3) THE REVOCATION OF A FOR-HIRE DRIVER'S LICENSE OR TAXICAB
12 PERMIT.

13 (D) AUTHORITY OF COMMISSION REGARDING RECOMMENDATIONS.

14 (1) THE COMMISSION MAY AFFIRM, DENY, OR MODIFY THE
15 RECOMMENDATION OF THE LICENSE HEARING OFFICER.

16 (2) THE COMMISSION NEED NOT GRANT AN ADDITIONAL HEARING
17 BEFORE ACTING ON THE LICENSE HEARING OFFICER'S RECOMMENDATION, BUT THE
18 COMMISSION MAY HEAR ADDITIONAL TESTIMONY AS NECESSARY BEFORE IT ACTS
19 ON THE LICENSE HEARING OFFICER'S RECOMMENDATION.

20 (E) JUDICIAL REVIEW AND REHEARING.

21 WHENEVER A FOR-HIRE DRIVER'S LICENSE OR TAXICAB PERMIT IS SUSPENDED
22 OR REVOKED, OR A CIVIL PENALTY IS IMPOSED ON THE FOR-HIRE DRIVER OR
23 TAXICAB PERMIT HOLDER, THE FOR-HIRE DRIVER OR TAXICAB PERMIT HOLDER:

24 (1) MAY REQUEST A REHEARING IN ACCORDANCE WITH § 3-114 OF THIS
25 ARTICLE; AND

26 (2) MAY SEEK JUDICIAL REVIEW UNDER TITLE 3, SUBTITLE 2 OF THIS
27 ARTICLE.

28 (F) COPIES OF DECISIONS.

29 THE COMMISSION SHALL FURNISH TO THE PERMIT HOLDER A COPY OF THE
30 CHARGES AGAINST A FOR-HIRE DRIVER AND THE RELATED DECISION OF THE
31 LICENSE HEARING OFFICER AND THE COMMISSION.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 78, § 50M.

34 In this section, the references to the "license hearing officer" are

1 substituted for the obsolete references to the "hearing officer" to avoid
2 confusion with other hearing examiners of the Commission and to conform
3 to Commission practice. See also, § 2-108(d) of this article.

4 In the introductory language of subsection (b) of this section, the reference
5 to "this article" is retained, even though this article is derived in part from
6 provisions outside former Art. 78. Because none of the latter provisions
7 affect taxicabs, no substantive change results.

8 In subsection (b)(2) of this section, the reference to the holder of a taxicab
9 permit "issued by the Commission" is substituted for the former reference
10 to a holder of a taxicab permit "in Baltimore City, Baltimore County, the
11 City of Hagerstown, and the City of Cumberland" for clarity. The
12 Commission issues taxicab permits to entities only in those four
13 jurisdictions. See § 10-202 of this title.

14 In subsection (c) of this section, the former reference to recommending
15 "both revocation and suspension" is deleted as impracticable.

16 In subsection (c)(1) of this section, the references to a civil penalty under "§
17 10-402 of this title" is added to reflect the new civil penalties added under
18 Ch. 705, Acts of 1997.

19 In subsection (e) of this section, the reference to "seek[ing] judicial review
20 under Title 3, Subtitle 2 of this article" is substituted for the former
21 reference to having "[t]he right of appeal in the same manner as appeals
22 may now be taken from other actions of the Commission" to reflect the
23 consolidation of the Commission's judicial review provisions in this article.

24 Defined terms: "Commission" § 1-101

25 "For-hire driver's license" § 10-101

26 "Rate" § 1-101

27 "Taxicab" § 1-101

28 10-111. FUNDING.

29 NOTWITHSTANDING § 2-110 OF THIS ARTICLE, THE COMMISSION MAY SEEK
30 ADEQUATE FUNDING IN THE STATE BUDGET AND EMPLOY ADEQUATE STAFFING IN
31 ORDER TO IMPLEMENT THE RESPONSIBILITIES SET FORTH IN THIS TITLE AND TITLE
32 9, SUBTITLE 2 OF THIS ARTICLE.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 78, § 50-O(d).

35 Defined term: "Commission" § 1-101

SUBTITLE 2. TAXICAB SERVICES.

10-201. APPLICABILITY OF SUBTITLE.

THIS SUBTITLE APPLIES TO A PERSON PROVIDING TAXICAB SERVICES UNDER A TAXICAB PERMIT OR TAXICAB DRIVER'S LICENSE ISSUED BY THE COMMISSION.

REVISOR'S NOTE: This section is new language added for clarity.

Defined terms: "Commission" § 1-101

"Person" § 1-101

"Provide taxicab services" § 10-101

"Taxicab driver's license" § 10-101

10-202. PERMIT -- REQUIRED.

(A) IN GENERAL.

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) JURISDICTION OF COMMISSION.

THE PROVISIONS OF THIS ARTICLE 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.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 78, §§ 45(a) and 50(b).

In subsection (a) of this section, the prohibition on operating a taxicab business without a permit is rephrased in standard language to state affirmatively that a person must have a permit to operate as a taxicab business in specified jurisdictions of the State.

In subsection (b) of this section, the former reference to "divesting" is deleted as unnecessary.

Also in subsection (b) of this section, the reference to a "taxicab business" is substituted for the former reference to a "taxicab company" for precision.

Also in subsection (b) of this section, the former reference to public local law "heretofore passed" is deleted as surplusage.

Defined terms: "Commission" § 1-101

"Common carrier" § 1-101

"Taxicab" § 1-101

1 10-203. SAME -- STANDARD FOR ISSUANCE.

2 (A) APPLICATION FOR PERMIT.

3 (1) AN APPLICANT FOR A PERMIT TO OPERATE A TAXICAB BUSINESS
4 SHALL SUBMIT TO THE COMMISSION AN APPLICATION ON THE FORM THAT THE
5 COMMISSION PROVIDES.

6 (2) THE COMMISSION SHALL ISSUE A PERMIT IF, AFTER INVESTIGATION,
7 THE COMMISSION DETERMINES THAT ISSUING THE PERMIT WOULD BE BEST FOR
8 THE PUBLIC WELFARE AND CONVENIENCE.

9 (B) FACTORS TO BE CONSIDERED IN ISSUANCE OF PERMIT.

10 IN DETERMINING WHETHER TO ISSUE A PERMIT, THE COMMISSION SHALL
11 CONSIDER ALL RELEVANT FACTORS INCLUDING:

12 (1) THE NUMBER OF TAXICABS TO BE USED;

13 (2) THE TAXICAB AND OTHER TRANSPORTATION SERVICES ALREADY
14 AVAILABLE IN THE LOCALITY; AND

15 (3) THE RATE TO BE CHARGED.

16 (C) GROUNDS FOR REJECTION.

17 IF IT APPEARS THAT A TAXICAB COMPANY IS MAKING AN EFFORT TO MISLEAD
18 THE PUBLIC BY IMITATING THE NAME, DESIGN, OR DISTINCTIVE COMBINATION OF
19 COLORS OF ANY TAXICAB ALREADY APPROVED BY THE COMMISSION, THE
20 COMMISSION SHALL:

21 (1) REJECT THE TAXICAB COMPANY'S APPLICATION FOR A PERMIT; OR

22 (2) REVOKE OR SUSPEND THE TAXICAB COMPANY'S EXISTING PERMIT.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 78, § 45(b).

25 In subsection (a)(1) of this section, new language is added to state
26 expressly that which only was implied in the former law, i.e., an applicant
27 for a permit shall submit an application.

28 Also in subsection (a)(1) of this section, the former requirement that the
29 application be "written" is deleted as implicit in the requirement for
30 submission of the application on the form the Commission provides.

31 In subsection (a)(2) of this section, the phrase "if ... the Commission
32 determines" is substituted for the former phrase "in its judgment" for
33 clarity.

34 Also in subsection (a)(2) of this section, the word "issuing" is substituted

1 for the former word "granting" for consistency.

2 In subsection (c) of this section, the references to the "taxicab company's"
3 application and permit are added for clarity.

4 Also in subsection (c) of this section, the word "or" is substituted for the
5 former word "and" because both conditions cannot occur simultaneously.

6 Defined terms: "Commission" § 1-101

7 "Rate" § 1-101

8 "Taxicab" § 1-101

9 10-204. SAME -- TERM; SUSPENSION; REVOCATION.

10 (A) APPLICATION OF PERMIT.

11 EACH PERMIT APPLIES ONLY TO THE PARTICULAR TAXICAB DESIGNATED IN
12 THE PERMIT.

13 (B) TERM OF PERMIT.

14 (1) EACH PERMIT IS SUBJECT TO THE TERMS AND CONDITIONS THAT
15 THE COMMISSION ESTABLISHES.

16 (2) THE COMMISSION SHALL SET A TERM OF AT LEAST 1 YEAR FOR EACH
17 PERMIT.

18 (3) THE COMMISSION MAY RENEW A PERMIT IN ACCORDANCE WITH THE
19 STANDARDS SET FORTH IN § 10-203 OF THIS SUBTITLE.

20 (C) AMENDMENT, SUSPENSION, OR REVOCATION OF PERMIT.

21 IF SUFFICIENT CAUSE IS SHOWN, THE COMMISSION MAY AMEND, SUSPEND, OR
22 REVOKE A PERMIT.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 78, § 45(c).

25 In subsection (b)(1) of this section, the phrase "that the Commission
26 establishes" is substituted for the former phrase "as the Commission may
27 deem advisable" for clarity.

28 In subsection (b)(2) of this section, the phrase "[t]he Commission may" is
29 substituted for the former phrase "subject to ... the Commission's
30 discretion" for clarity.

31 Defined terms: "Commission" § 1-101

32 "Taxicab" § 1-101

1 10-205. SAME -- ASSIGNMENT.

2 (A) APPROVAL NECESSARY FOR ASSIGNMENT OF PERMIT.

3 A PERMIT MAY NOT BE ASSIGNED OR TRANSFERRED UNLESS, AFTER
4 INVESTIGATION, THE COMMISSION APPROVES THE ASSIGNMENT OR TRANSFER AS
5 BEST FOR THE PUBLIC WELFARE AND CONVENIENCE.

6 (B) REQUIREMENTS OF APPLICATION FOR APPROVAL.

7 AN APPLICANT FOR AN ASSIGNMENT OR TRANSFER OF A PERMIT SHALL
8 SUBMIT TO THE COMMISSION A WRITTEN APPLICATION THAT SETS FORTH THE
9 PURPOSE, TERMS, AND CONDITIONS OF THE PROPOSED ASSIGNMENT OR TRANSFER.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 78, § 45(d).

12 Defined term: "Commission" § 1-101

13 10-206. DISPLAY OF IDENTIFICATION.

14 (A) NAME REQUIRED.

15 EACH TAXICAB FOR WHICH A PERMIT IS REQUIRED SHALL HAVE:

16 (1) THE NAME OF THE TAXICAB PERMIT HOLDER OF THE TAXICAB
17 PERMANENTLY PAINTED OR AFFIXED ON ONE DOOR ON EACH SIDE OF THE TAXICAB,
18 IN LETTERS AT LEAST 2.5 INCHES HIGH; AND

19 (2) THE WORD "TAXICAB" APPEAR CONSPICUOUSLY ON THE TAXICAB.

20 (B) ISSUANCE AND DISPLAY OF BADGE.

21 (1) THE COMMISSION SHALL:

22 (I) DETERMINE THE FORM AND STYLE OF A BADGE; AND

23 (II) ISSUE TO EACH LICENSED TAXICAB DRIVER A BADGE WITH THE
24 TAXICAB DRIVER'S LICENSE NUMBER ON THE BADGE.

25 (2) A LICENSED TAXICAB DRIVER SHALL DISPLAY THE BADGE
26 CONSPICUOUSLY IN THE INTERIOR OF A TAXICAB WHENEVER OPERATING THE
27 TAXICAB.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 78, §§ 46 and 50F(b).

30 In subsection (a)(1) of this section, the reference to the "taxicab permit
31 holder" is substituted for the former reference to the "owner" for clarity
32 and to reflect current practice.

1 Also in subsection (a)(1) of this section, the reference to "affix[ing]" the
2 name is added to reflect the common use of durable material other than
3 paint for identification purposes.

4 Also in subsection (a)(1) of this section, the former reference to the "full"
5 name of the taxicab permit holder is deleted as surplusage.

6 In subsection (a)(2) of this section, the word "taxicab" is substituted for the
7 former word "vehicle" for consistency.

8 In subsection (b) of this section, the reference to "constantly" displaying the
9 badge is deleted as surplusage.

10 Former Art. 78, § 50F(a), which limited the application of former
11 subsection (b) to taxicab drivers, is deleted in light of § 10-201 of this
12 subtitle.

13 Defined terms: "Commission" § 1-101

14 "Taxicab" § 1-101

15 10-207. GENERAL LIABILITY AND PROPERTY INSURANCE.

16 (A) LIABILITY INSURANCE OR BOND REQUIRED.

17 A TAXICAB FOR WHICH A PERMIT IS REQUIRED MAY NOT BE OPERATED UNLESS
18 THE PERMIT HOLDER:

19 (1) OBTAINS FROM AN INSURER AUTHORIZED TO TRANSACT BUSINESS
20 IN THE STATE, A LIABILITY INSURANCE POLICY THAT:

21 (I) IS APPROVED BY THE COMMISSION IN ALL RESPECTS,
22 INCLUDING POLICY PROVISIONS, FORM, AND AMOUNTS; AND

23 (II) INSURES THE PERMIT HOLDER AND TAXICAB DRIVER AGAINST
24 LIABILITY TO A PASSENGER OR MEMBER OF THE PUBLIC FOR PROPERTY DAMAGE,
25 PERSONAL INJURY, OR DEATH RESULTING FROM AN ACCIDENT IN WHICH THE
26 TAXICAB IS INVOLVED; OR

27 (2) DEPOSITS WITH THE COMMISSION A BOND WITH A CASUALTY OR
28 SURETY COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE THAT:

29 (I) IS APPROVED BY THE COMMISSION IN ALL RESPECTS,
30 INCLUDING PROVISIONS, FORM, SURETY, AND AMOUNTS; AND

31 (II) IS MADE OUT TO THE STATE AS OBLIGEE FOR THE USE AND
32 BENEFIT OF PASSENGERS AND MEMBERS OF THE PUBLIC, AND UNDERTAKES TO
33 INDEMNIFY PASSENGERS AND MEMBERS OF THE PUBLIC AGAINST PROPERTY
34 DAMAGE, PERSONAL INJURY, OR DEATH RESULTING FROM AN ACCIDENT IN WHICH
35 THE TAXICAB IS INVOLVED.

36 (B) IN GENERAL.

1 (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
2 PARAGRAPH, A CANCELLATION OR REVOCATION OF AN INSURANCE POLICY OR BOND
3 THAT IS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION MAY NOT TAKE EFFECT
4 UNTIL 45 DAYS AFTER THE DATE THE COMMISSION RECEIVES WRITTEN NOTICE
5 FROM THE REVOKING PARTY.

6 (II) CANCELLATION OR REVOCATION OF AN INSURANCE POLICY OR
7 BOND ISSUED BY THE MARYLAND AUTOMOBILE INSURANCE FUND MAY NOT TAKE
8 EFFECT UNTIL 30 DAYS AFTER THE DATE THE COMMISSION RECEIVES WRITTEN
9 NOTICE FROM THE MARYLAND AUTOMOBILE INSURANCE FUND.

10 (2) AT ANY TIME, IF THE COMMISSION DETERMINES THAT THE
11 EXISTING BOND OR INSURANCE PROTECTION IS INADEQUATE, THE COMMISSION
12 MAY REQUIRE NEW OR ADDITIONAL BOND OR INSURANCE AS A CONDITION OF
13 OPERATION.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 78, § 47.

16 In the introductory language of subsection (a) of this section, the phrase
17 "permit holder" is substituted for the former phrase "company owning it"
18 for clarity and to reflect current practice.

19 In subsection (a)(1) of this section, the word "insurer" is substituted for the
20 former term "insurance company" for consistency with the Insurance
21 Article.

22 Also in subsection (a)(1) of this section, the former reference to a
23 "responsible" insurer is deleted as implicit in the requirement that the
24 insurer be "authorized to transact business in the State".

25 In subsection (a)(1)(ii) and (2)(ii) of this section, in each instance, the
26 former phrase "or casualty" is deleted as unnecessary.

27 In subsection (a)(1)(ii) of this section, the former word "general" is deleted
28 as unnecessary.

29 In subsection (a)(2)(ii) of this section, the reference to "passengers and
30 members of the public" is substituted for the former reference to "said
31 persons" for clarity.

32 Also in subsection (a)(2)(ii) of this section, the reference to "property
33 damage, personal injury, or death resulting from an accident in which the
34 taxicab is involved" is substituted for the former reference to "said
35 contingencies" for clarity and consistency with subsection (a)(1)(ii) of this
36 section.

37 In subsection (b)(1)(ii) of this section, the word "receives" is substituted for
38 the former phrase "of actual receipt" for clarity.

1 In subsection (b)(2) of this section, the phrase "existing bond or insurance
2 protection" is added to clarify the former phrase "existing protection".

3 Also in subsection (b)(2) of this section, the former phrase "in any respect"
4 is deleted as unnecessary.

5 The Public Utility Companies Article Review Committee notes, for the
6 consideration of the General Assembly, that the provisions of former Art.
7 78, § 47(a) relating to bonding was unclear. The revision of subsection
8 (a)(2) of this section clarifies the nature of the permit bond as an
9 agreement under which the casualty or surety company promises the
10 State, passengers, and members of the public that the permit holder and
11 taxicab driver will not cause property damage, personal injury, or death.

12 Defined terms: "Commission" § 1-101

13 "Taxicab" § 1-101

14 10-208. DUTIES OF TAXICAB DRIVER.

15 (A) REQUIREMENTS AND PROHIBITIONS -- IN GENERAL.

16 IN ADDITION TO OTHER DUTIES SPECIFICALLY IMPOSED BY THIS SUBTITLE,
17 WHILE DRIVING A TAXICAB, A TAXICAB DRIVER:

18 (1) SHALL ACCEPT AS PASSENGER AND CONVEY WHERE DIRECTED ANY
19 ORDERLY PERSON, ON REQUEST, UNLESS PREVIOUSLY ENGAGED OR UNABLE OR
20 FORBIDDEN TO DO SO BY THIS SECTION, OTHER VALID LAW, OR REGULATION;

21 (2) EXCEPT WHEN TRANSFERRING A VEHICLE TO OR FROM REPAIR
22 FACILITIES, HAVE IN THE TAXICAB DRIVER'S POSSESSION A MANIFEST THAT
23 CONTAINS:

24 (I) THE TIME AND DATE ISSUED, THE EXPIRATION TIME, THE
25 TAXICAB DRIVER'S NAME AND BADGE NUMBER, AND THE TAXICAB NUMBER;

26 (II) SPACE FOR METER READINGS AND THE CALCULATION OF
27 DRIVER INCOME; AND

28 (III) ANY OTHER INFORMATION CONSIDERED NECESSARY BY THE
29 COMMISSION;

30 (3) SHALL REPORT EACH CHANGE OF RESIDENCE WITHIN 72 HOURS TO
31 THE COMMISSION;

32 (4) SHALL ANSWER PROMPTLY ALL COMMUNICATIONS AND
33 SUMMONSES RECEIVED FROM THE COMMISSION;

34 (5) SHALL DELIVER ALL FARES AND ALL OTHER LEGAL CHARGES
35 RECEIVED TO THE PERMIT HOLDER IF WORKING ON A COMMISSION BASIS;

1 (6) MAY NOT OPERATE A TAXICAB WHILE THE TAXICAB DRIVER'S
2 OPERATOR LICENSE OR TAXICAB DRIVER'S LICENSE IS SUSPENDED;

3 (7) MAY NOT ALLOW ANY OTHER PERSON TO USE THE TAXICAB
4 DRIVER'S BADGE OR IDENTIFICATION CARD;

5 (8) MAY NOT ALLOW ANY OTHER PERSON TO DRIVE THE TAXICAB AND
6 RETURN THE TAXICAB TO THE PERMIT HOLDER'S GARAGE ON COMPLETION OF THE
7 SHIFT TO WHICH THE TAXICAB DRIVER WAS ASSIGNED;

8 (9) SHALL PROCEED WITH PASSENGERS TO DESTINATION BY THE
9 SHORTEST PRACTICABLE ROUTE;

10 (10) SHALL GIVE A RECEIPT FOR FARES ON REQUEST ON AN AUTHORIZED
11 FORM;

12 (11) MAY NOT OPERATE A TAXICAB FOR MORE THAN 12 HOURS OF ANY
13 CONTINUOUS 24-HOUR PERIOD;

14 (12) SHALL DISPLAY IN THE INTERIOR OF THE TAXICAB AT ALL TIMES,
15 WHILE ON DUTY, THE IDENTIFICATION CARD WITH PHOTOGRAPH ATTACHED IN THE
16 FRAME PROVIDED FOR THE CARD AND PHOTOGRAPH; AND

17 (13) SHALL CHARGE ONLY THE RATE OF FARE OR CHARGE ESTABLISHED
18 BY LAW.

19 (B) SAME -- CONDITION OF TAXICAB.

20 (1) WHEN ASSIGNED TO A TAXICAB, THE TAXICAB DRIVER IS
21 RESPONSIBLE FOR ASCERTAINING THAT THE TAXICAB IS IN GOOD WORKING ORDER.

22 (2) A TAXICAB DRIVER MAY NOT TAMPER WITH RATE CARDS, THE
23 METER, METER LIGHT, CABLE, SPEEDOMETER CABLE, OR ANY OTHER EQUIPMENT
24 THAT IS REQUIRED TO BE IN THE TAXICAB BY LAW OR THAT REGISTERS FARES AND
25 CHARGES.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 78, § 50-I(b) and (c).

28 In the introductory language of this section, the word "subtitle" is
29 substituted for the former word "article" for consistency within this
30 subtitle.

31 In subsection (a)(5) and (8) of this section, in each instance, the reference to
32 the "permit holder" is substituted for the former reference to the "owner"
33 for clarity and to conform to current practice.

34 Former Art. 78, § 50-I(a) is deleted as implicit in the organization of this
35 subtitle.

1 Defined terms: "Commission" § 1-101

2 "Person" § 1-101

3 "Rate" § 1-101

4 "Taxicab" § 1-101

5 10-209. TAXICAB OPERATION.

6 (A) COMMUNICATIONS.

7 A TAXICAB DRIVER SHALL MAKE MAXIMUM USE OF SERVICE COMMUNICATIONS
8 WITH THE DRIVER'S SWITCHBOARD OPERATOR OR DISPATCHER IN ORDER TO KEEP
9 THE DRIVER'S TAXICAB AVAILABLE FOR RESPONSE TO CALLS.

10 (B) PROHIBITION ON SOLICITATION.

11 (1) A TAXICAB DRIVER MAY NOT SOLICIT THE PATRONAGE OF A PERSON
12 WHO IS AT THE TERMINAL OF ANOTHER COMMON CARRIER OR AT AN INTERMEDIATE
13 POINT ALONG AN ESTABLISHED ROUTE OF THAT CARRIER TO USE THAT COMMON
14 CARRIER'S SERVICE.

15 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT PROHIBIT OR
16 INTERFERE WITH A RESPONSE TO A CALL FOR A TAXICAB WHETHER THE CALL IS
17 MADE BY TELEPHONE OR BY SIGNAL FROM A PEDESTRIAN.

18 (3) TAXICABS BEING OPERATED IN BALTIMORE CITY:

19 (I) MAY TRANSPORT A PASSENGER FROM BALTIMORE CITY INTO
20 BALTIMORE COUNTY AND RETURN TO BALTIMORE COUNTY FOR THE SAME
21 PASSENGER; BUT

22 (II) MAY NOT SOLICIT A PASSENGER WITHIN BALTIMORE COUNTY
23 AT ANY TIME.

24 (4) THIS SUBTITLE MAY NOT IMPEDE THE OPERATION OF TAXICABS
25 BETWEEN BALTIMORE CITY AND BALTIMORE-WASHINGTON INTERNATIONAL
26 AIRPORT IN THE MANNER ALLOWED BY LAW.

27 (C) NUMBER OF PASSENGERS.

28 (1) A TAXICAB MAY NOT CARRY MORE THAN THE NUMBER OF
29 PASSENGERS DESIGNATED ON THE RATE CARD.

30 (2) A CHILD IN A PASSENGER'S ARMS IS NOT COUNTED AS A PASSENGER.

31 (3) ONLY ONE PERSON MAY OCCUPY THE FRONT SEAT WITH THE
32 DRIVER.

33 (D) SHARING OF TAXICABS.

34 (1) A TAXICAB MAY BE USED FROM A RAILROAD STATION OR OTHER
35 PUBLIC PLACE OF SPECIAL ASSEMBLY TO SERVE JOINTLY NOT MORE THAN FOUR

1 PASSENGERS WHO ARE BOUND FOR THE SAME, OR APPROXIMATELY THE SAME,
2 LOCATION.

3 (2) A PASSENGER WHO HAS ENGAGED A TAXICAB MAY NOT BE
4 COMPELLED TO SHARE THE TAXICAB WITH ANOTHER PERSON.

5 (3) A TAXICAB DRIVER MAY NOT REFUSE SERVICE IN ORDER TO GROUP
6 PASSENGERS MORE PROFITABLY.

7 (4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
8 PARAGRAPH, IF A TAXICAB IS OCCUPIED BY SEVERAL PASSENGERS BOUND FOR
9 DIFFERENT DESTINATIONS, EACH PASSENGER OR PARTY SHALL BE CHARGED THE
10 FARE RECORDED ON THE METER AT THE TIME OF ARRIVAL AT THE PASSENGER'S OR
11 PARTY'S DESTINATION.

12 (II) A PARTY OR INDIVIDUAL PASSENGER MAY NOT BE CHARGED
13 MORE THAN THE FARE APPLICABLE AT THE ESTABLISHED RATE FOR
14 TRANSPORTATION OVER THE SHORTEST AND MOST DIRECT ROUTE.

15 (5) A TAXICAB DRIVER MAY NOT SOLICIT ANOTHER PASSENGER WHILE
16 EN ROUTE TO THE DESTINATION OF PASSENGERS OR PARTIES INITIALLY
17 OCCUPYING THE CAB.

18 (E) MANNER OF OPERATION.

19 A DRIVER OF A TAXICAB MAY NOT OPERATE THE TAXICAB:

20 (1) RECKLESSLY;

21 (2) IN AN UNSAFE MANNER; OR

22 (3) IN DISREGARD OF THE PUBLIC GENERAL OR LOCAL LAWS OR
23 MUNICIPAL ORDINANCES GOVERNING THE OPERATION OF MOTOR VEHICLES.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 78, § 50L(c) through (i).

26 In subsection (c)(1) of this section, the phrase "of passengers" is added for
27 clarity.

28 Also in subsection (c)(1) of this section, the reference to a "rate" card is
29 substituted for the former reference to a "permit" card for consistency.

30 In subsection (d)(2) of this section, the former phrase "if unwilling to do so"
31 is deleted as surplusage.

32 Defined terms: "Common carrier" § 1-101

33 "Person" § 1-101

34 "Rate" § 1-101

35 "Taxicab" § 1-101

1 10-210. CHARGES FOR SERVICE.

2 (A) RATE CARD.

3 (1) A TAXICAB PERMIT HOLDER SHALL POST IN EACH OF ITS TAXICABS A
4 SCHEDULE OF ITS FARES ON A RATE CARD.

5 (2) THE RATE CARD SHALL BE PRINTED AND ARRANGED IN A WAY THAT
6 ALLOWS A PASSENGER TO DETERMINE READILY THE EXACT FARE PAYABLE BY THE
7 PASSENGER.

8 (3) A PERSON MAY NOT COLLECT A FARE OTHER THAN A FARE
9 APPEARING ON OR DETERMINABLE FROM THE RATE CARD POSTED IN THE TAXICAB.

10 (B) METERS.

11 (1) THIS SUBSECTION DOES NOT APPLY TO A TAXICAB OPERATING IN
12 THE CITY OF HAGERSTOWN.

13 (2) (I) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
14 WHILE IN SERVICE, EACH TAXICAB FOR WHICH A PERMIT IS REQUIRED SHALL BE
15 EQUIPPED WITH AN ACCURATE TAXIMETER THAT IS PROPERLY INSTALLED AND
16 CONNECTED.

17 (II) THE TAXIMETER SHALL BE THE EXCLUSIVE MEANS OF
18 MEASURING THE CHARGES FOR SERVICE AND IS SUBJECT TO INSPECTION AND
19 TESTING BY THE COMMISSION.

20 (C) SAME -- EXCEPTION.

21 (1) A FIXED CHARGE MAY BE MADE FOR ANY TRIP BY TAXICAB BETWEEN
22 A POINT WITHIN THE POLITICAL SUBDIVISION IN WHICH THE TAXICAB IS NORMALLY
23 OPERATED AND A POINT OUTSIDE OF THE POLITICAL SUBDIVISION.

24 (2) THE FIXED CHARGE SHALL BE CALCULATED ON A MILEAGE BASIS
25 THAT THE COMMISSION APPROVES.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 78, § 48(a) through (c).

28 In subsection (a) of this section, the references to a "rate card" are
29 substituted for the former references to a "schedule of its fares" for
30 consistency.

31 In subsection (a)(1) of this section, the phrase "taxicab permit holder" is
32 substituted for the former phrase "taxicab company" for clarity and to
33 reflect current practice.

34 In subsection (c)(1) of this section, the phrase "political subdivision" is
35 substituted for the former phrase "municipal corporation" since this
36 subtitle applies to Baltimore County which is not and does not contain a

1 municipal corporation.

2 Defined terms: "Commission" § 1-101

3 "Person" § 1-101

4 "Rate" § 1-101

5 "Taxicab" § 1-101

6 SUBTITLE 3. MISCELLANEOUS PROVISIONS.

7 10-301. FIXED CHARGE BY ZONE.

8 IF A TAXICAB FOR WHICH A PERMIT IS NOT REQUIRED CHARGES ON THE BASIS
9 OF A FIXED CHARGE MADE BY ZONE, THE EXTENT OF THE ZONE SHALL BE
10 CONSPICUOUSLY EXPRESSED IN MILEAGE IN THE SCHEDULE REQUIRED UNDER §
11 10-210 OF THIS TITLE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 78, § 48(d).

14 Defined term: "Taxicab" § 1-101

15 SUBTITLE 4. PROHIBITIONS; PENALTIES.

16 10-401. OPERATION OF MOTOR VEHICLE FOR HIRE.

17 (A) LICENSURE REQUIRED.

18 A PERSON MAY NOT TRANSPORT, SOLICIT FOR TRANSPORT, OR AGREE TO
19 TRANSPORT ANY PERSON OR BAGGAGE IN A MOTOR VEHICLE FOR HIRE UNLESS THE
20 OPERATOR OF THE MOTOR VEHICLE IS LICENSED BY THE COMMISSION.

21 (B) VIOLATION.

22 A PERSON WHO OWNS OR IS IN CHARGE OF A MOTOR VEHICLE MAY NOT ALLOW
23 THE MOTOR VEHICLE TO BE USED IN VIOLATION OF THIS SECTION, § 10-109, OR §
24 10-209 OF THIS TITLE.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 78, § 50L(a) and (b).

27 In this section, the references to a "motor vehicle" are substituted for the
28 former references to "vehicle" for consistency within this title.

29 Defined terms: "Commission" § 1-101

30 "Person" § 1-101

31 10-402. CIVIL PENALTY.

32 (A) PASSENGER-FOR-HIRE SERVICES.

1 A PERSON MAY NOT OPERATE A VEHICLE THAT PROVIDES
2 PASSENGER-FOR-HIRE SERVICES IN THE STATE UNLESS THE PERSON IS LICENSED
3 AS A PASSENGER-FOR-HIRE DRIVER BY THE COMMISSION.

4 (B) TAXICAB SERVICES.

5 A PERSON MAY NOT OPERATE A VEHICLE THAT PROVIDES TAXICAB SERVICES
6 IN THE STATE UNLESS THE PERSON IS LICENSED AS A TAXICAB DRIVER BY THE
7 COMMISSION OR A COUNTY OR MUNICIPAL CORPORATION.

8 (C) CIVIL PENALTY IMPOSED.

9 SUBJECT TO THE HEARING PROVISIONS OF § 3-102(C) OF THIS ARTICLE, THE
10 COMMISSION MAY IMPOSE ON A PERSON WHO VIOLATES THIS SECTION A CIVIL
11 PENALTY NOT EXCEEDING \$500 FOR EACH VIOLATION.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 78, § 50-O(a) through (c).

14 In subsection (b) of this section, the reference to a "municipal corporation"
15 is substituted for the former reference to a "municipality" to conform to the
16 usage of Md. Constitution Art. XI-E.

17 Defined terms: "Commission" § 1-101

18 "County" § 1-101

19 "Person" § 1-101

20 "Provide taxicab services" § 10-101

21 TITLE 11. LIQUEFIED GAS FACILITIES.

22 11-101. LIQUEFIED NATURAL GAS.

23 (A) DEFINITIONS.

24 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
25 INDICATED.

26 (2) "LIQUEFIED NATURAL GAS" MEANS NATURAL GAS COOLED TO FORM
27 A LIQUID AT APPROXIMATELY ATMOSPHERIC PRESSURE.

28 (3) "LIQUEFIED NATURAL GAS FACILITY" MEANS ANY FACILITY USED TO
29 PRODUCE, STORE, OR REGASIFY LIQUEFIED NATURAL GAS.

30 (B) IN GENERAL.

31 THE COMMISSION SHALL ADOPT REGULATIONS TO ENSURE TO THE GREATEST
32 EXTENT PRACTICABLE THE OPERATIONAL SAFETY OF LIQUEFIED NATURAL GAS
33 FACILITIES.

34 (C) INSPECTIONS.

1 (1) THE COMMISSION SHALL INSPECT PERIODICALLY EACH LIQUEFIED
2 NATURAL GAS FACILITY TO ENSURE COMPLIANCE WITH THE REGULATIONS
3 ADOPTED UNDER SUBSECTION (B) OF THIS SECTION.

4 (2) INSPECTIONS SHALL BE CONDUCTED AT INTERVALS THE
5 COMMISSION DETERMINES NECESSARY.

6 (D) ENFORCEMENT.

7 THE COMMISSION MAY ENFORCE THESE REGULATIONS BY ANY METHOD
8 PROVIDED IN § 2-117(A) OR (B), § 13-201, OR § 13-205 OF THIS ARTICLE.

9 (E) AGREEMENTS.

10 THE COMMISSION MAY ENTER INTO AGREEMENTS WITH FEDERAL UNITS AS
11 NECESSARY TO CARRY OUT THIS SECTION.

12 (F) EFFECT OF SECTION.

13 THIS SECTION DOES NOT EXPAND THE DEFINITION OF "PUBLIC SERVICE
14 COMPANY" IN § 1-101 OF THIS ARTICLE.

15 (G) PENALTIES.

16 A PERSON WHO VIOLATES A REGULATION THAT THE COMMISSION ADOPTS
17 UNDER THIS SECTION IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS
18 SUBJECT TO A FINE NOT EXCEEDING \$10,000 FOR EACH DAY THE VIOLATION
19 CONTINUES, AND IMPRISONMENT NOT EXCEEDING 1 YEAR.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 78, § 64D.

22 In subsections (b) and (c) of this section, the former references to natural
23 gas facilities "in this State" are deleted as unnecessary.

24 The first sentence of former Art. 78, § 64D(e), which defined the scope of
25 the Commission's jurisdiction in regulating liquefied natural gas, is
26 deleted in light of § 2-112 of this article which establishes the jurisdiction
27 of the Commission.

28 Defined terms: "Commission" § 1-101

29 "Person" § 1-101

30 "Public service company" § 1-101

31 11-102. LIQUEFIED PETROLEUM GAS.

32 (A) EXISTING JURISDICTION NOT AFFECTED.

33 THIS SECTION DOES NOT LIMIT THE JURISDICTION OF THE COMMISSION OVER
34 A PUBLIC SERVICE COMPANY THAT PROVIDES LIQUEFIED PETROLEUM GAS SERVICE
35 UNDER FRANCHISES THAT EXISTED ON OR BEFORE JULY 1, 1980.

1 (B) SAFETY STANDARDS.

2 THE COMMISSION SHALL ADOPT AND ENFORCE SAFETY STANDARDS FOR GAS
3 SERVICE INSTALLATIONS AT LOCATIONS WHERE SERVICE IS PROVIDED TO 10 OR
4 MORE CUSTOMERS OR 10 OR MORE SEPARATE RESIDENTIAL DWELLING UNITS BY
5 PIPES FROM A CENTRAL LIQUEFIED PETROLEUM GAS STORAGE TANK.

6 (C) APPLICABILITY.

7 (1) THE OWNER OF A FACILITY AT A LOCATION SUBJECT TO
8 SUBSECTION (B) OF THIS SECTION OR THE OWNER OF THE LIQUEFIED PETROLEUM
9 GAS FURNISHED SHALL COMPLY WITH THE SAFETY STANDARDS OF SERVICE.

10 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,
11 OTHER SECTIONS OF THIS ARTICLE DO NOT APPLY TO AN OWNER SUBJECT TO THIS
12 SECTION.

13 (3) THE COMMISSION MAY APPLY TITLE 12, SUBTITLE 1 AND §§ 2-117(A),
14 5-304, AND 13-203 OF THIS ARTICLE TO AN OWNER SUBJECT TO THIS SECTION.

15 (D) REPORTING REQUIREMENTS.

16 WHEN SERVICE BEGINS, A PERSON WHO FURNISHES GAS SERVICE BY PIPES
17 FROM A CENTRAL LIQUEFIED PETROLEUM GAS STORAGE TANK TO 10 OR MORE
18 CUSTOMERS OR 10 OR MORE SEPARATE RESIDENTIAL DWELLING UNITS SHALL
19 NOTIFY THE COMMISSION IN WRITING ABOUT:

20 (1) THE LOCATION OF EACH INSTALLATION;

21 (2) THE NUMBER OF CUSTOMERS OR DWELLING UNITS FURNISHED
22 SERVICE AT EACH LOCATION; AND

23 (3) THE NAME AND ADDRESS OF THE OFFICE RESPONSIBLE FOR THE
24 SERVICE.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 78, § 75C.

27 In subsection (a) of this section, the former phrase "in any way" is deleted
28 as surplusage.

29 In subsection (c)(1) of this section, the former reference to standards "that
30 become effective" is deleted as surplusage.

31 In subsection (c)(2) of this section, the phrase "[e]xcept as provided in
32 paragraph (3) of this subsection" is added for clarity.

33 Also in subsection (c)(2) of this section, the phrase "an owner" is
34 substituted for the former reference to "these persons" for clarity and
35 consistency.

1 Also in subsection (c)(2) of this section, the reference to other sections of
 2 "this article" is retained, even through this article is derived, in part, from
 3 provisions outside of former Article 78. No substantive change results from
 4 this retention.

5 In subsection (c)(3) of this section, the former phrase "[t]o the extent
 6 ordered by the Commission" is deleted in light of the comprehensive
 7 authority of the Commission to apply the specified provisions.

8 In subsection (d) of this section, the former reference to notifying the
 9 Commission by "October 1, 1980" is deleted as obsolete.

10 Defined terms: "Commission" § 1-101

11 "Person" § 1-101

12 "Public service company" § 1-101

13 TITLE 12. UNDERGROUND FACILITIES.

14 SUBTITLE 1. EXCAVATION OR DEMOLITION NEAR UNDERGROUND FACILITIES.

15 12-101. DEFINITIONS.

16 (A) IN GENERAL.

17 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

18 REVISOR'S NOTE: This subsection is new language derived without
 19 substantive change from the introductory clause of former Art. 78, §
 20 28A(b).

21 (B) CONTRACTOR.

22 (1) "CONTRACTOR" MEANS A PERSON THAT PERFORMS EXCAVATIONS
 23 OR DEMOLITIONS.

24 (2) "CONTRACTOR" INCLUDES A PERSON THAT PERFORMS EXCAVATIONS
 25 OR DEMOLITIONS UNDER A CONTRACT OR SUBCONTRACT.

26 REVISOR'S NOTE: This subsection is new language derived without
 27 substantive change from former Art. 78, § 28A(b)(1).

28 In paragraph (2) of this subsection, the defined terms "excavation" and
 29 "demolition" are added for consistency with paragraph (1) of this
 30 subsection.

31 Defined terms: "Demolition" § 12-101

32 "Excavation" § 12-101

33 "Person" §§ 1-101, 12-101

34 (C) DEMOLITION.

1 "DEMOLITION" MEANS AN OPERATION IN WHICH A STRUCTURE OR MASS OF
2 MATERIAL IS WRECKED, RAZED, RENDED, MOVED, OR REMOVED USING ANY TOOL,
3 EQUIPMENT, OR EXPLOSIVE.

4 REVISOR'S NOTE: This subsection is new language added in light of the
5 definition of "excavation" in subsection (d) of this section.

6 (D) EXCAVATION.

7 (1) "EXCAVATION" MEANS AN OPERATION IN WHICH EARTH, ROCK, OR
8 OTHER MATERIAL IN OR ON THE GROUND IS MOVED, REMOVED, OR OTHERWISE
9 DISPLACED BY USING ANY TOOL, EQUIPMENT, OR EXPLOSIVE.

10 (2) "EXCAVATION" INCLUDES GRADING, TRENCHING, DIGGING,
11 DITCHING, DRILLING, AUGERING, TUNNELLING, SCRAPING, CABLE OR PIPE PLOWING
12 AND DRIVING MATERIAL MASS.

13 REVISOR'S NOTE: This subsection is new language derived without
14 substantive change from former Art. 78, § 28A(b)(2).

15 In paragraph (2) of this subsection, the phrase "without limitation", which
16 formerly modified "includes", is deleted in light of Art. 1, § 30 of the Code.

17 Also in paragraph (2) of this subsection, the former reference to
18 "demolition, wrecking, razing, rending, moving or removing any structure"
19 is deleted as contrary to the common meanings of "excavation". The newly
20 defined term "demolition" is used throughout this subtitle in conjunction
21 with the term "excavation".

22 (E) ONE-CALL SYSTEM.

23 "ONE-CALL SYSTEM" MEANS A COMMUNICATIONS NETWORK IN THE STATE
24 THAT ALLOWS A PERSON TO TELEPHONE A ONE-NUMBER UTILITY PROTECTION
25 SYSTEM.

26 REVISOR'S NOTE: This subsection formerly was Art. 78, § 28A(b)(3).

27 The only changes are in style.

28 Defined term: "Person" §§ 1-101, 12-101

29 (F) OWNER.

30 (1) "OWNER" MEANS A PERSON THAT:

31 (I) OWNS OR OPERATES AN UNDERGROUND FACILITY; AND

32 (II) HAS THE RIGHT TO BURY AN UNDERGROUND FACILITY.

33 (2) "OWNER" INCLUDES:

- 1 (I) A PUBLIC UTILITY;
- 2 (II) A TELECOMMUNICATIONS CORPORATION;
- 3 (III) A CABLE TELEVISION CORPORATION;
- 4 (IV) A POLITICAL SUBDIVISION;
- 5 (V) A MUNICIPAL CORPORATION; AND
- 6 (VI) AN AUTHORITY.

7 REVISOR'S NOTE: This subsection is new language derived without
8 substantive change from former Art. 78, § 28A(b)(4).

9 In paragraph (2) of this subsection and throughout this subtitle, the
10 reference to "municipal corporation" is substituted for the former reference
11 to "municipality" to conform to the Md. Constitution Art. XI-E.

12 Defined terms: "Person" §§ 1-101, 12-101

13 "Underground facility" § 12-101

14 (G) PERSON.

15 "PERSON" INCLUDES:

- 16 (1) A MUNICIPAL CORPORATION; AND
- 17 (2) A GOVERNMENTAL UNIT, DEPARTMENT, OR AGENCY.

18 REVISOR'S NOTE: This subsection is new language derived without
19 substantive change from the first clause of former Art. 78, § 28A(b)(5).

20 In this subsection the former reference to "any individual, firm, joint
21 venture, partnership, corporation, association" is deleted as unnecessary in
22 light of the definition of "person" in § 1-101 of this article. Similarly, the
23 former reference to including "any trustee, receiver, assignee or personal
24 representative thereof," is deleted as surplusage.

25 (H) UNDERGROUND FACILITY.

26 (1) "UNDERGROUND FACILITY" MEANS PERSONAL PROPERTY THAT IS
27 TO BE BURIED OR SUBMERGED FOR:

- 28 (I) USE IN CONNECTION WITH THE STORAGE OR CONVEYANCE OF
29 WATER, SEWAGE, OIL, GAS, OR OTHER SUBSTANCES; OR
- 30 (II) TRANSMISSION OR CONVEYANCE OF ELECTRONIC,
31 TELEPHONIC, OR TELEGRAPHIC COMMUNICATIONS OR ELECTRICITY.

1 (2) "UNDERGROUND FACILITY" INCLUDES PIPES, SEWERS, CONDUITS,
2 CABLES, VALVES, LINES, WIRES, MANHOLES, ATTACHMENTS, AND THOSE PORTIONS
3 OF POLES BELOW GROUND.

4 (3) "UNDERGROUND FACILITY" DOES NOT INCLUDE A STORMWATER
5 DRAIN.

6 REVISOR'S NOTE: This subsection is new language derived without
7 substantive change from former Art. 78, § 28A(b)(6).

8 In paragraph (1) of this subsection, the reference to "electricity" is
9 substituted for the former reference to "electric energy" for brevity.

10 In paragraph (2) of this subsection, the former phrase "but not be limited
11 to", which formerly modified "include", is deleted in light of Art. 1, § 30 of
12 the Code.

13 12-102. LEGISLATIVE INTENT.

14 IT IS THE INTENT OF THE GENERAL ASSEMBLY TO PROTECT UNDERGROUND
15 FACILITIES OF OWNERS FROM DESTRUCTION, DAMAGE, OR DISLOCATION TO
16 PREVENT:

17 (1) DEATH OR INJURY TO INDIVIDUALS;

18 (2) PROPERTY DAMAGE TO PRIVATE AND PUBLIC PROPERTY; AND

19 (3) THE LOSS OF SERVICES PROVIDED TO THE GENERAL PUBLIC.

20 REVISOR'S NOTE: This section formerly was Art. 78, § 28A(a).

21 The defined term "owner[s]" is substituted for the former reference to
22 "public service companies" for clarity and consistency.

23 In item (1) of this section, the reference to "individuals" is substituted for
24 the former defined term "person" because only individuals, and not the
25 other types of entities included in the defined term, can die or be injured.

26 In item (3) of this section, the reference to services "provided" is added for
27 clarity.

28 Also in item (3) of this section, the former reference to services "of public
29 service companies" is deleted in light of subsequent legislation that
30 broadened the scope of the source law for this subtitle. See, e.g., the term
31 "owner" as defined in § 12-101(f) of this subtitle.

32 The only other changes are in style.

33 Defined terms: "Owner" § 12-101

34 "Underground facility" § 12-101

1 12-103. SCOPE OF SUBTITLE.

2 THIS SUBTITLE DOES NOT APPLY TO AN EXCAVATION OR DEMOLITION
3 PERFORMED OR TO BE PERFORMED BY AN OWNER OF A PRIVATE RESIDENCE WHEN
4 THE EXCAVATION OR DEMOLITION IS PERFORMED OR TO BE PERFORMED ENTIRELY
5 ON THE LAND ON WHICH THE PRIVATE RESIDENCE OF THE OWNER IS LOCATED.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from the second clause of former Art. 78, § 28A (b)(5).

8 In this section and throughout this subtitle, the defined term "demolition"
9 is added whenever the defined term "excavation" is used in light of the
10 definition of "excavation" in § 12-101 of this subtitle.

11 Defined terms: "Demolition" § 12-101

12 "Excavation" § 12-101

13 "Owner" § 12-101

14 12-104. EFFECT OF SUBTITLE.

15 (A) IN GENERAL.

16 A PERSON THAT OBTAINS THE INFORMATION REQUIRED UNDER THIS SUBTITLE
17 IS NOT EXCUSED FROM:

18 (1) PERFORMING AN EXCAVATION OR DEMOLITION IN A CAREFUL AND
19 PRUDENT MANNER; AND

20 (2) LIABILITY FOR DAMAGES OR INJURY THAT RESULTS FROM THE
21 EXCAVATION OR DEMOLITION.

22 (B) EFFECT OF FAILURE TO COMPLY.

23 IF AN UNDERGROUND FACILITY IS DAMAGED BY A PERSON THAT FAILS TO
24 COMPLY WITH THIS SUBTITLE, THE PERSON IS DEEMED NEGLIGENT AND IS LIABLE
25 TO THE OWNER FOR THE TOTAL COST OF REPAIR OF THE UNDERGROUND FACILITY.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 78, § 28A(d) and (h).

28 In this section and throughout this subtitle, the references to the duties of
29 a "contractor" are deleted as included in the general requirement that a
30 "person" perform those duties.

31 Defined terms: "Demolition" § 12-101

32 "Excavation" § 12-101

33 "Owner" § 12-101

34 "Person" §§ 1-101, 12-101

35 "Underground facility" § 12-101

1 12-105. EMERGENCY EXCAVATION OR DEMOLITION.

2 (A) IN GENERAL.

3 SUBJECT TO § 12-104(B) OF THIS SUBTITLE, IF ALL REASONABLE PRECAUTIONS
4 HAVE BEEN TAKEN TO PROTECT UNDERGROUND FACILITIES, § 12-104(A) OF THIS
5 SUBTITLE AND §§ 12-106 THROUGH 12-113 OF THIS SUBTITLE DO NOT APPLY TO AN
6 EMERGENCY EXCAVATION OR DEMOLITION BEING PERFORMED TO PREVENT
7 DANGER TO LIFE, HEALTH, OR PROPERTY.

8 (B) REQUIREMENTS.

9 A PERSON PERFORMING AN EMERGENCY EXCAVATION OR DEMOLITION TO
10 PREVENT DANGER TO LIFE, HEALTH, OR PROPERTY SHALL:

11 (1) TAKE ALL REASONABLE PRECAUTIONS TO PROTECT UNDERGROUND
12 FACILITIES IN AND NEAR THE EXCAVATION OR DEMOLITION AREA; AND

13 (2) PROMPTLY NOTIFY EACH OWNER OF AN UNDERGROUND FACILITY IN
14 AND NEAR THE EXCAVATION OR DEMOLITION AREA.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 78, § 28A(m).

17 In the introductory language of subsection (b) of this section, the reference
18 to the duties of a "contractor" is deleted as included in the general
19 requirement that a "person" perform those duties.

20 In subsection (b)(2) of this section, the phrase "in and near the excavation
21 area" is added for clarity and consistency within this section.

22 Defined terms: "Demolition" § 12-101

23 "Excavation" § 12-101

24 "Owner" § 12-101

25 "Person" §§ 1-101, 12-101

26 "Underground facility" § 12-101

27 12-106. ONE-CALL SYSTEM REGISTRATION AND CERTIFICATION REQUIREMENTS.

28 (A) IN GENERAL.

29 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON THAT
30 OPERATES A ONE-CALL SYSTEM IN THE STATE SHALL REGISTER WITH AND OBTAIN
31 CERTIFICATION TO OPERATE FROM THE COMMISSION.

32 (B) EXCEPTION.

33 A PERSON OPERATING A ONE-CALL SYSTEM ON OR BEFORE JULY 1, 1990, IS
34 AUTOMATICALLY REGISTERED WITH AND CERTIFIED BY THE COMMISSION TO
35 CONTINUE TO OPERATE.

1 (C) AUTHORITY OF COMMISSION.

2 THE COMMISSION MAY GRANT, AMEND, OR REVOKE THE CERTIFICATION OF A
3 PERSON OPERATING A ONE-CALL SYSTEM.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 78, § 28A(c)(1).

6 In subsection (b) of this section, the reference to continuing to "operate" is
7 substituted for the former reference to continuing "business operations" for
8 brevity.

9 Also in subsection (b) of this section, the former reference to being
10 "authorized" to operate is deleted as surplusage.

11 In subsection (c) of this section, the reference to "certification of a person
12 operating" a one-call system is substituted for the former reference to the
13 "certificates of any such" system for clarity.

14 Defined terms: "Commission" § 1-101

15 "One-call system" § 12-101

16 "Person" §§ 1-101, 12-101

17 12-107. TIME FOR BEGINNING EXCAVATION OR DEMOLITION.

18 A PERSON MAY NOT BEGIN AN EXCAVATION OR DEMOLITION UNLESS THE
19 MARKING REQUIRED UNDER THIS SUBTITLE HAS BEEN COMPLETED OR THE PERSON
20 HAS RECEIVED NOTICE FROM EACH OWNER OR THE ONE-CALL SYSTEM THAT
21 MARKING IS UNNECESSARY.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 78, § 28A(f).

24 In this section, the former reference to the duties of a "contractor" is
25 deleted as included in the reference to the duties performed by a "person".

26 Defined terms: "Demolition" § 12-101

27 "Excavation" § 12-101

28 "One-call system" § 12-101

29 "Owner" § 12-101

30 "Person" §§ 1-101, 12-101

31 12-108. REQUIREMENTS OF PERSONS INTENDING TO PERFORM EXCAVATION OR
32 DEMOLITION.

33 (A) NOTIFICATION.

34 EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AT LEAST 48
35 HOURS, BUT NOT MORE THAN 10 WORKING DAYS BEFORE STARTING AN EXCAVATION
36 OR DEMOLITION, A PERSON THAT INTENDS TO PERFORM AN EXCAVATION OR

1 DEMOLITION IN THE STATE SHALL NOTIFY BY TELEPHONE, EITHER DIRECTLY OR
2 THROUGH A ONE-CALL SYSTEM, EACH OWNER OF THE PERSON'S INTENT TO
3 PERFORM AN EXCAVATION OR DEMOLITION.

4 (B) RENOTIFICATION.

5 A PERSON SHALL REPEAT THE NOTIFICATION REQUIRED UNDER SUBSECTION
6 (A) OF THIS SECTION IF:

7 (1) THE EXCAVATION OR DEMOLITION DID NOT BEGIN WITHIN 10
8 WORKING DAYS; OR

9 (2) THE EXCAVATION OR DEMOLITION IS TO BE EXPANDED BEYOND ITS
10 ORIGINAL LOCATION.

11 (C) DUTY OF CARE.

12 A PERSON SHALL EXERCISE DUE CARE TO AVOID INTERFERENCE WITH OR
13 DAMAGE TO AN UNDERGROUND FACILITY THAT AN OWNER HAS MARKED IN
14 ACCORDANCE WITH § 12-110 OF THIS SUBTITLE.

15 (D) DAMAGE TO OR DISTURBANCE OF UNDERGROUND FACILITY.

16 THE PERSON PERFORMING AN EXCAVATION OR DEMOLITION IMMEDIATELY
17 SHALL NOTIFY THE OWNER OF THE FACILITY IF THE PERSON DISCOVERS OR CAUSES
18 ANY DAMAGE TO OR DISLOCATION OR DISTURBANCE OF AN UNDERGROUND
19 FACILITY IN CONNECTION WITH ANY EXCAVATION OR DEMOLITION.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 78, § 28A(e) and (g).

22 In subsection (a) of this section, the reference to notifying each owner
23 "either directly or through a one-call system" is added for clarity.

24 Also in subsection (a) of this section, the defined term "contractor" is
25 deleted as included in the defined term "person".

26 Also in subsection (a) of this section, the former reference to excavation
27 "work" is deleted as surplusage.

28 Defined terms: "Demolition" § 12-101

29 "Excavation" § 12-101

30 "One-call system" § 12-101

31 "Owner" § 12-101

32 "Person" §§ 1-101, 12-101

33 "Underground facility" § 12-101

34 12-109. REQUIREMENTS OF OWNERS -- IN GENERAL.

35 (A) FILING OF NOTICE FOR CALLS.

1 EACH OWNER SHALL FILE NOTICE WITH AND SUBMIT TO THE COMMISSION IN
 2 WRITING THE TELEPHONE NUMBER OF THE PERSON IN EACH COUNTY TO WHICH
 3 CALLS CONCERNING PROPOSED EXCAVATIONS OR DEMOLITIONS ARE TO BE
 4 DIRECTED.

5 (B) MEMBERSHIP IN ONE-CALL SYSTEM.

6 EACH OWNER SHALL BE A MEMBER OF A ONE-CALL SYSTEM THAT HAS FILED A
 7 TELEPHONE NUMBER WITH THE COMMISSION ON BEHALF OF ALL
 8 OWNER-MEMBERS.

9 (C) TIME FOR MAKING DETERMINATIONS ON PROPOSED EXCAVATIONS OR
 10 DEMOLITIONS.

11 EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, WITHIN 48 HOURS
 12 AFTER RECEIVING NOTICE FROM A PERSON UNDER § 12-108 OF THIS SUBTITLE, AN
 13 OWNER SHALL DETERMINE IF A PROPOSED EXCAVATION OR DEMOLITION:

14 (1) IS WITHIN 5 FEET OF THE HORIZONTAL PLANE OF AN
 15 UNDERGROUND FACILITY; OR

16 (2) BECAUSE OF PLANNED BLASTING, IS IN SUCH PROXIMITY TO AN
 17 UNDERGROUND FACILITY THAT THE UNDERGROUND FACILITY MAY BE DAMAGED OR
 18 DISTURBED.

19 (D) NOTICE TO PERSON.

20 EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, WITHIN 48 HOURS
 21 AFTER RECEIVING THE PERSON'S NOTICE UNDER § 12-108 OF THIS SUBTITLE, AN
 22 OWNER THAT DETERMINES UNDER SUBSECTION (C) OF THIS SECTION THAT AN
 23 UNDERGROUND FACILITY MAY BE DAMAGED OR DISTURBED SHALL NOTIFY THE
 24 PERSON OF THE DETERMINATION.

25 (E) TIME FOR PERFORMING EXCAVATION OR DEMOLITION.

26 AN OWNER THAT ELECTS TO PERFORM A PROPOSED EXCAVATION OR
 27 DEMOLITION SHALL PERFORM THE EXCAVATION OR DEMOLITION AROUND THE
 28 UNDERGROUND FACILITY IN A TIMELY MANNER.

29 REVISOR'S NOTE: This section is new language derived without substantive
 30 change from former Art. 78, § 28A(c)(2)(i), (ii), (iii), (iv), and (viii).

31 In subsection (b) of this section, the reference to "owner-members" is
 32 substituted for the defined term "owner" for clarity.

33 Defined terms: "Commission" § 1-101

34 "County" § 1-101

35 "Demolition" § 12-101

36 "Excavation" § 12-101

37 "One-call system" § 12-101

1 "Owner" § 12-101

2 "Person" §§ 1-101, 12-101

3 "Underground facility" § 12-101

4 12-110. SAME -- MARKING OF LOCATION OF UNDERGROUND FACILITY.

5 (A) IN GENERAL.

6 AN OWNER SHALL MARK THE LOCATION OF AN UNDERGROUND FACILITY
7 WITHIN 18 INCHES ON A HORIZONTAL PLANE ON EITHER SIDE OF THE
8 UNDERGROUND FACILITY IF THE OWNER HAS DETERMINED UNDER § 12-109 OF THIS
9 SUBTITLE THAT A PROPOSED EXCAVATION OR DEMOLITION:

10 (1) IS WITHIN 5 FEET OF THE HORIZONTAL PLANE OF THE
11 UNDERGROUND FACILITY; OR

12 (2) BECAUSE OF PLANNED BLASTING, IS IN SUCH PROXIMITY TO AN
13 UNDERGROUND FACILITY THAT THE UNDERGROUND FACILITY MAY BE DAMAGED OR
14 DISTURBED.

15 (B) TIME OF MARKING.

16 EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, IF AN OWNER
17 CANNOT COMPLETE THE MARKING UNDER SUBSECTION (A) OF THIS SECTION
18 WITHIN 48 HOURS AFTER A DETERMINATION UNDER § 12-109 OF THIS SUBTITLE, THE
19 OWNER SHALL NOTIFY THE PERSON OF THE DATE AND TIME WHEN THE LOCATION
20 WILL BE MARKED.

21 (C) COLOR CODE.

22 WHEN MARKING THE LOCATION OF AN UNDERGROUND FACILITY, AN OWNER
23 SHALL USE THE FOLLOWING COLOR CODE:

24 UTILITY TYPE AND PRODUCT	SPECIFIC GROUP
25	IDENTIFYING COLOR
26 ELECTRIC POWER DISTRIBUTION AND 27 TRANSMISSION	SAFETY RED
28 MUNICIPAL ELECTRIC SYSTEMS	SAFETY RED
29 GAS DISTRIBUTION AND TRANSMISSION 30	HIGH VISIBILITY SAFETY YELLOW
31 OIL DISTRIBUTION AND TRANSMISSION 32	HIGH VISIBILITY SAFETY YELLOW
33 DANGEROUS MATERIALS, PRODUCT LINES, 34 AND STEAM LINES	HIGH VISIBILITY SAFETY YELLOW
35 TELEPHONE AND TELECOMMUNICATIONS	SAFETY ALERT ORANGE
36 CABLE TELEVISION	SAFETY ALERT ORANGE
37 WATER SYSTEMS	SAFETY PRECAUTION BLUE

1 SEWER LINES SAFETY GREEN.

2 (D) EXCEPTIONS.

3 EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, WITHIN 48 HOURS
4 AFTER RECEIVING NOTICE FROM A PERSON UNDER § 12-108 OF THIS SUBTITLE, AN
5 OWNER SHALL NOTIFY THE PERSON THAT MARKING IS UNNECESSARY IF THE
6 OWNER DETERMINES THAT:

7 (1) THE OWNER DOES NOT HAVE AN UNDERGROUND FACILITY AT THE
8 LOCATION STATED IN THE NOTICE;

9 (2) THE PROPOSED EXCAVATION OR DEMOLITION IS NOT PLANNED
10 WITHIN 5 FEET OF THE HORIZONTAL PLANE OF AN UNDERGROUND FACILITY; OR

11 (3) THE PROPOSED EXCAVATION OR DEMOLITION TO BE PERFORMED BY
12 BLASTING IS NOT PLANNED IN SUCH PROXIMITY TO AN UNDERGROUND FACILITY
13 THAT THE UNDERGROUND FACILITY MAY BE DAMAGED OR DISTURBED.

14 (E) MAINTENANCE OF DESIGNATED MARKER.

15 AFTER AN OWNER HAS MARKED THE LOCATION OF AN UNDERGROUND
16 FACILITY IN ACCORDANCE WITH THIS SECTION, THE PERSON SOLELY IS
17 RESPONSIBLE FOR THE MAINTENANCE OF THE DESIGNATED MARKER.

18 (F) RE-MARKING.

19 IF A MARKER IS OBLITERATED, DESTROYED, OR REMOVED, AN OWNER SHALL
20 RE-MARK THE LOCATION OF THE UNDERGROUND FACILITY NOT MORE THAN 48
21 HOURS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER
22 RECEIVING A REQUEST TO RE-MARK THE LOCATION.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 78, § 28A(c)(2)(v), (vi), (vii), and (ix) and (k).

25 In subsection (b) of this section, the phrase "after a determination under §
26 12-109 of this subtitle" is added for clarity.

27 In subsections (b) and (d) of this section, the defined term "person" is
28 substituted for the former term "contractor" for clarity and consistency
29 within this subtitle.

30 In subsection (e) of this section, the defined term "contractor" is deleted as
31 included in the defined term "person".

32 Defined terms: "Demolition" § 12-101

33 "Excavation" § 12-101

34 "Owner" § 12-101

35 "Person" §§ 1-101, 12-101

36 "Underground facility" § 12-101

1 12-111. REIMBURSEMENT OF POLITICAL SUBDIVISION OR MUNICIPAL
2 CORPORATION.

3 (A) MARKING FEE AUTHORIZED.

4 A POLITICAL SUBDIVISION OR MUNICIPAL CORPORATION MAY CHARGE,
5 ASSESS, OR COLLECT FROM A PERSON A ONE-TIME INITIAL MARKING FEE NOT
6 EXCEEDING \$35 FOR REIMBURSEMENT OF EXPENSES TO COMPLY WITH THIS
7 SUBTITLE.

8 (B) RE-MARKING FEE AUTHORIZED.

9 IF RE-MARKING IS REQUESTED, OR IS REQUIRED AFTER RENOTIFICATION
10 UNDER § 12-108(B) OF THIS SUBTITLE, A POLITICAL SUBDIVISION OR MUNICIPAL
11 CORPORATION MAY CHARGE, ASSESS, OR COLLECT FROM A PERSON A RE-MARKING
12 FEE NOT EXCEEDING \$15 FOR REIMBURSEMENT OF EXPENSES TO COMPLY WITH
13 THIS SUBTITLE.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 78, § 28A(1).

16 In subsections (a) and (b) of this section, the defined term "person" is
17 substituted for the former term "contractor" for consistency.

18 In subsection (b) of this section, the reference to re-marking required
19 "after renotification" is added for clarity.

20 Defined term: "Person" §§ 1-101, 12-101

21 12-112. INJUNCTIVE ACTIONS.

22 (A) AUTHORIZED.

23 TO STOP OR PREVENT A NEGLIGENT OR UNSAFE EXCAVATION OR DEMOLITION,
24 AN OWNER OR THE ATTORNEY GENERAL MAY FILE AN ACTION FOR A WRIT OF
25 MANDAMUS OR INJUNCTION IN A COURT OF COMPETENT JURISDICTION IN
26 BALTIMORE CITY OR THE COUNTY IN WHICH THE EXCAVATION OR DEMOLITION IS
27 BEING PERFORMED OR IS TO BE PERFORMED OR IN WHICH THE PERSON RESIDES OR
28 HAS ITS PRINCIPAL PLACE OF BUSINESS, IF THE PERSON:

29 (1) IS PERFORMING AN EXCAVATION OR DEMOLITION IN A NEGLIGENT
30 OR UNSAFE MANNER THAT HAS RESULTED IN OR IS LIKELY TO RESULT IN DAMAGE
31 TO AN UNDERGROUND FACILITY; OR

32 (2) IS INTENDING TO USE PROCEDURES TO CARRY OUT THE
33 EXCAVATION OR DEMOLITION THAT ARE LIKELY TO RESULT IN DAMAGE TO AN
34 UNDERGROUND FACILITY.

35 (B) JOINDER OF PARTIES.

1 (1) TO MAKE ITS JUDGMENT OR PROCESSES EFFECTIVE, THE COURT
2 MAY JOIN AS PARTIES ANY PERSONS NECESSARY OR PROPER.

3 (2) IF APPROPRIATE, THE COURT SHALL ISSUE A FINAL ORDER
4 GRANTING THE INJUNCTION OR WRIT OF MANDAMUS.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 78, § 28A(j).

7 In the introductory language of subsection (a) of this section, the phrase "of
8 such facility", which formerly modified the defined term "owner", is deleted
9 as included in the defined term "owner".

10 Also in the introductory language of subsection (a) of this section, the word
11 "file" is substituted for the former word "commence" for clarity.

12 Also in the introductory language of subsection (a) of this section, the
13 references to the actions of a "contractor" are deleted as included in the
14 references to the actions of a "person".

15 In subsection (b) of this section, the reference to "the injunction or writ of
16 mandamus" is substituted for the former reference to "such relief" for
17 clarity.

18 The Public Utility Companies Article Review Committee notes, for the
19 consideration of the General Assembly, that the use of the term "writ of
20 mandamus" in this section may be misleading. The General Assembly may
21 wish to substitute a reference to a "mandatory injunction".

22 Defined terms: "County" § 1-101

23 "Demolition" § 12-101

24 "Excavation" § 12-101

25 "Owner" § 12-101

26 "Person" §§ 1-101, 12-101

27 "Underground facility" § 12-101

28 12-113. CIVIL PENALTIES.

29 (A) IN GENERAL.

30 A PERSON THAT PERFORMS AN EXCAVATION OR DEMOLITION WITHOUT FIRST
31 PROVIDING THE NOTICE REQUIRED UNDER § 12-108 OF THIS SUBTITLE AND
32 DAMAGES, DISLOCATES, OR DISTURBS AN UNDERGROUND FACILITY IS DEEMED
33 NEGLIGENT AND IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$1,000 FOR THE
34 FIRST OFFENSE AND \$1,000 FOR EACH SUBSEQUENT OFFENSE OR TEN TIMES THE
35 COST OF REPAIRS TO THE UNDERGROUND FACILITY CAUSED BY THE DAMAGE,
36 DISLOCATION, OR DISTURBANCE.

37 (B) ACTION TO RECOVER CIVIL PENALTIES.

1 AN ACTION TO RECOVER A CIVIL PENALTY UNDER THIS SECTION SHALL BE
2 BROUGHT BY AN OWNER OF A DAMAGED, DISLOCATED, OR DISTURBED
3 UNDERGROUND FACILITY OR THE ATTORNEY GENERAL IN A COURT OF COMPETENT
4 JURISDICTION IN BALTIMORE CITY OR THE COUNTY IN WHICH THE DAMAGE,
5 DISLOCATION, OR DISTURBANCE OCCURRED.

6 (C) DISPOSITION OF FUNDS.

7 ALL CIVIL PENALTIES RECOVERED IN AN ACTION UNDER THIS SECTION,
8 INCLUDING REASONABLE ATTORNEY'S FEES, SHALL BE PAID INTO THE GENERAL
9 FUND OF THE STATE.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 78, § 28A(i).

12 In subsection (a) of this section, the term "contractor" is deleted as
13 included in the defined term "person".

14 In subsection (b) of this section, the references to a "dislocated ... or
15 disturbed" underground facility, and to "dislocation" and "disturbance", are
16 added for consistency within this section.

17 The Public Utility Companies Article Review Committee notes, for the
18 consideration of the General Assembly, that the alternative penalty of "ten
19 times the cost of repairing the damage to the underground facility" revised
20 in subsection (a) of this section is ambiguous, and may be read as applying
21 to any offense, or only for a subsequent offense.

22 Also in subsection (b) of this section, the former phrase "in the name of the
23 people in this State" is deleted as surplusage.

24 In subsection (c) of this section, the reference to "civil", which modifies
25 "penalties", is added for clarity and consistency.

26 The Public Utility Companies Article Review Committee notes, for the
27 consideration of the General Assembly, that, under subsection (c) of this
28 section, "[a]ll" civil penalties, not only those obtained in actions filed by the
29 Attorney General, are to be paid into the General Fund.

30 Defined terms: "Demolition" § 12-101

31 "Excavation" § 12-101

32 "Owner" § 12-101

33 "Person" §§ 1-101, 12-101

34 "Underground facility" § 12-101

1 SUBTITLE 2. EXCAVATION NEAR UNDERGROUND LINES AND STRUCTURES IN
2 MONTGOMERY COUNTY.

3 12-201. SCOPE OF SUBTITLE.

4 THIS SUBTITLE APPLIES ONLY IN MONTGOMERY COUNTY.

5 REVISOR'S NOTE: This section is new language added to state expressly that
6 which only was implied in the former law, i.e., this subtitle applies only to
7 Montgomery County.

8 12-202. REQUIREMENTS OF PUBLIC SERVICE COMPANIES -- REQUESTS FOR
9 INFORMATION.

10 (A) IN GENERAL.

11 ON REQUEST FROM A PERSON UNDER SUBSECTION (B) OF THIS SECTION, A
12 PUBLIC SERVICE COMPANY SHALL PROVIDE TO THE PERSON INFORMATION UNDER
13 THIS SUBTITLE THAT SHOWS THE LOCATION OF THE EXISTING UNDERGROUND
14 UTILITY LINES AND STRUCTURES OF THE PUBLIC SERVICE COMPANY.

15 (B) PERSONS ENTITLED TO REQUEST INFORMATION.

16 A PERSON, INCLUDING A PUBLIC AGENCY, IS ENTITLED TO REQUEST
17 INFORMATION UNDER THIS SUBTITLE IF THE PERSON INTENDS TO GRADE, STRIP,
18 EXCAVATE, CLEAR, TRANSPORT, OR FILL LAND IN THE COUNTY OR MOVE EARTH IN
19 THE COUNTY FOR THE PURPOSE OF CONSTRUCTION, DEVELOPMENT, OR LAND
20 CLEARING.

21 (C) TIME FOR MAKING REQUESTS.

22 A PERSON REQUESTING INFORMATION UNDER SUBSECTION (A) OF THIS
23 SECTION SHALL MAKE THE REQUEST AT LEAST 7 DAYS BUT NOT MORE THAN 30 DAYS
24 BEFORE THE SCHEDULED START OF WORK.

25 (D) CONTENTS.

26 IF SITE DRAWINGS OR PLANS ARE REQUIRED BY THE COUNTY OR A MUNICIPAL
27 CORPORATION IN WHICH THE WORK SITE IS LOCATED, A REQUEST FOR
28 INFORMATION SHALL INCLUDE TWO COPIES OF A SITE DRAWING OR PLAN THAT
29 SHOWS THE LOCATION OF THE WORK SITE.

30 (E) CERTIFICATION.

31 PROMPTLY AFTER RECEIVING A REQUEST FOR INFORMATION UNDER
32 SUBSECTION (A) OF THIS SECTION, A PUBLIC SERVICE COMPANY SHALL CERTIFY TO
33 THE PERSON MAKING THE REQUEST:

34 (1) WHETHER UNDERGROUND UTILITY LINES OR STRUCTURES OF THE
35 PUBLIC SERVICE COMPANY ARE LOCATED IN THE INTENDED WORK AREA; AND

1 (2) IF UNDERGROUND UTILITY LINES OR STRUCTURES OF THE PUBLIC
 2 SERVICE COMPANY ARE LOCATED IN THE AREA WHERE THE WORK IS TO BE
 3 PERFORMED, THAT THE LOCATION AND SIZE OF THE UNDERGROUND UTILITY LINES
 4 OR STRUCTURES HAVE BEEN MARKED ON THE GROUND OR THE DATE AND TIME BY
 5 WHICH THE MARKING WILL BE PERFORMED.

6 (F) RETURN OF SITE DRAWING OR PLAN.

7 AT THE SAME TIME THE PUBLIC SERVICE COMPANY PROVIDES THE
 8 CERTIFICATION UNDER SUBSECTION (E) OF THIS SECTION, THE PUBLIC SERVICE
 9 COMPANY SHALL:

10 (1) RETURN TO THE PERSON MAKING THE REQUEST ONE COPY OF ANY
 11 SITE DRAWING OR PLAN PREVIOUSLY SUBMITTED; AND

12 (2) INDICATE ON THE SITE DRAWING OR PLAN THE HORIZONTAL
 13 LOCATION AND SIZE OF ITS UNDERGROUND UTILITY LINES AND STRUCTURES.

14 REVISOR'S NOTE: This section is new language derived without substantive
 15 change from the first, second, third, fourth, seventh, and eighth sentences
 16 of former Art. 78, § 28B(a).

17 In subsection (b) of this section, the terms "partnership" and "corporation"
 18 are deleted as included in the defined term "person". However, the phrase
 19 "including a public agency" is added because the term "public agency" is
 20 not ordinarily included in the defined term "person".

21 Also in subsection (b) of this section, the former reference to "earth
 22 movement" is deleted as included in the reference to "construction,
 23 development, or land clearing".

24 In subsection (d) of this section, the reference to "municipal corporation" is
 25 substituted for the former reference to "municipality" to conform to the Md.
 26 Constitution Art. XI-E.

27 In subsection (e) of this section, the word "underground", which modifies
 28 "utility lines", is added for consistency.

29 Defined terms: "Person" § 1-101

30 "Public service company" § 1-101

31 12-203. SAME -- MARKING OF LOCATION OF UNDERGROUND UTILITY LINES AND
 32 STRUCTURES.

33 (A) IN GENERAL.

34 (1) EXCLUDING SATURDAYS, SUNDAYS, AND HOLIDAYS, NOT MORE
 35 THAN 48 HOURS BEFORE THE START OF THE WORK DESCRIBED IN § 12-202 OF THIS
 36 SUBTITLE, A PUBLIC SERVICE COMPANY SHALL MARK ON THE GROUND BY STAKING,
 37 PAINTING, OR OTHER SUITABLE MEANS THE HORIZONTAL LOCATION AND SIZE OF

1 ITS UNDERGROUND LINES AND STRUCTURES INDICATING THE CENTER OF THE LINE
2 AND ITS SIZE OR THE SIDES OF THE STRUCTURE.

3 (2) THE PUBLIC SERVICE COMPANY SHALL MARK, AS APPROPRIATE,
4 WITHIN 3 FEET OF THE CENTER OF THE UNDERGROUND UTILITY LINE OR THE SIDE
5 OF THE UNDERGROUND UTILITY STRUCTURE.

6 (3) IF THE UNDERGROUND STRUCTURE IS A CABLE OR CABLES, THE
7 PUBLIC SERVICE COMPANY SHALL INCLUDE IN THE MARKING THE NUMBER OF
8 CABLES.

9 (B) EXCEPTION.

10 IF A PUBLIC SERVICE COMPANY CANNOT MARK THE WORK SITE BECAUSE OF
11 EXTRAORDINARY CIRCUMSTANCES WITHIN THE TIME REQUIRED UNDER
12 SUBSECTION (A) OF THIS SECTION, THE PUBLIC SERVICE COMPANY SHALL SO
13 NOTIFY THE COUNTY AND THE PERSON THAT MADE THE REQUEST FOR
14 INFORMATION UNDER § 12-202 OF THIS SUBTITLE OF THE DATE AND TIME THE WORK
15 SITE WILL BE MARKED.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 78, § 28B(b) and the fifth and sixth sentences of
18 (a).

19 In subsection (a)(2) of this section, the word "underground", which modifies
20 "utility line", is added for consistency.

21 In subsection (a)(3) of this section, the term "underground structure" is
22 substituted for the former term "underground facility" for consistency
23 within this subtitle.

24 Defined terms: "Person" § 1-101

25 "Public service company" § 1-101

26 SUBTITLE 3. CONVERSION OF OVERHEAD FACILITIES.

27 12-301. DEFINITIONS.

28 (A) IN GENERAL.

29 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

30 REVISOR'S NOTE: This subsection is new language derived without
31 substantive change from the introductory clause of former Art. 78, §
32 64A(b).

33 The word "subtitle" is substituted for the former word "section" to reflect
34 that the provisions of former Art. 78, § 64A have been reorganized as a
35 subtitle.

1 The former parenthetical phrase "and any variants thereof" is deleted as
2 unnecessary.

3 (B) COMMUNICATION SERVICE.

4 (1) "COMMUNICATION SERVICE" MEANS THE TRANSMISSION OF
5 INTELLIGENCE BY ELECTRICAL MEANS.

6 (2) "COMMUNICATION SERVICE" INCLUDES THE TRANSMISSION OF
7 INTELLIGENCE BY TELEPHONE LINES, TELEGRAPH LINES, MESSENGER-CALL,
8 POLICE, FIRE ALARM, AND TRAFFIC CONTROL CIRCUITS AND CIRCUITS USED TO
9 TRANSMIT STANDARD TELEVISION OR RADIO SIGNALS.

10 REVISOR'S NOTE: This subsection is new language derived without
11 substantive change from former Art. 78, § 64A(b)(1).

12 In paragraph (2) of this subsection, the phrase "but not limited to", which
13 formerly modified "including", is deleted in light of Art. 1, § 30 of the Code.

14 Also in paragraph (2) of this subsection, the terms "telegraph lines" and
15 "telephone lines", respectively, are substituted for the former terms
16 "telegraph" and "telephone", respectively, for consistency within this
17 article.

18 Defined terms: "Telegraph lines" § 1-101

19 "Telephone lines" § 1-101

20 (C) CONVERT.

21 "CONVERT" MEANS TO REMOVE ALL OR PART OF AN EXISTING OVERHEAD
22 ELECTRIC OR COMMUNICATION FACILITY AND TO REPLACE IT AT THE SAME OR
23 ANOTHER LOCATION WITH AN UNDERGROUND ELECTRIC OR COMMUNICATION
24 FACILITY.

25 REVISOR'S NOTE: This subsection is new language derived without
26 substantive change from former Art. 78, § 64A(b)(2).

27 The former reference to "conversion" is deleted here and added as a new
28 defined term for stylistic consistency.

29 Defined term: "Electric or communication facility" § 12-301

30 (D) CONVERSION.

31 "CONVERSION" MEANS TO CONVERT AN OVERHEAD ELECTRIC OR
32 COMMUNICATION FACILITY.

33 REVISOR'S NOTE: This subsection is new language added in light of
34 subsection (c) of this section.

1 Defined terms: "Convert" § 12-301

2 "Electric or communication facility" § 12-301

3 (E) ELECTRIC OR COMMUNICATION FACILITY.

4 (1) "ELECTRIC OR COMMUNICATION FACILITY" MEANS A WORKS OR
5 IMPROVEMENT USED OR USEFUL IN PROVIDING ELECTRIC SERVICE OR
6 COMMUNICATION SERVICE.

7 (2) "ELECTRIC OR COMMUNICATION FACILITY" INCLUDES POLES,
8 SUPPORTS, TUNNELS, MANHOLES, VAULTS, CONDUITS, DUCTS, PIPES, WIRES,
9 CONDUCTORS, GUYS, STUBS, PLATFORMS, CROSSARMS, BRACES, TRANSFORMERS,
10 INSULATORS, CUTOUPS, SWITCHES, CAPACITORS, METERS, COMMUNICATION
11 CIRCUITS, APPLIANCES, ATTACHMENTS, AND APPURTENANCES.

12 (3) "ELECTRIC OR COMMUNICATION FACILITY" DOES NOT INCLUDE A
13 FACILITY THAT:

14 (I) USES OR IS INTENDED TO BE USED TO TRANSMIT ELECTRICITY
15 AT NOMINAL VOLTAGES IN EXCESS OF 35,000 VOLTS; OR

16 (II) IS OWNED, USED BY, OR PROVIDED FOR A RAILROAD OR
17 PIPELINE AND LOCATED ON OR ABOVE THE RIGHT-OF-WAY OF THE RAILROAD OR
18 PIPELINE.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from former Art. 78, § 64A(b)(4).

21 In paragraph (2) of this subsection, the phrase "but not limited to", which
22 formerly modified "including", is deleted in light of Art. 1, § 30 of the Code.

23 In paragraph (3) of this subsection, the defined term "electric or
24 communication facility" is substituted for the former term "[e]lectric
25 facilities" for stylistic consistency.

26 Defined terms: "Communication service" § 12-301

27 "Electric service" § 12-301

28 "Railroad" § 1-101

29 (F) ELECTRIC SERVICE.

30 "ELECTRIC SERVICE" MEANS THE DISTRIBUTION OF ELECTRICITY FOR HEAT,
31 LIGHT, OR POWER.

32 REVISOR'S NOTE: This subsection formerly was Art. 78, § 64A(b)(3).

33 No changes are made.

34 (G) PUBLIC AGENCY.

1 (1) "PUBLIC AGENCY" MEANS A COUNTY, MUNICIPAL CORPORATION,
 2 SPECIAL DISTRICT, OR PUBLIC CORPORATION THAT PROVIDES ELECTRIC SERVICE
 3 OR COMMUNICATION SERVICE TO THE PUBLIC BY MEANS OF AN ELECTRIC OR
 4 COMMUNICATION FACILITY.

5 (2) "PUBLIC AGENCY" DOES NOT INCLUDE A COUNTY, MUNICIPAL
 6 CORPORATION, SPECIAL DISTRICT, OR PUBLIC CORPORATION THAT CONDUCTS A
 7 PROCEEDING FOR A CONVERSION UNDER THIS SUBTITLE.

8 REVISOR'S NOTE: This subsection is new language derived without
 9 substantive change from former Art. 78, § 64A(b)(7).

10 In this subsection and throughout this subtitle, the reference to a
 11 "municipal corporation" is substituted for the former reference to an
 12 "incorporated municipality" to conform to the usage of Md. Constitution
 13 Art. XI-E.

14 In paragraph (2) of this subsection, the phrase "for a conversion under this
 15 subtitle" is added for clarity.

16 Defined terms: "Communication service" § 12-301

17 "Conversion" § 12-301

18 "County" § 1-101

19 "Electric or communication facility" § 12-301

20 "Electric service" § 12-301

21 "Proceeding" § 1-101

22 (H) PUBLIC UTILITY.

23 "PUBLIC UTILITY" MEANS A PERSON THAT PROVIDES ELECTRIC OR
 24 COMMUNICATION FACILITIES.

25 REVISOR'S NOTE: This subsection is new language derived without
 26 substantive change from former Art. 78, § 64A(b)(8).

27 Defined terms: "Electric or communication facility" § 12-301

28 "Person" §§ 1-101, 12-101

29 REVISOR'S NOTE TO SECTION: Former Art. 78, § 64A(b)(5) and (6), which
 30 defined "[o]verhead electric or communication facilities" and
 31 "[u]nderground electric or communication facilities", respectively, are
 32 deleted as unnecessary. The terms were never used in former Art. 78, § 64A
 33 beyond the definitions.

34 The Public Utility Companies Article Review Committee notes, for the
 35 consideration of the General Assembly, that the general provisions for
 36 conversion of overhead electric and communication facilities now codified
 37 in this subtitle have apparently never been utilized since the source law,
 38 former Art. 78, § 64A, was first enacted in 1967. The Committee
 39 recommends that the General Assembly authorize an inquiry into the

1 current usefulness of these provisions and recommendations for their
2 substantive revision or repeal.

3 12-302. LEGISLATIVE FINDINGS; DECLARATION OF INTENT.

4 (A) LEGISLATIVE FINDINGS.

5 THE GENERAL ASSEMBLY FINDS THAT, IN MANY AREAS OF THE STATE,
6 LANDOWNERS, CITIES, COUNTIES, MUNICIPAL CORPORATIONS, PUBLIC AGENCIES,
7 AND PUBLIC UTILITIES DESIRE TO CONVERT EXISTING OVERHEAD ELECTRIC OR
8 COMMUNICATION FACILITIES TO UNDERGROUND LOCATIONS THROUGH
9 PROCEEDINGS UNDER THIS SUBTITLE.

10 (B) DECLARATION OF INTENT.

11 THE GENERAL ASSEMBLY DECLARES THAT:

12 (1) A PUBLIC PURPOSE WILL BE SERVED BY PROVIDING A PROCEDURE
13 TO CONVERT EXISTING OVERHEAD ELECTRIC OR COMMUNICATION FACILITIES TO
14 UNDERGROUND LOCATIONS; AND

15 (2) IT IS IN THE PUBLIC INTEREST TO PROVIDE FOR A CONVERSION
16 THROUGH PROCEEDINGS ESTABLISHED UNDER THIS SUBTITLE.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 78, § 64A(a).

19 In subsection (a) of this section, the reference to proceedings "under this
20 subtitle" is substituted for the former reference to special "assessment
21 proceedings" for clarity and consistency.

22 Defined terms: "Conversion" § 12-301

23 "Convert" § 12-301

24 "County" § 1-101

25 "Electric or communication facility" § 12-301

26 "Public agency" § 12-301

27 "Public utility" § 12-301

28 12-303. SCOPE OF SUBTITLE.

29 THIS SUBTITLE DOES NOT APPLY IN BALTIMORE COUNTY.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 78, § 64C.

32 12-304. AUTHORITY OF COMMISSION.

33 (A) IN GENERAL.

1 THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF THE COMMISSION UNDER
2 THIS ARTICLE, THE MARYLAND CONSTITUTION, OR ANY OTHER LAW WHETHER BY
3 STATUTE OR COURT DECISION.

4 (B) DETERMINATION OF COSTS.

5 THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF THE COMMISSION TO
6 DETERMINE WHETHER, IN WHAT MANNER, AND BY WHOM COSTS ARE TO BE
7 ASSESSED, PAID, RECOVERED, OR ABSORBED WHEN AN UNDERGROUND ELECTRIC
8 OR COMMUNICATION FACILITY IS CONVERTED, CONSTRUCTED, OPERATED,
9 MAINTAINED, REPAIRED, REPLACED, OR ENLARGED.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 78, § 64A(o).

12 In subsection (a) of this section, the reference to "this article" is retained,
13 although this article contains material outside of former Article 78. No
14 substantive change results.

15 Defined terms: "Commission" § 1-101

16 "Convert" § 12-301

17 "Electric or communication facility" § 12-301

18 12-305. REGULATIONS.

19 A COUNTY OR MUNICIPAL CORPORATION SHALL ADOPT RULES AND
20 REGULATIONS TO CARRY OUT THIS SUBTITLE.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from the second sentence of former Art. 78, § 64A(n).

23 In this section, the reference to "adopt[ing]" rules is substituted for the
24 former reference to "mak[ing]" rules for consistency.

25 Also in this section, the word "subtitle" is substituted for the former
26 reference to "this section and § 64B of this article" to reflect that the
27 provisions of former Art. 78, §§ 64A and 64B are reorganized as a subtitle.

28 Defined term: "County" § 1-101

29 12-306. PROCEEDINGS FOR CONVERSION AUTHORIZED.

30 PROCEEDINGS UNDER THIS SUBTITLE MAY BE USED TO:

31 (1) CONVERT AN EXISTING ELECTRIC OR COMMUNICATION FACILITY;
32 AND

33 (2) CONSTRUCT, RECONSTRUCT, OR RELOCATE ANY OTHER RELATED
34 ELECTRIC OR COMMUNICATION FACILITY.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 78, § 64A(c).

3 Defined terms: "Convert" § 12-301

4 "Electric or communication facility" § 12-301

5 "Proceeding" § 1-101

6 12-307. INITIATION OF PROCEEDINGS FOR CONVERSION.

7 (A) PETITION.

8 PROCEEDINGS FOR A CONVERSION MUST BE INITIATED BY PETITION FILED
9 UNDER § 12-308 OF THIS SUBTITLE.

10 (B) CONTENTS.

11 THE PETITION SHALL:

12 (1) DEFINE GENERALLY THE PROPOSED CONVERSION;

13 (2) REQUEST THAT PROCEEDINGS FOR THE PROPOSED CONVERSION BE
14 INITIATED UNDER THIS SUBTITLE; AND

15 (3) DESCRIBE THE PROPOSED CONVERSION DISTRICT BY:

16 (I) SPECIFYING ITS EXTERIOR BOUNDARIES;

17 (II) PROVIDING A DESCRIPTION OF THE PROPOSED CONVERSION
18 DISTRICT ACCORDING TO AN OFFICIAL OR RECORDED MAP; OR

19 (III) REFERRING TO A PLAT OR MAP FILED WITH THE PETITION
20 THAT INDICATES THE PROPOSED CONVERSION DISTRICT BY BOUNDARY LINE.

21 (C) REQUIRED SIGNATURES.

22 (1) A PETITION FOR PROCEEDINGS FOR A CONVERSION MUST BE
23 SIGNED BY NOT LESS THAN 20 LANDOWNERS WITHIN THE PROPOSED CONVERSION
24 DISTRICT WHOSE PROPERTY CONSTITUTES MORE THAN 80% OF THE ASSESSED
25 VALUE OF PROPERTY WITHIN THE PROPOSED CONVERSION DISTRICT.

26 (2) FOR PURPOSES OF THIS SUBSECTION, THE ASSESSED VALUE OF THE
27 PROPERTY SHALL BE DETERMINED BY THE LAST ASSESSMENT ROLL USED BY THE
28 COUNTY OR MUNICIPAL CORPORATION.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 78, § 64A(d) and (e).

31 In subsection (b)(3) of this section, the reference to a "conversion district" is
32 substituted for the former reference to an "assessment district" for
33 consistency within this subtitle.

1 In subsection (c)(1) of this section, the reference to "landowners" is
2 substituted for the former reference to "owners of property" for consistency.

3 The Public Utility Companies Article Review Committee notes, for the
4 consideration of the General Assembly, that under subsection (c) of this
5 section, a proposed conversion district requires at least 20 landowners,
6 regardless of the size of the proposed district and the number of properties
7 in it.

8 Defined terms: "Conversion" § 12-301

9 "County" § 1-101

10 "Proceeding" § 1-101

11 12-308. FILING OF PETITION; EXECUTION OF CERTIFICATE OF SUFFICIENCY AND
12 PRESENTATION OF PETITION.

13 (A) FILING OF PETITION.

14 THE PETITION SHALL BE FILED WITH THE CLERK OF THE LEGISLATIVE BODY
15 OF THE COUNTY OR MUNICIPAL CORPORATION IN WHICH THE PROPOSED
16 CONVERSION DISTRICT IS LOCATED.

17 (B) REVIEW OF PETITION.

18 AFTER A PETITION IS FILED UNDER SUBSECTION (A) OF THIS SECTION, THE
19 CLERK SHALL REVIEW THE PETITION.

20 (C) EXECUTION AND PRESENTATION OF PETITION.

21 IF THE PETITION IS SIGNED BY THE NUMBER OF QUALIFIED LANDOWNERS
22 REQUIRED UNDER § 12-307 OF THIS SUBTITLE, THE CLERK SHALL EXECUTE A
23 CERTIFICATE OF SUFFICIENCY AND PRESENT THE PETITION AND CERTIFICATE TO
24 THE LEGISLATIVE BODY.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 78, § 64A(f).

27 In subsection (c) of this section, the term "landowners" is substituted for
28 the former term "signers" for clarity and consistency.

29 Defined terms: "Conversion" § 12-301

30 "County" § 1-101

31 12-309. ADOPTION OF RESOLUTION OF INTENT TO ORDER CONVERSION.

32 (A) IN GENERAL.

33 ON PRESENTATION OF THE PETITION AND THE CERTIFICATE OF SUFFICIENCY
34 FROM THE CLERK UNDER § 12-308 OF THIS SUBTITLE, THE LEGISLATIVE BODY OF
35 THE COUNTY OR MUNICIPAL CORPORATION MAY ADOPT A RESOLUTION THAT
36 DECLARES ITS INTENT TO:

1 (1) ORDER THE CONVERSION DESCRIBED IN THE PETITION; AND

2 (2) ENTER INTO AN AGREEMENT WITH A PUBLIC AGENCY OR PUBLIC
3 UTILITY THAT PROVIDES FOR PLANS AND SPECIFICATIONS, CONTRIBUTIONS OF
4 LABOR, MATERIALS, OR MONEY, AND PAYMENT FOR ANY WORK, IMPROVEMENT, OR
5 SERVICE PROPOSED UNDER THE PETITION.

6 (B) NOTICE AND HEARING PROVISIONS.

7 IN ADDITION TO A GENERAL DESCRIPTION OF THE PROPOSED CONVERSION
8 AND THE PROPOSED CONVERSION DISTRICT, THE RESOLUTION OF INTENT SHALL
9 CONTAIN A NOTICE THAT STATES THE DATE, HOUR, AND PLACE AT WHICH A PERSON
10 WITH AN OBJECTION TO THE PROPOSED CONVERSION MAY APPEAR AT A PUBLIC
11 HEARING BEFORE THE LEGISLATIVE BODY, OR ITS DESIGNATED COMMITTEE, AND
12 SHOW CAUSE WHY THE PROPOSED CONVERSION SHOULD NOT BE CARRIED OUT IN
13 ACCORDANCE WITH THE RESOLUTION OF INTENT AND WHY A RESOLUTION
14 ORDERING THE CONVERSION SHOULD NOT BE ADOPTED.

15 (C) TIME OF HEARING ON OBJECTIONS.

16 THE PUBLIC HEARING REQUIRED BY SUBSECTION (B) OF THIS SECTION SHALL
17 BE HELD NOT LESS THAN 15 DAYS AND NOT MORE THAN 60 DAYS AFTER THE DATE
18 THE RESOLUTION OF INTENT IS ADOPTED.

19 (D) EXCEPTION.

20 (1) A LEGISLATIVE BODY, OR ITS DESIGNATED COMMITTEE, NEED NOT
21 PROVIDE NOTICE AND A PUBLIC HEARING UNDER THIS SECTION IF, WHEN
22 CONSIDERING THE ADOPTION OF A RESOLUTION OF INTENT, THE LEGISLATIVE
23 BODY FINDS AND DETERMINES BY FOUR-FIFTHS VOTE THAT, ON OR BEFORE THE
24 FIFTH DAY BEFORE THE DAY THAT THE RESOLUTION OF INTENT WILL BE
25 CONSIDERED FOR ADOPTION, ALL OF THE LANDOWNERS, OR THEIR AGENTS, WITHIN
26 THE PROPOSED CONVERSION DISTRICT TO BE ASSESSED HAVE SIGNED AND FILED A
27 PETITION WITH THE CLERK OF THE LEGISLATIVE BODY WAIVING THEIR RIGHT TO A
28 PUBLIC HEARING.

29 (2) A PETITION FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION
30 SHALL INCLUDE:

31 (I) A STATEMENT THAT, TO THE EXTENT OF THE PROPOSED
32 CONVERSION DISTRICT TO BE ASSESSED, THE LANDOWNERS DO NOT OBJECT TO THE
33 PROPOSED CONVERSION, OR TO AN AGREEMENT PROPOSED TO BE MADE UNDER §
34 12-311 OF THIS SUBTITLE, AND DO NOT HAVE ANY OTHER OBJECTION; AND

35 (II) A REQUEST THAT THE LEGISLATIVE BODY, OR ITS DESIGNATED
36 COMMITTEE, NOT HOLD A PUBLIC HEARING.

37 (E) WITHDRAWAL OF SIGNATURES ON PETITION.

1 (1) DURING THE 15 DAYS AFTER THE PUBLIC HEARING, IF HELD,
2 LANDOWNERS WITHIN THE PROPOSED CONVERSION DISTRICT MAY CERTIFY THE
3 WITHDRAWAL OF THEIR NAMES FROM THE PETITION FOR CONVERSION.

4 (2) A PETITION FOR CONVERSION SHALL BE CONSIDERED WITHDRAWN
5 IF THE NUMBER OF LANDOWNERS CERTIFYING THEIR WITHDRAWAL IS SUCH THAT
6 THE REMAINING SIGNATURES OF LANDOWNERS ON THE PETITION CONSTITUTE
7 LESS THAN 50% OF THE TOTAL ASSESSED VALUE WITHIN THE PROPOSED
8 CONVERSION DISTRICT.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 78, § 64B and the first sentence of § 64A(g).

11 In subsection (a) of this section, the phrase "county or municipal
12 corporation", as it modifies the term "legislative body", is added for clarity
13 and consistency within this subtitle.

14 The Public Utility Companies Article Review Committee notes, for the
15 consideration of the General Assembly, that subsection (a) of this section is
16 revised to state that the resolution of the local legislative body shall
17 contain a statement of intention to enter into an agreement that "provides
18 for plans and specifications", rather than requiring the resolution itself to
19 provide plans and specifications.

20 In subsection (b) of this section, the reference to a "public hearing" at
21 which objectors may appear is added for consistency within this section.

22 Also in subsection (b) of this section, the defined term "conversion" is
23 substituted for the former reference to the "work" for clarity and
24 consistency within this subtitle.

25 In subsections (c) and (d) of this section, the word "public", which modifies
26 "hearing", is added each time for clarity and consistency within this
27 subtitle.

28 In subsection (d)(1) of this section, the term "adoption" is substituted each
29 time for the former reference to "passage" for consistency within this
30 subtitle.

31 Also in subsection (d)(1) of this section, the phrase "or its designated
32 committee" is added each time for consistency with subsection (b) of this
33 section.

34 Also in subsection (d)(1) of this section, the reference to "landowners" is
35 substituted for the former phrase "owners of lots or lands" for consistency
36 within this subtitle.

37 Also in subsection (d)(1) of this section, the reference to the clerk "of the
38 legislative body" is added to avoid possible confusion with other clerks, e.g.,
39 a clerk of a court.

1 Also in subsection (d)(1) of this section, the former parenthetical phrase
2 "who shall make oath that they are such agents" is deleted as surplusage.

3 In subsection (d)(2) of this section, the defined term "conversion" is
4 substituted for the former phrase "work or works" for consistency within
5 this subtitle.

6 In subsection (d)(2)(ii) of this section, the term "public hearing" is
7 substituted for the former term "hearing" for clarity and consistency
8 within this subtitle.

9 In subsection (e)(2) of this section, the term "land owners" is substituted
10 for the former term "signers" for clarity and consistency.

11 Defined terms: "Conversion" § 12-301

12 "County" § 1-101

13 "Person" § 1-101

14 "Public agency" § 12-301

15 "Public utility" § 12-301

16 12-310. INVESTIGATION AND REPORT ON PETITION.

17 (A) IN GENERAL.

18 AFTER RECEIPT OF A PETITION UNDER § 12-308 OF THIS SUBTITLE, THE
19 LEGISLATIVE BODY OF THE COUNTY OR MUNICIPAL CORPORATION SHALL ORDER AN
20 INVESTIGATION AND A REPORT ON THE PETITION.

21 (B) REPORT CONTENTS.

22 (1) THE REPORT SHALL INCLUDE:

23 (I) THE NATURE OF THE CONVERSION;

24 (II) THE ESTIMATED COST OF THE CONVERSION AND THE
25 PROCEEDINGS FOR THE CONVERSION;

26 (III) FUNDS AVAILABLE FROM OTHER SOURCES TO PAY THE COSTS
27 OF CONVERSION;

28 (IV) EXISTING ASSESSMENTS;

29 (V) THE ESTIMATED CONVERSION COSTS ON EACH PARCEL; AND

30 (VI) THE MATURITY DATE AND PROBABLE INTEREST RATE OF ANY
31 BONDS TO BE ISSUED.

32 (2) ENGINEERING DETAILS AND COST ESTIMATES INCLUDED IN THE
33 REPORT MAY NOT BE IN ANY GREATER DETAIL THAN NECESSARY FOR THE
34 FORMULATION OF A JUDGMENT ON THE FEASIBILITY AND EXPENSE OF THE
35 PROPOSED CONVERSION.

1 (C) REPORT AVAILABILITY.

2 THE REPORT SHALL BE AVAILABLE TO THE PUBLIC:

3 (1) WHEN THE NOTICE REQUIRED UNDER § 12-309 OF THIS SUBTITLE IS
4 PUBLISHED; AND

5 (2) AT THE PUBLIC HEARING, IF HELD, ESTABLISHED IN THE NOTICE.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from the second, third, and fourth sentences of former Art. 78, §
8 64A(g).

9 In subsection (a) of this section, the phrase "[a]fter receipt of a petition
10 under § 12-308 of this subtitle" is added for clarity.

11 Also in subsection (a) of this section, the phrase "county or municipal
12 corporation", which modifies the term "legislative body", is added for
13 clarity and consistency within this subtitle.

14 In subsection (b)(1) of this section, the phrase "but not limited to", which
15 formerly modified "including", is deleted in light of Art. 1, § 30 of the Code.

16 Also in subsection (b)(1) of this section, the defined term "conversion" is
17 substituted each time for the former reference to the "work" for clarity and
18 consistency within this subtitle.

19 In subsection (b)(2) of this section, the phrase "of the proposed conversion"
20 is added for clarity.

21 Defined terms: "Conversion" § 12-301

22 "County" § 1-101

23 12-311. AGREEMENT BETWEEN COUNTY OR MUNICIPAL CORPORATION AND PUBLIC
24 AGENCY OR UTILITY SUPPLYING ELECTRIC OR COMMUNICATION SERVICE.

25 (A) IN GENERAL.

26 IN A PROCEEDING FOR A CONVERSION, THE COUNTY OR MUNICIPAL
27 CORPORATION AND ANY PUBLIC AGENCY OR PUBLIC UTILITY SUPPLYING ELECTRIC
28 SERVICE OR COMMUNICATION SERVICE WITH THE COUNTY OR MUNICIPAL
29 CORPORATION SHALL PROVIDE BY AGREEMENT THAT:

30 (1) AT THE START OR ON COMPLETION OF THE CONVERSION, THE
31 PUBLIC AGENCY OR PUBLIC UTILITY HAS LEGAL TITLE TO THE ELECTRIC OR
32 COMMUNICATION FACILITIES; AND

33 (2) THE ELECTRIC OR COMMUNICATION FACILITIES ARE:

34 (I) A PART OF THE SYSTEM OF THE PUBLIC AGENCY OR PUBLIC
35 UTILITY; AND

1 (II) TO BE USED, OPERATED, MAINTAINED, AND MANAGED BY THE
2 PUBLIC AGENCY OR PUBLIC UTILITY AS PART OF ITS SYSTEM.

3 (B) ADDITIONAL PROVISIONS.

4 SUBJECT TO ANY RULES, REGULATIONS, OR TARIFFS APPLICABLE TO THE
5 PUBLIC AGENCY OR PUBLIC UTILITY, THE AGREEMENT ALSO SHALL PROVIDE FOR
6 THE FOLLOWING:

7 (1) THE SUPPLYING OF OR APPROVAL BY THE PUBLIC AGENCY OR
8 PUBLIC UTILITY OF PLANS AND SPECIFICATIONS RELATED TO THE CONVERSION
9 AND LABOR OR MATERIALS TO BE USED IN THE CONVERSION; AND

10 (2) THE PERFORMANCE BY THE PUBLIC AGENCY OR PUBLIC UTILITY OF
11 ALL OR PART OF THE CONVERSION OR IMPROVEMENTS AND PAYMENT TO THE
12 PUBLIC AGENCY OR PUBLIC UTILITY FOR THE CONVERSION OR IMPROVEMENTS.

13 (C) TIME WHEN AGREEMENT MUST BE MADE.

14 AN AGREEMENT MADE UNDER THIS SECTION MUST BE MADE BEFORE THE
15 LEGISLATIVE BODY OF THE COUNTY OR MUNICIPAL CORPORATION ADOPTS A
16 RESOLUTION ORDERING THE CONVERSION.

17 (D) EFFECT ON AGREEMENT WHEN PROCEEDINGS ARE TERMINATED;
18 REIMBURSEMENT FOR PRELIMINARY EXPENSES.

19 (1) IF THE PROCEEDING FOR A CONVERSION IS DISCONTINUED:

20 (I) ANY AGREEMENT MADE UNDER THIS SECTION IS VOID;

21 (II) THE PETITIONERS SHALL REIMBURSE THE PUBLIC AGENCY OR
22 PUBLIC UTILITY FOR ENGINEERING AND OTHER PRELIMINARY EXPENSES INCURRED
23 THAT EXCEED \$2,500; AND

24 (III) THE PETITIONERS OR THE COUNTY OR MUNICIPAL
25 CORPORATION MAY NOT REIMBURSE THE PUBLIC AGENCY OR PUBLIC UTILITY FOR
26 ENGINEERING AND OTHER PRELIMINARY EXPENSES INCURRED THAT ARE \$2,500 OR
27 LESS.

28 (2) IF THE PROPOSED CONVERSION IS COMPLETED, ANY ENGINEERING
29 AND OTHER PRELIMINARY EXPENSES INCURRED BY THE PUBLIC AGENCY OR PUBLIC
30 UTILITY SHALL BE INCLUDED AS PART OF THE COST OF THE CONVERSION.

31 (E) APPROVAL BY COMMISSION.

32 BEFORE AN AGREEMENT MADE UNDER THIS SECTION TAKES EFFECT THE
33 COMMISSION MAY CONDUCT PROCEEDINGS AND SHALL:

34 (1) DETERMINE THAT THE AGREEMENT IS IN THE PUBLIC INTEREST;
35 AND

1 (2) ISSUE AN ORDER TO APPROVE THE AGREEMENT, DISAPPROVE THE
2 AGREEMENT, OR APPROVE THE AGREEMENT SUBJECT TO SPECIFIED CONDITIONS.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 78, § 64A(h).

5 In the introductory language of subsection (b) of this section, the former
6 phrase "among other things" is deleted as surplusage.

7 In subsection (b)(1) of this section, the phrase "related to the conversion",
8 which modifies "plans and specifications", is added for clarity.

9 Also in subsection (b)(1) of this section, the phrase "to be used in the
10 conversion", which modifies "labor or materials", is added for clarity.

11 In subsection (b)(2) of this section, the defined term "conversion", which
12 modifies "improvements", is added for clarity and consistency within this
13 section.

14 In subsection (c) of this section, the reference to the "legislative body of the
15 county or municipal corporation" is added for clarity.

16 Also in subsection (c) of this section, the defined term "conversion" is
17 substituted for the former reference to the "work" for consistency within
18 this subtitle.

19 In subsection (d)(1)(iii) of this section, the reference to expenses incurred of
20 "\$2,500 or less" is substituted for the former reference to expenses "of less
21 than \$2,500" to correct an error.

22 In subsection (e) of this section, the former phrase "which shall conduct
23 such proceedings as it shall in its discretion deem appropriate" is deleted
24 as unnecessary.

25 Defined terms: "Commission" § 1-101

26 "Communication service" § 12-301

27 "Conversion" § 12-301

28 "County" § 1-101

29 "Electric or communication facility" § 12-301

30 "Electric service" § 12-301

31 "Proceeding" § 1-101

32 "Public agency" § 12-301

33 "Public utility" § 12-301

34 12-312. ADOPTION OF RESOLUTION ORDERING CONVERSION.

35 (A) AUTHORIZED.

36 AFTER APPROVAL BY THE COMMISSION OF AN AGREEMENT UNDER § 12-311 OF
37 THIS SUBTITLE AND, IF REQUIRED, A PUBLIC HEARING IN ACCORDANCE WITH §

1 12-309 OF THIS SUBTITLE, THE LEGISLATIVE BODY OF THE COUNTY OR MUNICIPAL
 2 CORPORATION MAY ADOPT A RESOLUTION ORDERING THE CONVERSION TO BE
 3 COMPLETED IN ACCORDANCE WITH THE RESOLUTION.

4 (B) CONTENTS.

5 THE RESOLUTION SHALL INCLUDE:

6 (1) A DESCRIPTION OF THE PROPOSED CONVERSION DISTRICT;

7 (2) THE METHOD OF FINANCING THE CONVERSION COSTS, INCLUDING:

8 (I) THE ISSUANCE OF BONDS OR OTHER EVIDENCE OF
 9 INDEBTEDNESS;

10 (II) AN ADVANCE FROM THE GENERAL FUND OF THE COUNTY OR
 11 MUNICIPAL CORPORATION; OR

12 (III) DIRECT PAYMENT BY THE LANDOWNERS IN THE CONVERSION
 13 DISTRICT OF THEIR RESPECTIVE SHARES OF THE CONVERSION COSTS; AND

14 (3) THE AMOUNT AND DURATION OF PROPERTY TAXES TO BE LEVIED IN
 15 THE CONVERSION DISTRICT EACH YEAR FOR REPAYMENT OF ANY BONDS, EVIDENCE
 16 OF INDEBTEDNESS, OR ANY ADVANCES FROM THE GENERAL FUND OF THE COUNTY
 17 OR MUNICIPAL CORPORATION.

18 REVISOR'S NOTE: This section is new language derived without substantive
 19 change from former Art. 78, § 64A(j).

20 In subsection (a) of this section, the phrase "of the county or municipal
 21 corporation", which modifies "legislative body", is added for clarity and
 22 consistency within this subtitle.

23 Also in subsection (a) of this section, the phrase "if required", as it relates
 24 to the holding of a public hearing, is added for clarity because a hearing
 25 may not be required if the provisions of § 12-309(d) are satisfied.

26 Also in subsection (a) of this section, the former reference to the "work" is
 27 deleted for consistency within this subtitle.

28 In subsection (b)(2)(i) and (3) of this section, the references to "evidence" of
 29 indebtedness are substituted for the former references to "certificates" of
 30 indebtedness for consistency.

31 In subsection (b)(2)(iii) of this section, the defined term "conversion", which
 32 modifies "district", is added for clarity and consistency within this subtitle.

33 Also in subsection (b)(2)(iii) of this section, the reference to "landowners" is
 34 substituted for the former reference to "property owners" for consistency
 35 within this subtitle.

1 Defined terms: "Commission" § 1-101

2 "Conversion" § 12-301

3 "County" § 1-101

4 12-313. RESPONSIBILITY FOR CONVERSION COSTS.

5 (A) LANDOWNER.

6 SUBJECT TO APPLICABLE RULES, REGULATIONS, TARIFFS, OR ORDINANCES,
7 THE LANDOWNER IS RESPONSIBLE FOR THE COSTS OF CONSTRUCTION,
8 RECONSTRUCTION, RELOCATION, OR CONVERSION OF ALL ELECTRIC OR
9 COMMUNICATION FACILITIES OF A PUBLIC AGENCY OR PUBLIC UTILITY FROM THE
10 POINT OF ATTACHMENT OF THE ELECTRIC OR COMMUNICATION FACILITY TO ANY
11 IMPROVEMENTS LOCATED ON THE LANDOWNER'S PROPERTY WITHIN A CONVERSION
12 DISTRICT.

13 (B) CONTRACTOR, PUBLIC AGENCY OR UTILITY, COUNTY, OR MUNICIPAL
14 CORPORATION.

15 (1) THE CONTRACTOR, PUBLIC AGENCY, PUBLIC UTILITY, COUNTY, OR
16 MUNICIPAL CORPORATION PERFORMING THE CONVERSION IS RESPONSIBLE FOR
17 THE CONVERSION OF ALL ELECTRIC OR COMMUNICATION FACILITIES TO THE POINT
18 OF ATTACHMENT TO ANY IMPROVEMENTS LOCATED ON PROPERTY WITHIN THE
19 CONVERSION DISTRICT.

20 (2) THE CONVERSION COSTS INCURRED UNDER PARAGRAPH (1) OF THIS
21 SUBSECTION SHALL BE INCLUDED IN THE TOTAL CONVERSION COSTS THAT ARE TO
22 BE ASSESSED AGAINST THE PROPERTY.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 78, § 64A(k).

25 In subsection (a) of this section, the word "property" is substituted for the
26 former reference to "any lot or parcel of land" for consistency within this
27 subtitle and brevity.

28 Also in subsection (a) of this section, the reference to a "landowner" is
29 substituted for the former reference to an "owner of such lot or parcel" for
30 consistency within this subtitle and brevity.

31 In subsection (b)(1) of this section, the phrase "located on property within
32 the conversion district" is added for clarity and consistency.

33 In subsection (b)(2) of this section, the word "property" is substituted for
34 the former reference to "such lot or parcel" for consistency within this
35 subtitle and brevity.

36 Also in subsection (b)(2) of this section, the word "assessed" is substituted
37 for the former word "charged" for consistency within this subtitle.

1 Defined terms: "Conversion" § 12-301

2 "County" § 1-101

3 "Electric or communication facility" § 12-301

4 "Public agency" § 12-301

5 "Public utility" § 12-301

6 12-314. NOTICE TO LANDOWNERS OF RESPONSIBILITY FOR CONVERSION COSTS.

7 (A) IN GENERAL.

8 (1) AT LEAST 15 DAYS BEFORE THE DATE OF COMMENCEMENT OF
9 CONSTRUCTION, THE CLERK OF THE LEGISLATIVE BODY OF THE COUNTY OR
10 MUNICIPAL CORPORATION SHALL MAIL A NOTICE TO EACH LANDOWNER WITHIN
11 THE CONVERSION DISTRICT THAT INFORMS THE LANDOWNER OF THE PROVISIONS
12 OF § 12-313 OF THIS SUBTITLE.

13 (2) THE CLERK SHALL USE THE NAMES AND ADDRESSES FROM THE
14 MOST RECENT PROPERTY ASSESSMENT ROLL OF THE COUNTY OR MUNICIPAL
15 CORPORATION, OR AS OTHERWISE KNOWN BY THE CLERK.

16 (B) CONTENTS.

17 THE NOTICE MAILED UNDER SUBSECTION (A) OF THIS SECTION SHALL
18 INCLUDE A STATEMENT THAT, UNLESS THE LANDOWNER COMPLIES WITH THE
19 REQUIREMENTS OF § 12-313 OF THIS SUBTITLE, ALL BUILDINGS, STRUCTURES, AND
20 OTHER IMPROVEMENTS LOCATED ON THE PROPERTY MAY BE DISCONNECTED FROM
21 THE OVERHEAD ELECTRIC OR COMMUNICATION FACILITIES THAT PROVIDE
22 ELECTRIC SERVICE OR COMMUNICATION SERVICE TO THE BUILDINGS, STRUCTURES,
23 OR OTHER IMPROVEMENTS.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 78, § 64A(1).

26 In subsections (a)(1) and (b) of this section, the references to "landowner"
27 are substituted for the former references to an "owner of a lot or parcel of
28 land" and "such owner" for consistency within this subtitle.

29 In subsection (a)(1) of this section, the phrase "of the legislative body of the
30 county or municipal corporation" is added for clarity.

31 In subsection (a)(2) of this section, the reference to the "most recent"
32 assessment roll is substituted for the former reference to "last" for clarity.

33 In subsection (b) of this section, the word "property" is substituted for the
34 former reference to a "lot or parcel" for consistency within this subtitle and
35 brevity.

36 Also in subsection (b) of this section, the reference to "overhead" facilities is
37 added in light of § 12-315 of this subtitle.

1 Defined terms: "Communication service" § 12-301

2 "Conversion" § 12-301

3 "County" § 1-101

4 "Electric or communication facility" § 12-301

5 "Electric service" § 12-301

6 12-315. CONSEQUENCES TO LANDOWNERS FOR FAILURE TO COMPLY.

7 (A) IN GENERAL.

8 IF A LANDOWNER FAILS TO COMPLY WITH § 12-313 OF THIS SUBTITLE, ALL
9 OVERHEAD ELECTRIC OR COMMUNICATION FACILITIES PROVIDING ELECTRIC
10 SERVICE OR COMMUNICATION SERVICE TO ANY BUILDING, STRUCTURE, OR OTHER
11 IMPROVEMENT ON THE PROPERTY SHALL BE DISCONNECTED AND REMOVED.

12 (B) DISCONNECTION NOTICE REQUIREMENTS.

13 AT LEAST 5 DAYS BEFORE THE DISCONNECTION, THE LANDOWNER SHALL BE
14 PROVIDED WRITTEN NOTICE OF THE DISCONNECTION BY LEAVING A COPY OF THE
15 NOTICE AT THE PRINCIPAL BUILDING, STRUCTURE, OR OTHER IMPROVEMENT
16 LOCATED ON THE PROPERTY.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 78, § 64A(m).

19 In subsections (a) and (b) of this section, the term "property" is substituted
20 for the former references to a "lot or parcel" for consistency within this
21 subtitle and brevity.

22 In subsection (a) of this section, the reference to "§ 12-313 of this subtitle"
23 is substituted for the former erroneous reference to "subsection (l)".

24 Also in subsection (a) of this section, the reference to a "landowner" is
25 substituted for the former reference to an "owner of any lot or parcel of
26 land" for consistency within this subtitle and brevity.

27 In subsection (b) of this section, the reference to the "landowner" is added
28 for clarity.

29 Defined terms: "Communication service" § 12-301

30 "Electric or communication facility" § 12-301

31 "Electric service" § 12-301

32 12-316. COMPETITIVE BIDDING REQUIREMENTS.

33 (A) EFFECT OF SECTION.

34 THIS SECTION DOES NOT AUTHORIZE A COUNTY OR MUNICIPAL CORPORATION
35 TO AVOID COMPLIANCE WITH ANY COMPETITIVE BIDDING REQUIREMENTS FOR A
36 CONVERSION OR IMPROVEMENT TO BE PERFORMED BY A PRIVATE CONTRACTOR.

1 (B) APPLICATION OF SECTION.

2 PROVISIONS IN STATE, COUNTY, OR MUNICIPAL LAW THAT REQUIRE
3 COMPETITIVE BIDDING DO NOT APPLY TO A CONVERSION OR IMPROVEMENT
4 PERFORMED BY:

5 (1) A COUNTY, MUNICIPAL CORPORATION, PUBLIC AGENCY, OR PUBLIC
6 UTILITY; OR

7 (2) A DEPARTMENT, AGENCY, COMMISSION, OR OFFICE OF A COUNTY OR
8 MUNICIPAL CORPORATION.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 78, § 64A(i).

11 In subsection (a) of this section, the defined term "conversion" is added for
12 clarity and consistency within this subtitle.

13 Also in subsection (a) of this section, the word "improvement" is added for
14 consistency with subsection (b) of this section.

15 In subsection (b) of this section, the defined term "conversion" is
16 substituted for the former reference to the "work" for consistency with
17 other provisions of this subtitle.

18 Defined terms: "Conversion" § 12-301

19 "County" § 1-101

20 12-317. BOND ISSUE; TAX LEVY TO PAY BONDS.

21 (A) BOND ISSUE.

22 IN ACCORDANCE WITH ITS CHARTER OR A PUBLIC GENERAL LAW OR PUBLIC
23 LOCAL LAW, A COUNTY OR MUNICIPAL CORPORATION MAY ISSUE BONDS OR OTHER
24 EVIDENCE OF INDEBTEDNESS TO CARRY OUT THIS SUBTITLE.

25 (B) TAX LEVY TO PAY BONDS.

26 TO PAY THE PRINCIPAL AND INTEREST ON BONDS OR OTHER EVIDENCE OF
27 INDEBTEDNESS OR AN ADVANCE FROM ITS GENERAL FUND, A COUNTY OR
28 MUNICIPAL CORPORATION MAY LEVY PROPERTY TAXES ON THE ASSESSED VALUE OF
29 ALL REAL PROPERTY AND CLASSES OF ASSESSABLE PERSONAL PROPERTY WITHIN
30 THE CONVERSION DISTRICT.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from the first sentence of former Art. 78, § 64A(n).

33 In subsections (a) and (b) of this section, the word "evidence" is substituted
34 for the former references to "certificates" for consistency with other
35 provisions of this article and the other revised articles of the Code.

1 In subsection (b) of this section, the former reference to classes of
2 assessable personal property "as it may determine" is deleted as
3 surplusage.

4 Defined terms: "Conversion" § 12-301

5 "County" § 1-101

6 TITLE 13. PROHIBITED ACTS; PENALTIES.

7 SUBTITLE 1. CRIMINAL LIABILITY.

8 13-101. PUBLIC SERVICE COMMISSION VIOLATIONS.

9 (A) SCOPE.

10 THIS SECTION DOES NOT APPLY TO A VIOLATION OF THE FOLLOWING
11 PROVISIONS OF THIS ARTICLE:

12 (1) TITLE 5, SUBTITLE 4;

13 (2) TITLE 7, SUBTITLE 1;

14 (3) TITLE 8, SUBTITLES 1 AND 3; AND

15 (4) TITLE 9, SUBTITLE 3.

16 (B) IN GENERAL.

17 A PERSON MAY NOT FAIL, NEGLECT, OR REFUSE TO COMPLY WITH ANY
18 PROVISION OF THIS ARTICLE OR ANY EFFECTIVE AND OUTSTANDING DIRECTION,
19 RULING, ORDER, RULE, REGULATION, OR DECISION OF THE COMMISSION.

20 (C) VIOLATION BY INDIVIDUAL.

21 AN INDIVIDUAL WHO KNOWINGLY VIOLATES OR KNOWINGLY AIDS OR ABETS A
22 PUBLIC SERVICE COMPANY IN THE VIOLATION OF SUBSECTION (B) OF THIS SECTION
23 OR ANY PROVISION OF THIS ARTICLE:

24 (1) IS GUILTY OF A MISDEMEANOR; AND

25 (2) UNLESS A DIFFERENT PUNISHMENT IS SPECIFICALLY PROVIDED BY
26 LAW, ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 FOR A FIRST
27 OFFENSE AND NOT EXCEEDING \$5,000 FOR EACH ADDITIONAL OR SUBSEQUENT
28 OFFENSE.

29 REVISOR'S NOTE: Subsection (a) of this section is new language added to
30 reflect the scope of application of this section to provisions derived from
31 former Article 78, as distinguished from provisions derived from other
32 articles of the Code.

33 Subsection (b) of this section is new language derived without substantive

1 change from former Art. 78, § 2(bb).

2 Subsection (c) of this section is new language derived without substantive
3 change from former Art. 78, § 101(a) and (c).

4 Subsection (b) of this section is revised as a substantive provision rather
5 than as a definition for clarity.

6 In subsection (b)(2) of this section, the former reference to an "action" of
7 the Commission is deleted as included in the reference to a "direction,
8 ruling, order, rule, regulation, or decision" of the Commission.

9 In the introductory language of subsection (c) of this section, the reference
10 to violations of "any provision of this article" is substituted for the former
11 references to violations of "the provisions of this article" because "this
12 article" formerly referred only to Article 78, and this article is derived, in
13 part, from provisions outside of former Article 78.

14 Also in the introductory language of subsection (c) of this section, the
15 former reference to an individual who violates a provision of this article
16 "whether or not an officer or agent of a public service company or
17 personnel of the Commission" is deleted as surplusage.

18 Also in the introductory language of subsection (c) of this section, the
19 former reference to a person who "procures" a violation of a provision of
20 this article is deleted as surplusage.

21 Also in the introductory language of subsection (c) of this section, the
22 reference to an individual who "knowingly" aids or abets a public service
23 company in the violation of this article is added for clarity.

24 Defined terms: "Commission" § 1-101

25 "Person" § 1-101

26 "Public service company" § 1-101

27 GENERAL REVISOR'S NOTE TO SUBTITLE:

28 For criminal provisions prohibiting interference with water equipment, see Art.
29 27, § 118.

30 For criminal provisions prohibiting interference with gas equipment, see Art. 27,
31 § 192.

32 For criminal provisions prohibiting interference with distribution of electricity
33 and power operations, see Art. 27, § 194.

34 For criminal provisions prohibiting interference with cable television service,
35 see Art. 27, § 194B.

1 For criminal provisions prohibiting unauthorized sale of transfer tickets, see
2 Art. 27, § 200.

3 For criminal provisions prohibiting interference with a railroad, see Art. 27, §
4 453A.

5 For criminal provisions prohibiting unauthorized access to railroad vehicles, see
6 Art. 27, § 455.

7 For criminal provisions prohibiting interference with train signals, see Art. 27, §
8 456.

9 For criminal provisions prohibiting striking a railroad with an object, see Art.
10 27, § 458.

11 For criminal provisions prohibiting unauthorized purchase or sale of railroad
12 tickets, see Art. 27, § 460.

13 For criminal provisions prohibiting divulging contents of telephone and
14 telegraph messages, see Art. 27, § 556.

15 For criminal provisions prohibiting devices for avoiding telephone and telegraph
16 charges, see Art. 27, § 557A.

17 SUBTITLE 2. CIVIL LIABILITY.

18 13-201. PUBLIC SERVICE COMPANIES -- IN GENERAL.

19 (A) SCOPE OF SECTION.

20 THIS SECTION DOES NOT APPLY TO A VIOLATION OF THE FOLLOWING
21 PROVISIONS OF THIS ARTICLE:

22 (1) TITLE 5, SUBTITLE 4;

23 (2) TITLE 7, SUBTITLE 1;

24 (3) TITLE 8, SUBTITLES 1 AND 3;

25 (4) TITLE 9, SUBTITLE 3; AND

26 (5) SECTION 13-205 OF THIS SUBTITLE.

27 (B) IN GENERAL.

28 A PUBLIC SERVICE COMPANY THAT VIOLATES ANY PROVISION OF THIS
29 ARTICLE, OR ANY EFFECTIVE AND OUTSTANDING DIRECTION, RULING, ORDER, RULE,
30 OR REGULATION OF THE COMMISSION, IS SUBJECT TO A FINE NOT EXCEEDING \$2,500
31 FOR EACH OFFENSE.

32 (C) SEPARATE OFFENSES.

1 (1) EACH VIOLATION IS A SEPARATE OFFENSE.

2 (2) EACH DAY OR PART OF A DAY THE VIOLATION CONTINUES IS A
3 SEPARATE OFFENSE.

4 (D) ACTS OF DIRECTORS, OFFICERS, OR OTHER INDIVIDUALS ACTING WITHIN
5 THE SCOPE OF DUTY.

6 FOR DETERMINING WHETHER THERE IS A VIOLATION UNDER THIS SECTION, AN
7 ACT OF A DIRECTOR, OFFICER, OR OTHER INDIVIDUAL ACTING WITHIN THE SCOPE OF
8 OFFICIAL DUTIES IS AN ACT OF THE PUBLIC SERVICE COMPANY.

9 REVISOR'S NOTE: Subsection (a)(1) through (4) of this section is new
10 language added to reflect the scope of application of this section to
11 provisions derived from former Article 78, as distinguished from provisions
12 derived from other articles of the Code. The listed provisions are all
13 derived from outside former Article 78.

14 Subsection (a)(5) of this section is new language substituted for the former
15 reference to a public service company that violates any of the provisions of
16 this article "other than subsection (a) of this section". The revision clarifies
17 the scope of the section.

18 Subsection (b) of this section is new language derived without substantive
19 change from former Art. 78, §§ 2(bb) and, as it related to liability for
20 violations, the first sentence of 102(b).

21 Subsection (c) of this section is new language derived without substantive
22 change from the second sentence of former Art. 78, § 102(b).

23 Subsection (d) of this section is new language derived without substantive
24 change from former Art. 78, § 102(c).

25 In subsection (b) of this section, the reference to a public service company
26 being "subject to a fine" is substituted for the former reference to a public
27 service company being "liable to forfeit to the State of Maryland a sum ..."
28 for clarity.

29 In subsection (d) of this section, the former reference to duties "in any
30 public service company" is deleted as implicit in the reference to "official
31 duties".

32 Defined terms: "Commission" § 1-101

33 "Public service company" § 1-101

34 13-202. SAME -- SAFETY VIOLATIONS.

35 (A) "SAFETY VIOLATION" DEFINED.

1 IN THIS SECTION, "SAFETY VIOLATION" MEANS A CONDITION OR ACTIVITY
2 LIKELY TO CAUSE INJURY OR HARM TO AN INDIVIDUAL OR PROPERTY.

3 (B) SCOPE OF SECTION.

4 THIS SECTION DOES NOT APPLY TO A SAFETY VIOLATION BY A GAS COMPANY
5 THAT IS SUBJECT TO § 13-203 OF THIS SUBTITLE.

6 (C) MAXIMUM PENALTIES.

7 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PUBLIC
8 SERVICE COMPANY THAT VIOLATES A PROVISION OF THIS ARTICLE THAT RELATES
9 TO SAFETY IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$500 FOR EACH
10 VIOLATION FOR EACH DAY THAT THE VIOLATION PERSISTS.

11 (2) THE MAXIMUM CIVIL PENALTY MAY NOT EXCEED:

12 (I) \$50,000 FOR A RELATED SERIES OF VIOLATIONS; OR

13 (II) FOR A COMMON CARRIER, \$500 FOR EACH VIOLATION OR
14 RELATED SERIES OF VIOLATIONS STEMMING FROM A SINGLE SAFETY INSPECTION.

15 (D) FACTORS IN DETERMINING PENALTY.

16 IN DETERMINING THE AMOUNT OF A CIVIL PENALTY IMPOSED UNDER THIS
17 SECTION, THE COMMISSION SHALL CONSIDER THE:

18 (1) APPROPRIATENESS OF THE PENALTY TO THE SIZE OF THE PUBLIC
19 SERVICE COMPANY;

20 (2) NUMBER OF PREVIOUS VIOLATIONS OF THIS ARTICLE BY THE
21 PUBLIC SERVICE COMPANY;

22 (3) GRAVITY OF THE CURRENT VIOLATION; AND

23 (4) GOOD FAITH OF THE PUBLIC SERVICE COMPANY IN ATTEMPTING TO
24 ACHIEVE COMPLIANCE AFTER NOTIFICATION OF THE VIOLATION.

25 (E) RECONSIDERATION.

26 THE PUBLIC SERVICE COMPANY INVOLVED MAY REQUEST RECONSIDERATION
27 OF A PENALTY IMPOSED UNDER THIS SECTION WITHIN 30 DAYS AFTER THE DATE OF
28 NOTIFICATION OF THE DETERMINATION.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 78, § 102B.

31 In subsection (d)(1), (2), and (3) of this section, the former references to the
32 "business of" the public service company "charged", the number of
33 previous violations ... by the company "charged", and the good faith of the
34 company "charged" in attempting to achieve compliance are deleted as

1 surplusage.

2 In subsection (d)(2) of this section, the reference to "this article" is retained
3 although this article is derived, in part, from provisions outside former
4 Article 78. No substantive change is intended.

5 In subsection (d)(4) of this section, the former reference to the "current"
6 violation is deleted as surplusage.

7 The Public Utility Companies Article Review Committee notes, for the
8 consideration of the General Assembly, that the application of the defined
9 term "safety violation" to violations of this section was unclear in former
10 Art. 78, § 102B. The General Assembly may wish to address whether the
11 definition should apply to violations of this section, or only to the exclusion
12 stated in subsection (b) of this section.

13 Defined terms: "Commission" § 1-101

14 "Common carrier" § 1-101

15 "Gas company" § 1-101

16 "Public service company" § 1-101

17 13-203. VIOLATION OF SAFE SERVICE REQUIREMENT.

18 (A) IN GENERAL.

19 A GAS COMPANY OR GAS MASTER METER OPERATOR THAT VIOLATES ANY OF
20 THE COMMISSION'S STANDARDS OF SAFE SERVICE OR OTHER REGULATION RELATED
21 TO SAFETY ADOPTED UNDER § 5-101 OF THIS ARTICLE IS SUBJECT TO A CIVIL
22 PENALTY DETERMINED BY THE COMMISSION THAT DOES NOT EXCEED:

23 (1) \$10,000 FOR EACH VIOLATION FOR EACH DAY OR PART OF A DAY
24 THAT THE VIOLATION CONTINUES; AND

25 (2) \$500,000 FOR A RELATED SERIES OF VIOLATIONS.

26 (B) REQUEST FOR RECONSIDERATION.

27 WITHIN 30 DAYS AFTER THE DATE OF NOTIFICATION OF THE DETERMINATION,
28 THE GAS COMPANY OR GAS MASTER METER OPERATOR INVOLVED MAY REQUEST
29 RECONSIDERATION TO OBTAIN A COMPROMISE.

30 (C) FACTORS IN DETERMINING PENALTY OR COMPROMISE.

31 IN DETERMINING THE AMOUNT OF A CIVIL PENALTY OR COMPROMISE, THE
32 COMMISSION SHALL CONSIDER THE:

33 (1) APPROPRIATENESS OF THE PENALTY TO THE SIZE OF THE GAS
34 COMPANY OR GAS MASTER METER OPERATOR;

35 (2) GRAVITY OF THE CURRENT VIOLATION; AND

1 (3) GOOD FAITH OF THE GAS COMPANY OR GAS MASTER METER
2 OPERATOR IN ATTEMPTING TO ACHIEVE COMPLIANCE AFTER NOTIFICATION OF THE
3 VIOLATION.

4 (D) ACCOUNTING FOR PENALTY AMOUNT.

5 THE AMOUNT OF THE PENALTY, WHEN FINALLY DETERMINED OR AGREED ON
6 IN COMPROMISE, MAY BE:

7 (1) DEDUCTED FROM ANY AMOUNT THAT THE STATE OWES TO THE GAS
8 COMPANY OR GAS MASTER METER OPERATOR; OR

9 (2) RECOVERED IN A CIVIL ACTION IN STATE COURT.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 78, § 102A.

12 In subsection (a)(1) of this section, the reference to "part of a day" is added
13 to conform to the terminology used in § 13-201(c)(2) of this subtitle.

14 In subsections (c)(1) and (3) and (d)(1) of this section, the former references
15 to an operator "charged" in attempting to achieve compliance is deleted as
16 surplusage.

17 Defined terms: "Commission" § 1-101

18 "Gas company" § 1-101

19 "Gas master meter operator" § 1-101

20 13-204. ETHICS VIOLATION BY PERSONNEL OF COMMISSION OR PEOPLE'S
21 COUNSEL.

22 PERSONNEL OF THE COMMISSION OR OFFICE OF THE PEOPLE'S COUNSEL WHO
23 ARE CONVICTED OF VIOLATING TITLE 2, SUBTITLE 3 OF THIS ARTICLE SHALL, IN
24 ADDITION TO ANY OTHER PENALTIES, BE REMOVED OR DISCHARGED FROM OFFICE.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 78, § 101(b).

27 The reference to "Title 2, Subtitle 3" of this article is substituted for the
28 former reference to "§ 16A" of former Article 78, even though Title 2,
29 Subtitle 3 is derived, in part, from provisions outside former § 16A.

30 The description of former Art. 78, § 16A as "prohibiting certain conduct by
31 personnel of the Commission," is deleted as surplusage. Since those other
32 provisions do not penalize conduct by personnel of the Commission or
33 Office of People's Counsel, no substantive change results.

34 Defined term: "Commission" § 1-101

1 13-205. FAILURE TO FILE ANNUAL REPORT OR PROVIDE INFORMATION TO
2 COMMISSION.

3 A PUBLIC SERVICE COMPANY IS SUBJECT TO A FINE OF \$100 FOR EACH DAY
4 BEYOND 30 DAYS AFTER THE DEADLINE SET BY THE COMMISSION THAT THE PUBLIC
5 SERVICE COMPANY FAILS TO:

6 (1) FILE ITS ANNUAL REPORT WITH THE COMMISSION IN ACCORDANCE
7 WITH TITLE 6, SUBTITLE 2 OF THIS ARTICLE;

8 (2) MAKE A REPORT OR FURNISH INFORMATION THAT THE COMMISSION
9 REQUESTS OR REQUIRES; OR

10 (3) FAILS TO GIVE A FULL, SPECIFIC, AND RESPONSIVE ANSWER TO ANY
11 QUESTION REASONABLY DIRECTED TO IT BY THE COMMISSION.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 78, § 102(a).

14 In item (2) of this section, the reference to information that the
15 Commission "requests" is added for clarity.

16 Defined terms: "Commission" § 1-101

17 "Public service company" § 1-101

18 13-206. TAXICAB VIOLATIONS.

19 AN INDIVIDUAL WHO IS CONVICTED OF VIOLATING A PROVISION OF THIS
20 ARTICLE CONCERNING TAXICABS IS SUBJECT TO A FINE NOT EXCEEDING \$50 FOR A
21 FIRST OFFENSE AND NOT EXCEEDING \$100 FOR EACH ADDITIONAL OR SUBSEQUENT
22 OFFENSE.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 78, § 101(d).

25 13-207. VOID TRANSACTIONS.

26 A CONTRACT, ASSIGNMENT, OR TRANSFER IN VIOLATION OF THIS ARTICLE IS
27 VOID.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 78, § 104 as it related to prohibited contracts,
30 assignments, and transfers.

31 The former reference to making void a contract, assignment, or transfer
32 that is in violation "of this article" is retained. Although "this article"
33 formerly referred only to Article 78, and this article is derived, in part,
34 from provisions outside of former Article 78, retaining that reference does
35 not constitute a substantive change. As a general rule, an illegal contract,
36 assignment, or transfer is void.

1 The former references to a contract, assignment, or agreement that is
 2 "entirely" void and "ineffective for any purpose" are deleted as surplusage
 3 in light of the reference to "void".

4 Also the former reference to "any provision of" this article is deleted as
 5 surplusage.

6 GENERAL REVISOR'S NOTE TO TITLE:

7 Former Art. 23, § 323, which prohibited injury and destruction of telegraph
 8 lines, material, and property, is deleted as unnecessary in light of the
 9 general prohibition against the malicious destruction of property. See Art.
 10 27, § 111.

11 Former Art. 27, § 320, which prohibited spitting in railroad cars that are
 12 not smoking cars equipped with cuspidors, is deleted as obsolete and in
 13 light of TR § 7-705, which prohibits certain behavior of persons entering a
 14 transit facility or transit vehicle of the Mass Transit Administration.

15 Former Art. 27, § 454, which states that a person who causes the death of
 16 another by the obstruction of a railroad car or the obstruction of a railroad
 17 is guilty of murder, is deleted in light of Art. 27, §§ 407 and 411, which
 18 prohibit murder in the first and second degree.

19 Former Art. 27, § 457, which prohibits an unauthorized person from
 20 removing equipment from railroad property, is deleted as unnecessary in
 21 light of the general theft and reckless endangerment statutes. See Art. 27,
 22 §§ 12-A2 and 342 of the Code.

23 Former Art. 27, § 459, which prohibits throwing items from a window, door,
 24 or transom of a moving train, is deleted as unnecessary in light of the
 25 general prohibition against the malicious destruction of property. See Art.
 26 27, § 111. Also the window and doors of passenger trains now in use do not
 27 remain open while the trains are in motion.

28 Former Art. 27, § 557, which prohibited a person from refusing to
 29 relinquish a party line in an emergency, is deleted as obsolete. Party lines
 30 are no longer used in telephone communications in Maryland.

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

33 **Article 1 - Rules of Interpretation**

34 25.

35 (a) Unnumbered revised articles of the Annotated Code of Maryland may be
 36 cited as stated in this section.

1 (b) A section of the Agriculture Article may be cited as: "§ of the
2 Agriculture Article".

3 (c) A section of the Business Occupations and Professions Article may be cited
4 as: "§ of the Business Occupations and Professions Article".

5 (d) A section of the Business Regulation Article may be cited as: "§ of
6 the Business Regulation Article".

7 (e) A section of the Commercial Law Article may be cited as: "§ of the
8 Commercial Law Article".

9 (f) A section of the Corporations and Associations Article may be cited as:
10 "§ of the Corporations and Associations Article".

11 (g) A section of the Courts and Judicial Proceedings Article may be cited as:
12 "§ of the Courts Article".

13 (h) A section of the Education Article may be cited as: "§ of the
14 Education Article".

15 (i) A section of the Environment Article may be cited as: "§ of the
16 Environment Article".

17 (j) A section of the Estates and Trusts Article may be cited as: "§ of the
18 Estates and Trusts Article".

19 (k) A section of the Family Law Article may be cited as: "§ of the Family
20 Law Article".

21 (l) A section of the Financial Institutions Article may be cited as: "§ of
22 the Financial Institutions Article".

23 (m) A section of the Health - General Article may be cited as: "§ of the
24 Health - General Article".

25 (n) A section of the Health Occupations Article may be cited as: "§ of the
26 Health Occupations Article".

27 (o) A section of the Insurance Article may be cited as: "§ of the
28 Insurance Article".

29 (p) A section of the Labor and Employment Article may be cited as: "§ of
30 the Labor and Employment Article".

31 (q) A section of the Natural Resources Article may be cited as: "§ of the
32 Natural Resources Article".

33 (R) A SECTION OF THE PUBLIC UTILITY COMPANIES ARTICLE MAY BE CITED
34 AS: "§ OF THE PUBLIC UTILITY COMPANIES ARTICLE".

1 [(r)] (S) A section of the Real Property Article may be cited as: "§ of the
2 Real Property Article".

3 [(s)] (T) A section of the State Finance and Procurement Article may be cited
4 as: "§ of the State Finance and Procurement Article".

5 [(t)] (U) A section of the State Government Article may be cited as: "§ of
6 the State Government Article".

7 [(u)] (V) A section of the State Personnel and Pensions Article may be cited as:
8 "§ of the State Personnel and Pensions Article".

9 [(v)] (W) A section of the Tax - General Article may be cited as: "§ of the
10 Tax - General Article".

11 [(w)] (X) A section of the Tax - Property Article may be cited as: "§ of the
12 Tax - Property Article".

13 [(x)] (Y) A section of the Transportation Article may be cited as: "§ of
14 the Transportation Article".

15 **Article 27 - Crimes and Punishments**

16 118. INTERFERENCE WITH WATER EQUIPMENT.

17 (A) "WATER EQUIPMENT" DEFINED.

18 IN THIS SECTION, "WATER EQUIPMENT" INCLUDES A CANAL, SPRING,
19 RESERVOIR, TUNNEL, MOUND, DAM, PLUG, MAIN, PIPE, CONDUIT, CONNECTION, TAP,
20 VALVE, ENGINE, OR MACHINERY.

21 (B) SCOPE OF SECTION.

22 THIS SECTION DOES NOT APPLY TO:

23 (1) A PERSON WHO IS AUTHORIZED BY OR AN EMPLOYEE OF THE
24 COMPANY, MUNICIPAL CORPORATION, COUNTY, OR UNIT OF STATE OR LOCAL
25 GOVERNMENT THAT USES OR SUPPLIES WATER FOR DOMESTIC, AGRICULTURAL, OR
26 MANUFACTURING PURPOSES; OR

27 (2) GOVERNMENTAL REGULATION OF:

28 (I) WATER EQUIPMENT; OR

29 (II) WATER COMPANIES, AS DEFINED IN THE PUBLIC UTILITY
30 COMPANIES ARTICLE.

31 (C) IN GENERAL.

32 A PERSON MAY NOT WRONGFULLY AND MALICIOUSLY:

1 (1) CONNECT, DISCONNECT, TAP, INTERFERE OR TAMPER WITH, OR
2 MAKE A CONNECTION WITH WATER EQUIPMENT THAT BELONGS TO A COMPANY,
3 MUNICIPAL CORPORATION, COUNTY, OR UNIT OF STATE OR LOCAL GOVERNMENT
4 THAT USES OR SUPPLIES WATER FOR DOMESTIC, AGRICULTURAL, OR
5 MANUFACTURING PURPOSES; OR

6 (2) TAMPER WITH A METER USED TO REGISTER THE WATER CONSUMED.

7 (D) PENALTY.

8 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
9 ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500 OR IMPRISONMENT
10 NOT EXCEEDING 6 MONTHS OR BOTH.

11 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
12 Utility Companies Article, also added this section, which is derived
13 without substantive change from former Art. 27, § 118.

14 In subsections (b)(1) and (c)(1) of this section, the reference to "municipal
15 corporation" is substituted for the former reference to "municipality" to
16 conform to the terminology used in Article 23A of the Code.

17 In subsection (b)(2) of this section, the former reference to "any right now
18 existing in any county or municipality to pass ordinances relating to and
19 regulating water companies" is deleted as included in the reference to
20 "governmental regulation of water equipment or water companies".

21 Also in subsection (b)(2) of this section, the former reference to "lawful"
22 governmental regulation is deleted as surplusage.

23 In subsection (c)(1) of this section, the former reference to "for the purpose
24 of wasting or using such water" is deleted as surplusage.

25 In subsection (c)(2) of this section, the former reference to "in any manner"
26 is deleted as surplusage.

27 In subsection (d) of this section, the former reference to imprisonment of 6
28 months or a \$500 fine or both "or either, at the discretion of the court" is
29 deleted as surplusage.

30 192. INTERFERENCE WITH GAS EQUIPMENT.

31 (A) GAS COMPANY DEFINED.

32 IN THIS SECTION, "GAS COMPANY" HAS THE MEANING STATED IN TITLE 1 OF
33 THE PUBLIC UTILITY COMPANIES ARTICLE.

34 (B) IN GENERAL.

1 (1) A PERSON MAY NOT WRONGFULLY AND MALICIOUSLY DAMAGE,
2 CONNECT, DISCONNECT, TAP, OR INTERFERE OR TAMPER WITH MATERIAL,
3 EQUIPMENT, OR FACILITIES OF A GAS COMPANY.

4 (2) A PERSON MAY NOT INTENTIONALLY DAMAGE OR DEFRAUD A GAS
5 COMPANY BY:

6 (I) BYPASSING A METER PROVIDED FOR MEASURING AND
7 REGISTERING THE GAS CONSUMED;

8 (II) WILLFULLY TAMPERING WITH, DAMAGING, OR PREVENTING
9 THE ACTION OF A METER TO MEASURE AND REGISTER GAS; OR

10 (III) CAUSING OR PROCURING A METER TO BE DAMAGED OR
11 ALTERED.

12 (C) PRIMA FACIE EVIDENCE OF VIOLATION.

13 (1) ANY DEVICE THAT ALLOWS THE USE OF GAS SUPPLIED BY A GAS
14 COMPANY WITHOUT THE GAS BEING MEASURED OR REGISTERED ON A METER
15 PROVIDED BY THE GAS COMPANY IS PRIMA FACIE EVIDENCE OF A VIOLATION OF
16 THIS SECTION BY THE PERSON WHO WOULD RECEIVE THE DIRECT BENEFITS FROM
17 THE USE OF THE GAS WITHOUT IT BEING MEASURED OR REGISTERED ON A METER.

18 (2) DAMAGE OR ALTERATION TO A METER SO AS TO OBSTRUCT OR
19 PREVENT THE ACTION OF THE METER IS PRIMA FACIE EVIDENCE OF A VIOLATION OF
20 THIS SECTION BY THE PERSON WHO WOULD RECEIVE THE DIRECT BENEFITS FROM
21 THE USE OF GAS PASSING THROUGH THE METER.

22 (D) PENALTY.

23 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
24 ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$250 OR IMPRISONMENT
25 NOT EXCEEDING 6 MONTHS OR BOTH.

26 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
27 Utility Companies Article, also added this section. Subsection (a) of this
28 section is added to conform with the terminology of the Public Utility
29 Companies Article. Subsections (b) and (c) of this section are derived
30 without substantive change from former Art. 27, §§ 192 and 193.

31 In subsections (b)(2) and (c)(1) of this section, the former reference to "body
32 corporate of this State" is deleted as surplusage.

33 In the introductory language of subsection (b)(2) and (ii) and (iii) and
34 subsection (c)(2) of this section, the references to "damage", "damaging", or
35 "damaged" are substituted for the former references to "injury" or "injured"
36 for clarity.

37 In subsections (b)(2) and (c)(1) of this section, the former reference to

1 "contrivance" is deleted as unnecessary in light of the reference to
2 "instrument".

3 In subsection (b)(1) of this section, the former reference to "mains, pipes,
4 connections, valves, holders, machinery, manufacturing apparatus,
5 appliances or appurtenances" is deleted as unnecessary in light of the
6 broad reference to "material, equipment, or facilities". Similarly, the
7 former reference to "any company using or engaged in the manufacture
8 and/or supply of gas for light, heat and power or either of them" is deleted
9 in light of the broad term "gas company".

10 In subsection (b)(2) of this section, the reference to a person "bypassing" a
11 gas meter is substituted for the former reference to a person who "shall
12 make, or cause to be made, any pipe, tube or other instrument or
13 contrivance, or connect the same, or cause it to be connected, with any
14 main service pipe or other pipe for conducting or supplying gas, in such
15 manner as to connect with and be calculated to supply gas to any burner or
16 orifice by or at which gas is consumed, around or without passing through"
17 a meter, for brevity. In addition, the reference to "tampering with" the
18 action of a meter is substituted for the former reference to "injur[ing],
19 alter[ing] or obstruct[ing], or prevent[ing]" the action of a meter. In
20 addition, the former reference to "caus[ing] or procur[ing] ... the action
21 thereof to be obstructed or prevented" is deleted as surplusage in light of
22 the prohibition against "tampering with or damaging" the action of a
23 meter.

24 In subsection (b)(2)(i) of this section, the former reference to a burner or
25 orifice "by or at which gas is consumed" is deleted as surplusage.

26 Also in subsection (b)(2)(i) of this section, the former reference to a
27 "quantity of" gas consumed is deleted as surplusage.

28 In subsection (a)(2) of this section, the former reference to "intent to
29 violate" is deleted as unnecessary in light of the reference to "a violation of
30 this section".

31 In subsection (d) of this section, the former reference to "in the discretion of
32 the court" is deleted as surplusage.

33 194. INTERFERENCE WITH DISTRIBUTION OF ELECTRICITY AND POWER 34 OPERATIONS.

35 (A) ELECTRIC COMPANY DEFINED.

36 IN THIS SECTION, "ELECTRIC COMPANY" HAS THE MEANING STATED IN TITLE 1
37 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

38 (B) SCOPE OF SECTION.

39 THIS SECTION DOES NOT APPLY TO:

1 (1) A PERSON AUTHORIZED BY OR AN EMPLOYEE OF AN ELECTRIC
2 COMPANY; AND

3 (2) SUPERVISION AND CONTROL OF ELECTRIC COMPANIES, THEIR
4 ELECTRIC CONDUCTORS, APPLIANCES, MACHINERY, AND POLES BY THE MUNICIPAL
5 CORPORATION WITHIN WHICH THE ELECTRIC COMPANIES ARE DOING BUSINESS.

6 (C) IN GENERAL.

7 A PERSON MAY NOT WILLFULLY:

8 (1) TAMPER OR INTERFERE WITH THE MATERIAL EQUIPMENT OR
9 FACILITIES OF AN ELECTRIC COMPANY;

10 (2) MAKE A CONNECTION WITH AN ELECTRICAL CONDUCTOR TO USE
11 THE ELECTRICITY; OR

12 (3) TAMPER WITH A METER USED TO REGISTER ELECTRICITY
13 CONSUMED.

14 (D) PRIMA FACIE EVIDENCE.

15 (1) PRIMA FACIE EVIDENCE OF A VIOLATION OF THIS SECTION
16 INCLUDES:

17 (I) A CONNECTION, WIRE, CONDUCTOR, METER ALTERATION, OR
18 OTHER DEVICE THAT DIVERTS ELECTRICITY WITHOUT THE ELECTRIC CURRENT
19 BEING MEASURED OR REGISTERED BY OR ON A METER INSTALLED BY AN ELECTRIC
20 COMPANY THAT MANUFACTURES AND SUPPLIES ELECTRIC CURRENT FOR LIGHT,
21 HEAT, OR POWER;

22 (II) THE USE OF ELECTRICITY FURNISHED BY AN ELECTRIC
23 COMPANY WITHOUT THE ELECTRICITY BEING MEASURED OR REGISTERED ON A
24 METER THAT HAS BEEN FURNISHED BY THE ELECTRIC COMPANY; AND

25 (III) A SHOWING BY A CHECK OR TEST METER INSTALLED OR
26 EMPLOYED BY THE ELECTRIC COMPANY THAT A CUSTOMER USES A LARGER
27 AMOUNT OF ELECTRICITY THAN IS REGISTERED ON THE METER INSTALLED BY THE
28 ELECTRIC COMPANY ON THE CUSTOMER'S PREMISES FOR REGISTERING
29 ELECTRICITY.

30 (2) THE EXAMPLES LISTED IN THIS SUBSECTION ARE PRIMA FACIE
31 EVIDENCE OF THE INTENT TO VIOLATE THIS SECTION BY THE PERSON WHO USES OR
32 RECEIVES THE DIRECT BENEFITS FROM THE USE OR DIVERSION OF THE
33 ELECTRICITY.

34 (E) PENALTY.

1 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
2 ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500 OR IMPRISONMENT
3 NOT EXCEEDING 6 MONTHS OR BOTH.

4 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
5 Utility Companies Article, also added this section. Subsection (a) of this
6 section is added to conform to the terminology of the Public Utility
7 Companies Article. Subsections (b) through (e) of this section are new
8 language derived without substantive change from former Art. 27, § 194.

9 In this section, the defined term "electric company" is substituted for the
10 former terms "electric light and power company" and "company" for
11 consistency.

12 In subsection (b)(2) of this section, the former reference to "lawful"
13 supervision and control of electric companies is deleted as surplusage.

14 Also in subsection (b)(2) of this section, the reference to "municipal
15 corporation" is substituted for the former reference to "municipality" to
16 conform to the terminology used in Art. 23A of the Code.

17 In subsections (c) and (d) of this section, the term "electricity" is
18 substituted for the former term "electric current" for consistency.

19 In subsection (c)(1) of this section, the prohibition that a person may not
20 willfully "tamper or interfere with the material equipment or facilities of
21 an electric company" is substituted for the former prohibition that a person
22 may not willfully "connect or disconnect any electrical conductors
23 belonging to any company using or engaged in the manufacture and supply
24 of electric currents for purposes of light, heat and power or either of them,
25 ... or to in anywise tamper with any meter used to register current
26 consumed, or to interfere with the operation of any dynamo or other
27 electrical appliance of such company, or to tamper with or interfere with
28 the poles, wires or conducts used by such companies", for brevity.

29 In subsection (c)(2) of this section, the former reference to "wasting"
30 electricity is deleted as unnecessary in light of the reference to "use" the
31 electricity.

32 In subsection (e) of this section, the former reference to "in the discretion of
33 the court" is deleted as surplusage.

34 194B. INTERFERENCE WITH CABLE TELEVISION SERVICE.

35 (A) "CABLE TELEVISION SERVICE" DEFINED.

36 IN THIS SECTION, "CABLE TELEVISION SERVICE" MEANS:

37 (1) CABLE AND SATELLITE CABLE PROGRAMMING;

1 (2) SERVICE PROVIDED BY OR THROUGH THE FACILITY OF A CABLE
2 TELEVISION SYSTEM OR CLOSED CIRCUIT COAXIAL CABLE COMMUNICATION
3 SYSTEM; OR

4 (3) A MICROWAVE, SATELLITE, OR SIMILAR TRANSMISSION SERVICE
5 USED WITH A CABLE TELEVISION SYSTEM OR CLOSED CIRCUIT COAXIAL CABLE
6 COMMUNICATION SYSTEM.

7 (B) IN GENERAL.

8 A PERSON MAY NOT:

9 (1) DESTROY, DAMAGE, CUT, TAMPER WITH, INSTALL, TAP, REMOVE,
10 DISPLACE, OR MAKE ANY CONNECTION WITH ANY WIRE, CONDUIT, APPARATUS, OR
11 OTHER EQUIPMENT OF A FRANCHISED CABLE TELEVISION COMPANY OR PRIVATE
12 CABLE TELEVISION COMPANY WITH THE INTENT TO RECEIVE CABLE TELEVISION
13 SERVICES WITHOUT PAYMENT;

14 (2) PREVENT, OBSTRUCT, OR DELAY THE SENDING, CONVEYANCE,
15 DISTRIBUTION, OR RECEIPT OF PROGRAMMING MATERIAL TRANSMITTED BY A
16 FRANCHISED CABLE TELEVISION COMPANY OR A PRIVATE CABLE TELEVISION
17 COMPANY;

18 (3) WITH THE INTENT TO DEPRIVE A COMPANY OF LAWFUL
19 COMPENSATION FOR SERVICES PROVIDED, RECEIVE, ATTEMPT TO RECEIVE, OR
20 ASSIST ANOTHER TO RECEIVE:

21 (I) CABLE TELEVISION SERVICE BY TRICK, USE OF A DECODER, OR
22 OTHER FRAUDULENT MEANS; OR

23 (II) SATELLITE CABLE PROGRAMMING:

24 1. THAT IS OFFERED FOR SALE IN THE PERSON'S AREA
25 THROUGH AN UNAUTHORIZED MARKETING SYSTEM; OR

26 2. THAT IS RECEIVED BY DECODING ENCRYPTED SATELLITE
27 CABLE PROGRAMMING;

28 (4) CONNECT WITH A CABLE, WIRE, COMPONENT, OR OTHER DEVICE
29 USED FOR THE DISTRIBUTION OF CABLE TELEVISION SERVICE WITHOUT AUTHORITY
30 FROM THE CABLE TELEVISION COMPANY;

31 (5) ALTER:

32 (I) A DEVICE INSTALLED WITH THE AUTHORIZATION OF A CABLE
33 TELEVISION COMPANY TO INTERCEPT OR RECEIVE A PROGRAM OR SERVICE
34 CARRIED BY THE COMPANY; OR

1 (II) EQUIPMENT CAPABLE OF DECODING ENCRYPTED SATELLITE
2 CABLE PROGRAMMING TO INTERCEPT OR RECEIVE SATELLITE CABLE
3 PROGRAMMING; OR

4 (6) SELL, RENT, OR OFFER FOR SALE OR RENT TO ANY PERSON A DEVICE
5 OR PLAN FOR A DEVICE WITH THE KNOWLEDGE THAT THE PERSON INTENDS TO USE
6 THE DEVICE OR PLAN TO DO AN ACT PROHIBITED BY THIS SECTION.

7 (C) PRIMA FACIE EVIDENCE OF INTENT.

8 (1) THE DESTROYING OF, DAMAGING, CUTTING, TAMPERING WITH,
9 INSTALLING, TAPPING, REMOVING, DISPLACING, OR MAKING A CONNECTION WITH A
10 WIRE, CONDUIT, APPARATUS, OR OTHER EQUIPMENT OF A FRANCHISED CABLE
11 TELEVISION COMPANY OR PRIVATE CABLE TELEVISION COMPANY IS PRIMA FACIE
12 EVIDENCE OF AN INTENT TO RECEIVE CABLE TELEVISION SERVICES WITHOUT
13 PAYMENT.

14 (2) ACTUAL POSSESSION OF A DEVICE, OR POSSESSION AND CONTROL
15 OF A QUANTITY OF DEVICES THAT INDICATES POSSESSION FOR RESALE IS PRIMA
16 FACIE EVIDENCE OF AN INTENT TO VIOLATE THIS SECTION IF THE DEVICE IS
17 DESIGNED TO FACILITATE AN ACT PROHIBITED BY THIS SECTION.

18 (D) CRIMINAL PENALTIES.

19 (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS
20 SUBSECTION, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
21 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000
22 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

23 (2) A PERSON CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF
24 THIS SECTION IS SUBJECT TO A FINE NOT EXCEEDING \$2,500 OR IMPRISONMENT NOT
25 EXCEEDING 1 YEAR OR BOTH.

26 (3) A PERSON WHO COMMITS AN ACT PROHIBITED BY THIS SECTION FOR
27 PAYMENT OR OFFER OF PAYMENT IS GUILTY OF A MISDEMEANOR AND ON
28 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT
29 EXCEEDING 5 YEARS OR BOTH.

30 (E) CIVIL PENALTIES.

31 IN ADDITION TO SUBSECTION (D) OF THIS SECTION, A PERSON WHO VIOLATES
32 SUBSECTION (B)(3) OR (6) OF THIS SECTION IS LIABLE CIVILLY TO THE AGGRIEVED
33 CABLE TELEVISION COMPANY FOR ALL APPROPRIATE CIVIL DAMAGES AWARDED BY
34 A COURT.

35 (F) INJUNCTION.

36 A CABLE TELEVISION COMPANY MAY BRING AN ACTION TO ENJOIN AND
37 RESTRAIN A VIOLATION OF THIS SECTION.

1 (G) SEIZURE AND FORFEITURE.

2 A DEVICE USED TO VIOLATE THIS SECTION IS SUBJECT TO SEIZURE AND
3 FORFEITURE TO THE STATE.

4 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
5 Utility Companies Article, also added this section, which is derived
6 without substantive change from former Art. 27, § 194B.

7 In subsection (b)(5) of this section, the former reference to "modify" is
8 deleted as unnecessary in light of the reference to "alter".

9 In subsection (g) of this section, the former reference to "electronic or
10 communication equipment" is deleted as implicit in the reference to
11 "device".

12 The Public Utility Companies Article Review Committee notes, for
13 consideration by the General Assembly, that the General Assembly may
14 wish to revise this section substantively to reflect technologies now in use
15 in the telecommunications industry.

16 200. TRANSFER OF TICKETS.

17 (A) IN GENERAL.

18 (1) A PERSON MAY NOT INTENTIONALLY ISSUE, SELL, OR GIVE TO AN
19 UNAUTHORIZED PERSON A TICKET OR INSTRUMENT FOR THE TRANSFER FROM A
20 CONVEYANCE ON ONE PASSENGER LINE OR ROUTE TO A CONVEYANCE ON ANOTHER
21 LINE OR ROUTE OF THE SAME OR A DIFFERENT CARRIER.

22 (2) UNLESS AUTHORIZED TO DO SO, A PERSON MAY NOT
23 INTENTIONALLY RECEIVE A TICKET OR INSTRUMENT FOR THE TRANSFER FROM A
24 CONVEYANCE ON ONE PASSENGER LINE OR ROUTE TO A CONVEYANCE ON ANOTHER
25 LINE OR ROUTE OF THE SAME OR A DIFFERENT CARRIER.

26 (B) PENALTY.

27 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
28 ON CONVICTION IS SUBJECT TO:

29 (1) FOR THE FIRST OFFENSE, A FINE NOT LESS THAN \$10 OR NOT
30 EXCEEDING \$100; AND

31 (2) FOR EACH SUBSEQUENT OFFENSE, A FINE NOT LESS THAN \$100 OR
32 IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

33 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
34 Utility Companies Article, also added this section, which is derived
35 without substantive change from former Art. 27, § 200.

36 In subsection (a) of this section, the former reference to a "written or

1 printed" instrument is deleted as unnecessary.

2 Also in subsection (a) of this section, the reference to an "unauthorized
3 person" is substituted for the former phrase "except to a person lawfully
4 entitled thereto" for clarity.

5 In subsection (b) of this section, the former reference to "in the discretion of
6 the court" is deleted as surplusage.

7 The Public Utility Companies Article Review Committee notes, for
8 consideration by the General Assembly, that subsection (b)(2) of this
9 section sets a minimum fine of \$100, rather than a maximum fine, for each
10 subsequent violation of this section. This setting of a minimum fine
11 appears to violate the prohibition against excessive fines embedded in the
12 Eighth Amendment of the U.S. Constitution and in Article 25 of the
13 Maryland Declaration of Rights.

14 453. "RAILROAD VEHICLE" DEFINED.

15 IN THIS SUBHEADING, "RAILROAD VEHICLE" INCLUDES A CAR, CARRIAGE,
16 ENGINE, LOCOMOTIVE, OR TENDER.

17 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
18 Utility Companies Article, also added this section, which is added to avoid
19 the repetition of references to "car", "carriage", "engine", "locomotive", and
20 "tender".

21 453A. INTERFERENCE WITH RAILROAD.

22 (A) "RAILROAD" DEFINED.

23 IN THIS SECTION, "RAILROAD" INCLUDES A SWITCH, FROG, RAIL, ROADBED,
24 SLEEPER, VIADUCT, BRIDGE, TRESTLE, CULVERT, EMBANKMENT, STRUCTURE, OR
25 APPLIANCE THAT PERTAINS TO OR CONNECTS WITH A RAILROAD.

26 (B) IN GENERAL.

27 A PERSON WHO BREAKS OR DAMAGES A RAILROAD OR PLACES OR CAUSES TO
28 BE PLACED ANYTHING ON A RAILROAD IN THE STATE TO OBSTRUCT, OVERTHROW,
29 OR DIRECT FROM THE TRACK A RAILROAD VEHICLE IS GUILTY OF A FELONY AND ON
30 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT
31 EXCEEDING 10 YEARS OR BOTH.

32 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
33 Utility Companies Article, also added this section, which is derived
34 without substantive change from former Art. 27, § 453.

35 In subsection (a) of this section, the reference to "railroad" is substituted
36 for the former reference to "railway" to conform to the terminology used in
37 this subheading.

1 In subsection (b) of this section, the reference to "damages" a railroad is
2 substituted for the former reference to "injure[s]" a railroad for clarity.

3 Also in subsection (b) of this section, the former reference to a car, vehicle,
4 or carriage "travelling or passing on such railroad ... in this State" is
5 deleted as surplusage.

6 Also in subsection (b) of this section, the former reference to breaking or
7 damaging "in any manner" a railroad is deleted as surplusage.

8 The Public Utility Companies Article Review Committee notes, for the
9 consideration of the General Assembly, that this section appears to be
10 obsolete, and completely included within the prohibition against malicious
11 destruction of property under § 111 of this article.

12 455. UNAUTHORIZED ACCESS TO RAILROAD VEHICLE.

13 A PERSON WHO IS IN OR ON A RAILROAD VEHICLE ON A RAILROAD TRACK IN
14 THE STATE WITHOUT COMPLYING WITH THE LAW OR WITH THE RULES AND
15 REGULATIONS OF THE RAILROAD COMPANY IS GUILTY OF A MISDEMEANOR AND ON
16 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$25 OR IMPRISONMENT NOT
17 EXCEEDING 1 MONTH OR BOTH.

18 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
19 Utility Companies Article, also added this section, which is derived
20 without substantive change from the first clause of the first sentence of
21 former Art. 27, § 455.

22 The reference to imprisonment "not exceeding" 1 month or both is added
23 for clarity.

24 The former reference to "cling, climb, jump, step or in any other way get
25 upon" a railroad vehicle is deleted as included in the reference to a person
26 who is "in or on a railroad vehicle".

27 Also in this section, the former reference to a railroad vehicle "whether the
28 same be freight, passenger, coal or otherwise" is deleted as surplusage.

29 The former reference to a person "who shall be on any part of" any
30 locomotive, engine, or car is deleted as included in the reference to a person
31 who is in or on a railroad vehicle.

32 The former reference to "permission under" the rules and regulations of
33 the railroad is deleted as surplusage. In addition, the former references to
34 "any court of competent jurisdiction" and imprisonment "in jail or in the
35 house of correction" are deleted as surplusage as is the former reference to
36 allowing a person to be subject to either a fine or imprisonment or both "in
37 the discretion of the court before which the case may be tried".

38 The Public Utility Companies Article Review Committee notes that the

1 second clause and third clause of the first sentence and the second
 2 sentence of former Art. 27, § 455 are deleted as surplusage or obsolete. The
 3 second clause of the first sentence required that a railroad company
 4 provide free transportation to prison for a person who is convicted of
 5 unlawfully getting on a train as well as for an officer in charge of the
 6 person. The third clause allows the court to commit a minor convicted of
 7 getting on a train unlawfully to 2 years in any reformatory institution.
 8 Currently, unless certain exceptions apply, children who have received a
 9 citation for a violation are under the jurisdiction of juvenile court, which is
 10 governed by Title 3, Subtitle 8 of the Courts Article. Finally, the second
 11 sentence of former Art. 27, § 455, which states that previous inconsistent
 12 laws are repealed, is unnecessary in light of Art. 1, § 23 of the Code.

13 456. INTERFERENCE WITH TRAIN SIGNALS.

14 A PERSON, OTHER THAN AN AUTHORIZED EMPLOYEE OF A RAILROAD COMPANY,
 15 WHO GIVES A TRAIN SIGNAL TO START A STOPPED TRAIN OR TO STOP A MOVING
 16 TRAIN IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO
 17 IMPRISONMENT NOT EXCEEDING 6 MONTHS.

18 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
 19 Utility Companies Article, also added this section, which is derived
 20 without substantive change from former Art. 27, § 456.

21 The former reference to a person "who shall interfere with the signals by
 22 which the movements of the trains of such railroad company are governed"
 23 is deleted as surplusage.

24 The former reference to "the house of correction or the county or city jail" is
 25 deleted as surplusage.

26 458. STRIKING RAILROAD VEHICLE WITH OBJECT.

27 A PERSON WHO WILLFULLY AND MALICIOUSLY CAUSES AN OBJECT TO STRIKE
 28 A RAILROAD VEHICLE ON A RAILROAD, AS THAT TERM IS DEFINED IN THE PUBLIC
 29 UTILITY COMPANIES ARTICLE, OR ELECTRIC RAILWAY IN THE STATE BY SHOOTING,
 30 THROWING, OR CAUSING AN OBJECT TO FALL IS GUILTY OF A MISDEMEANOR AND ON
 31 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT
 32 EXCEEDING 5 YEARS OR BOTH.

33 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
 34 Utility Companies Article, also added this section, which is derived
 35 without substantive change from former Art. 27, § 458.

36 The former reference to shooting at or throwing or cause to fall or strike
 37 against "any occupant" of a railroad or railway is deleted as unnecessary in
 38 light of the statutes prohibiting assault. See Art. 27, §§ 12A, 12A-1, and
 39 12A-2.

40 The reference to "an object" is substituted for the former reference to "any

1 wood, stone or other matter or thing" for brevity.

2 The former reference to strike "against, into or upon" a railroad or electric
3 railway is deleted as surplusage.

4 The former reference to a conviction "before any court of competent
5 jurisdiction" is deleted as surplusage.

6 The Public Utility Companies Article Review Committee notes, for
7 consideration by the General Assembly, that this section appears obsolete
8 in light of the State criminal offenses concerning assault and reckless
9 endangerment, which are codified at Art. 27, §§ 12A, 12A-1, and 12A-2 of
10 the Code, and the federal criminal offenses concerning entering trains to
11 commit a crime and wrecking trains, which are codified at 18 U.S.C. §§
12 1991 and 1992.

13 460. UNAUTHORIZED BUYING OR SELLING TICKETS.

14 (A) IN GENERAL.

15 (1) UNLESS AUTHORIZED BY A RAILROAD COMPANY THAT MAINTAINS
16 OFFICES IN THE STATE, A PERSON MAY NOT:

17 (I) BUY, SELL, OR ENGAGE IN THE BUSINESS OF BUYING OR
18 SELLING RAILROAD TICKETS OR THE UNUSED PARTS OF TICKETS;

19 (II) ACT AS VENDOR OR BROKER OF WHOLE OR PARTLY USED
20 RAILROAD TICKETS;

21 (III) SOLICIT PERSONALLY OR BY SIGN, ADVERTISEMENT, OR
22 OTHERWISE FOR BUYING OR SELLING TICKETS; OR

23 (IV) AID OR ABET IN BUYING OR SELLING TICKETS WITHIN THE
24 STATE.

25 (2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS
26 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
27 EXCEEDING \$100 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

28 (3) EACH ACT OF BUYING OR SELLING IS A SEPARATE OFFENSE.

29 (B) ENFORCEMENT.

30 IF A VIOLATION OF THIS SECTION OCCURS IN A COUNTY OR THE CITY OF
31 BALTIMORE, THE STATE'S ATTORNEY FOR THE AFFECTED COUNTY OR THE CITY
32 SHALL ENFORCE THIS SECTION.

33 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
34 Utility Companies Article, also added this section, which is derived
35 without substantive change from former Art. 27, § 460.

1 In subsection (a)(1)(i), (iii), and (iv) of this section, the reference to "buying
2 or selling" tickets is substituted for the former reference to "the buying and
3 selling" of tickets, to conform to the terminology used in subsection (a)(3) of
4 this section.

5 The Public Utility Companies Article Review Committee notes, for
6 consideration by the General Assembly, that this section appears obsolete
7 in light of the prohibition against theft, which is codified at Art. 27, § 342
8 of the Code and which carries a maximum penalty of a \$300 fine or
9 imprisonment of 18 months, or both, if the property or that service that
10 was subject of the theft has a value of less than \$300. If the property or
11 service that was the subject of the theft has a value of more than \$300, the
12 maximum penalty is a \$1,000 fine or imprisonment for 15 years, or both.

13 556. DIVULGING CONTENTS OF MESSAGES.

14 (A) IN GENERAL.

15 (1) IN THIS SUBSECTION, "TELEGRAPH COMPANY" AND "TELEGRAPH
16 LINES" HAVE THE MEANINGS STATED IN TITLE 1 OF THE PUBLIC UTILITY
17 COMPANIES ARTICLE.

18 (2) A CLERK, OPERATOR, MESSENGER, OR OTHER PERSON CONNECTED
19 IN ANY CAPACITY WITH A TELEGRAPH COMPANY OR TELEPHONE COMPANY, OR WITH
20 INDIVIDUALS OPERATING TELEPHONE LINES OR TELEGRAPH LINES FOR PROFIT IN
21 THE STATE, MAY NOT:

22 (I) WILLFULLY DIVULGE THE CONTENTS OR NATURE OF THE
23 CONTENTS OF A PRIVATE COMMUNICATION THAT IS ENTRUSTED TO THE PERSON
24 FOR TRANSMISSION OR DELIVERY; OR

25 (II) WILLFULLY REFUSE OR NEGLECT TO TRANSMIT OR DELIVER A
26 PRIVATE COMMUNICATION.

27 (B) PENALTY.

28 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
29 ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500 OR IMPRISONMENT
30 NOT EXCEEDING 3 MONTHS OR BOTH.

31 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
32 Utility Companies Article, also added this section. Subsection (a)(1) of this
33 section is new language added to conform to the terminology of the Public
34 Utility Companies Article. Subsections (a)(2) and (b) are derived without
35 substantive change from former Art. 23, § 324 and Art. 27, § 556.

36 In the introductory language of subsection (a)(2) of this section, the former
37 reference to "corporation" is deleted as unnecessary as included in the
38 reference to "company".

1 In subsection (b) of this section, the former references to on conviction
2 "before any court having criminal jurisdiction" and imprisonment "in the
3 jail in the county or city where such conviction shall be had" are deleted as
4 surplusage.

5 Also in subsection (b) of this section, the former reference to "in the
6 discretion of the court" is deleted as surplusage.

7 557A. DEVICES TO AVOID CHARGES.

8 (A) DEFINITIONS.

9 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
10 INDICATED.

11 (2) "EQUIPMENT" MEANS AN INSTRUMENT, APPARATUS, OR DEVICE.

12 (3) "PLANS" MEANS INSTRUCTIONS FOR MAKING OR ASSEMBLING
13 EQUIPMENT.

14 (B) IN GENERAL.

15 A PERSON MAY NOT KNOWINGLY MAKE, SELL, OFFER, OR ADVERTISE FOR SALE,
16 POSSESS, OR GIVE OR OTHERWISE TRANSFER TO ANOTHER, WITHOUT THE
17 APPROPRIATE PAYMENT OF CHARGES, EQUIPMENT OR PLANS DESIGNED OR USED
18 TO:

19 (1) OBTAIN TELEPHONE OR TELEGRAPH SERVICE;

20 (2) TRANSMIT A MESSAGE, SIGNAL, OR OTHER COMMUNICATION BY
21 TELEPHONE OR TELEGRAPH OR OVER TELEPHONE OR TELEGRAPH FACILITIES; OR

22 (3) CONCEAL OR ASSIST IN CONCEALING FROM A SUPPLIER OF
23 TELEPHONE OR TELEGRAPH SERVICE OR FROM A PERSON RESPONSIBLE FOR
24 ENFORCING THIS SECTION, THE EXISTENCE, ORIGIN, OR DESTINATION OF A
25 MESSAGE, SIGNAL, OR OTHER COMMUNICATION BY TELEPHONE OR TELEGRAPH OR
26 OVER TELEPHONE OR TELEGRAPH FACILITIES.

27 (C) CONTRABAND.

28 ANY EQUIPMENT OR PLANS USED IN VIOLATION OF THIS SECTION:

29 (1) MAY BE SEIZED BY COURT ORDER OR UNDER A WARRANT; AND

30 (2) ON CONVICTION OF A PERSON WITH AN OWNERSHIP INTEREST IN
31 THEM, SHALL BE DESTROYED AS CONTRABAND BY THE COURT IN WHICH THE
32 PERSON IS CONVICTED.

33 (D) PENALTY.

1 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
2 ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500 OR IMPRISONMENT
3 NOT EXCEEDING 12 MONTHS OR BOTH.

4 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
5 Utility Companies Article, also added this section, which is derived
6 without substantive change from former Art. 27, § 557A.

7 In the introductory language of subsection (b) of this section, the former
8 references to "adapted" and "employed" are deleted as unnecessary in light
9 of the references to "designed" and "used".

10 In subsection (d) of this section, the former reference to "in the discretion of
11 the court" is deleted as surplusage.

12 **Article - Business Regulation**

13 19-102. COMMON CARRIER -- SALE OF FREIGHT AND BAGGAGE.

14 (A) SCOPE OF SECTION.

15 THIS SECTION APPLIES TO EACH CORPORATION OR COMPANY THAT ACTS AS A
16 COMMON CARRIER OR FORWARDER IN THE STATE, INCLUDING A RAILROAD,
17 STEAMBOAT, TRANSPORTATION, OR FORWARDING COMPANY.

18 (B) SALE OF UNCLAIMED FREIGHT.

19 (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A
20 COMMON CARRIER OR FORWARDER MAY SELL AT PUBLIC AUCTION FREIGHT THAT IS
21 FORWARDED ON THE COMMON CARRIER OR FORWARDER TO A POINT IN THE STATE
22 IF:

23 (I) FOR 3 MONTHS AFTER ARRIVING AT ITS DESTINATION THE
24 FREIGHT REMAINS UNCLAIMED AND THE LEGAL CHARGES ON THE FREIGHT REMAIN
25 UNPAID;

26 (II) THE OWNER OR CONSIGNEE CANNOT BE FOUND AFTER
27 DILIGENT INQUIRY, OR, FOR 3 MONTHS AFTER BEING FOUND AND NOTIFIED OF THE
28 ARRIVAL OF THE FREIGHT, DOES NOT RECEIVE THE FREIGHT AND PAY THE LEGAL
29 CHARGES ON THE FREIGHT; AND

30 (III) THE COMMON CARRIER OR FORWARDER AT LEAST 10 DAYS
31 BEFORE THE SALE HAS POSTED NOTICES OF THE TIME AND PLACE OF THE SALE IN
32 THREE PUBLIC PLACES IN THE COUNTY OR MUNICIPAL CORPORATION IN WHICH THE
33 SALE IS TO BE MADE.

34 (2) OUT OF THE PROCEEDS OF THE SALE THE COMMON CARRIER OR
35 FORWARDER:

1 (I) MAY PAY THE LEGAL CHARGES, INCLUDING THE COSTS OF
2 STORAGE OF THE FREIGHT; AND

3 (II) SHALL PAY, ON DEMAND, ANY BALANCE TO THE OWNER OR
4 CONSIGNEE OF THE FREIGHT.

5 (C) SALE OF LIVESTOCK AND PERISHABLE OR DAMAGED FREIGHT.

6 (1) A JUDGE OF THE CIRCUIT COURT FOR A COUNTY IN WHICH FREIGHT
7 IS LOCATED THAT HAS BEEN FORWARDED BY A COMMON CARRIER OR FORWARDER
8 MAY PASS AN ORDER FOR THE SALE OF THE FREIGHT IF THE JUDGE DEEMS THE
9 SALE EXPEDIENT, ON THE TERMS AND NOTICE THAT THE ORDER PRESCRIBES, IF:

10 (I) THE COMMON CARRIER OR FORWARDER FILES WITH THE
11 JUDGE AN APPLICATION, VERIFIED BY AFFIDAVIT, THAT SETS FORTH THE REASONS
12 FOR WHICH THE APPLICATION IS MADE;

13 (II) THE FREIGHT IS LIVESTOCK, IS PERISHABLE, OR IS SO
14 DAMAGED OR OF SUCH OTHER CHARACTER AS TO MAKE IT IMPRACTICABLE FOR IT
15 TO REMAIN IN THE POSSESSION OF THE COMPANY OWNING OR OPERATING THE
16 COMMON CARRIER OR FORWARDER FOR 3 MONTHS AFTER ITS ARRIVAL AT ITS
17 DESTINATION; AND

18 (III) THE OWNER OR CONSIGNEE CANNOT BE FOUND AFTER
19 DILIGENT INQUIRY, OR, FOR 24 HOURS AFTER BEING FOUND AND NOTIFIED OF THE
20 ARRIVAL OF THE FREIGHT, DOES NOT RECEIVE THE FREIGHT AND PAY THE LEGAL
21 CHARGES ON THE FREIGHT.

22 (2) OUT OF THE PROCEEDS OF THE SALE, THE COMMON CARRIER OR
23 FORWARDER:

24 (I) MAY PAY THE EXPENSES INCIDENT TO THE SALE AND LEGAL
25 CHARGES, INCLUDING THE COST OF THE KEEP OF THE LIVESTOCK OR THE COST OF
26 STORAGE OF THE FREIGHT; AND

27 (II) SHALL PAY, ON DEMAND, ANY BALANCE TO THE OWNER OR
28 CONSIGNEE OF THE FREIGHT.

29 (D) SALE OF UNCLAIMED BAGGAGE.

30 (1) IN THIS SUBSECTION, "BAGGAGE" INCLUDES PERSONAL BAGGAGE,
31 SAMPLE PACKAGES, BUNDLES, OR LUGGAGE.

32 (2) A COMMON CARRIER OR FORWARDER MAY SELL AT PUBLIC AUCTION
33 BAGGAGE THAT IS TRANSPORTED BY THE COMMON CARRIER OR FORWARDER TO
34 ANY POINT IN THE STATE IF:

35 (I) THE BAGGAGE REMAINS AT ITS DESTINATION FOR 3 MONTHS
36 OR, IF IT IS LOST OR STRAY BAGGAGE, REMAINS UNCLAIMED BY THE OWNER OR THE
37 CONSIGNEE FOR 3 MONTHS AT THE PLACE TO WHICH IT HAS BEEN TRANSPORTED;

1 (II) THE OWNER OR CONSIGNEE CANNOT BE FOUND AFTER
2 DILIGENT INQUIRY, OR, AFTER BEING FOUND AND NOTIFIED OF THE ARRIVAL OF
3 THE BAGGAGE, DOES NOT RECEIVE THE BAGGAGE AND PAY THE REASONABLE
4 CHARGES ON THE BAGGAGE; AND

5 (III) THE COMMON CARRIER OR FORWARDER AT LEAST 10 DAYS
6 BEFORE THE SALE HAS POSTED NOTICES OF THE TIME AND PLACE OF THE SALE IN
7 THREE PUBLIC PLACES IN THE COUNTY OR MUNICIPAL CORPORATION IN WHICH THE
8 SALE IS TO BE MADE.

9 (3) OUT OF THE PROCEEDS OF THE SALE THE COMMON CARRIER OR
10 FORWARDER:

11 (I) MAY PAY THE LEGAL CHARGES, INCLUDING THE COSTS OF
12 STORAGE OF THE BAGGAGE; AND

13 (II) SHALL PAY, ON DEMAND, ANY BALANCE TO THE OWNER OR
14 CONSIGNEE OF THE BAGGAGE.

15 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public Utility
16 Companies Article, also enacted this section, which is derived without
17 substantive change from former Art. 23, §§ 212 through 215.

18 In subsection (a) of this section, the reference to a "railroad" is added to the
19 list of types of common carriers or forwarders that this section applies to
20 because former Art. 23, §§ 212 through 214 applied to railroads.

21 In subsections (b), (c), and (d) of this section, the references to a "common
22 carrier or forwarder" are substituted for the former references to a
23 "railroad" or "railroad company" to reflect the scope of the entire section as
24 provided in subsection (a) of this section.

25 In subsections (b)(1)(i), (c)(1)(ii), and (d)(2)(i) of this section, the references
26 to "its destination" have been substituted for the former references to "the
27 point to which it shall have been directed" for brevity.

28 In subsections (b)(1)(ii), (c)(1)(iii), and (d)(2)(ii) of this section, the
29 references to the "consignee" are substituted for the former references to
30 the "person to whom the same is consigned" for brevity.

31 In subsection (b) of this section, the reference to the exception "in
32 subsection (c) of this section" is added for clarity.

33 In subsections (b)(1)(iii) and (d)(2)(iii) of this section, the references to a
34 "municipal corporation" are substituted for the former references to a "city"
35 to conform to terminology used under Md. Constitution, Article XI-E and
36 Art. 23A of the Code.

37 In subsection (c)(1) of this section, the phrase "to any point in this State",
38 which formerly described where the freight had been forwarded, is deleted

1 as unnecessary because of the reference to "a county in which freight is
2 located".

3 In subsection (d) of this section, the reference to "doing business as
4 common carriers" is deleted as unnecessary, given the scope of this section
5 as provided in subsection (a) of this section.

6 The Public Utility Companies Article Review Committee notes, for the
7 consideration of the General Assembly, that the reference in this section to
8 "steamboat" companies may be obsolete. In addition, the only railroad
9 company in the State that currently handles baggage is Amtrack, which is
10 not subject to State regulation.

11 Defined term: "County" § 1-101

12 **Article - Commercial Law**

13 **SUBTITLE 25A. HEARING AIDS AND TELEPHONES.**

14 **14-25A-01. USE OF HEARING AID DEVICES NOT TO BE IMPAIRED.**

15 **(A) PROHIBITION ON SALE OF CERTAIN TELEPHONES.**

16 A DISTRIBUTOR OF TELEPHONE EQUIPMENT, RECEIVERS, OR COMPONENTS
17 MAY NOT SELL, RENT, LEASE, OR INSTALL TELEPHONES THAT INCLUDE EQUIPMENT,
18 RECEIVERS, OR COMPONENTS PREVENTING THE EFFECTIVE USE OF HEARING AID
19 DEVICES UNLESS THE DISTRIBUTOR NOTIFIES THE CUSTOMER THAT THE
20 EQUIPMENT IS INCOMPATIBLE WITH HEARING AID DEVICES.

21 **(B) PENALTY.**

22 A PERSON WHO WILLFULLY VIOLATES THIS SECTION IS GUILTY OF A
23 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500 OR
24 IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

25 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public Utility
26 Companies Article, also enacted this section, which is derived without
27 substantive change from former Art. 23, § 326B.

28 Former Art. 23, § 321, which regulated the powers and rights of telephone
29 and telegraph corporations, is transferred to the Session Laws.

30 **Article - Labor and Employment**

31 **TITLE 5.5. RAILROAD SAFETY AND HEALTH.**

32 **5.5-101. DEFINITIONS.**

33 **(A) IN GENERAL.**

1 IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

2 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
3 Utility Companies Article, also enacted this subsection, which is
4 substituted for the introductory language of former Art. 89, § 83.

5 (B) COMMISSIONER.

6 "COMMISSIONER" MEANS THE COMMISSIONER OF LABOR AND INDUSTRY.

7 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
8 Utility Companies Article, also enacted this subsection, which is derived
9 without substantive change from former Art. 89, § 83(1) as it defined
10 "Commissioner" to mean the "Commissioner of Labor and Industry".

11 Former Art. 89, § 83(1), as it defined "Commissioner" to mean an
12 "authorized representative" of the Commissioner, is deleted as
13 unnecessary in light of former Art. 89, § 97 -- now § 5.5-104(d) of this title
14 -- which authorizes the Commissioner to assign any function or duty
15 under this title to the Chief Inspector for Railroad Safety and Health; and
16 as potentially misleading in light of the numerous references throughout
17 this title that, at times, include an express reference to an "authorized
18 representative" of the Commissioner and at times omit the express
19 reference. This revised title retains that express reference whenever it
20 appeared in the former laws.

21 The revision of this title clarifies the apparent intent of the General
22 Assembly to allow subdelegation, in specific instances, to persons other
23 than the Chief Inspector for Railroad Safety and Health.

24 (C) EMPLOYEE.

25 (1) "EMPLOYEE" INCLUDES EACH PERSON IN THE SERVICE OF A
26 RAILROAD WHO PERFORMS FOR THE RAILROAD ANY WORK DEFINED AS WORK OF AN
27 EMPLOYEE IN ACCORDANCE WITH ORDERS AND DECISIONS OF THE FEDERAL
28 DEPARTMENT OF TRANSPORTATION AND OVER WHOM THE RAILROAD MAINTAINS
29 CONTINUING AUTHORITY TO SUPERVISE AND DIRECT THE MANNER OF THE WORK.

30 (2) "EMPLOYEE" DOES NOT INCLUDE ANY PERSON WHO PERFORMS
31 WORK FOR A RAPID RAIL TRANSIT SYSTEM OR LIGHT RAIL SYSTEM OPERATING IN
32 THE STATE.

33 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
34 Utility Companies Article, also enacted this subsection, which is derived
35 without substantive change from former Art. 89, § 83(4).

36 In paragraph (1) of this subsection, the former reference to "subordinate
37 official" is deleted as included in the word "employee".

38 Also in paragraph (1) of this subsection, the words "orders and decisions of

1 the federal Department of Transportation" are substituted for the former
2 reference to "orders of the Interstate Commerce Commission", to reflect the
3 provisions of Public Law 104-88, the ICC Termination Act of 1995, which
4 abolished the Interstate Commerce Commission and transferred several of
5 its functions to the federal Department of Transportation.

6 Also in paragraph (1) of this subsection, the former language qualifying
7 "orders" of the Interstate Commerce Commission as those "now in effect" or
8 as may be "amended or interpreted" by order of the Interstate Commerce
9 Commission pursuant to its authority is deleted as unnecessary, since the
10 general rules of statutory construction eliminate any need for the
11 language.

12 In paragraph (2) of this subsection, the reference to a "light rail system" is
13 added for clarity.

14 Defined terms: "Person" § 1-101

15 "State" § 1-101

16 (D) RAILROAD.

17 (1) "RAILROAD" INCLUDES EACH COMMON CARRIER BY RAIL AND ALL
18 BRANCHES, BRIDGES, CARS, EXTENSIONS, FERRIES, PLANTS, SPURS, STATIONS,
19 SUBWAYS, SWITCHES, TERMINAL FACILITIES, TRACKS, TUNNELS, AND ALL
20 EQUIPMENT USED ON OR IN CONNECTION WITH THEM.

21 (2) "RAILROAD" DOES NOT INCLUDE A RAPID RAIL TRANSIT SYSTEM OR
22 LIGHT RAIL SYSTEM OPERATING IN THE STATE.

23 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
24 Utility Companies Article, also enacted this subsection, which is derived
25 without substantive change from former Art. 89, § 83(5).

26 In paragraph (1) of this subsection, the phrase "however powered", which
27 formerly described "common carrier by rail", is deleted as unnecessary,
28 since the phrase adds no meaning to the definition and potentially could be
29 misleading.

30 In paragraph (2) of this subsection, the reference to a "light rail system" is
31 added for clarity.

32 Defined term: "State" § 1-101

33 (E) RAILROAD COMPANY.

34 "RAILROAD COMPANY" MEANS:

35 (1) THE OPERATOR OF A RAILROAD OPERATING IN THE STATE; AND

1 (2) THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE, WHILE
2 OPERATING A RAILROAD.

3 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
4 Utility Companies Article, also enacted this subsection, which is derived
5 without substantive change from former Art. 89, § 83(2).

6 In item (2) of this subsection, the phrase "while operating a railroad" is
7 added for accuracy, since application to the State and political subdivisions
8 is limited and does not, for example, apply to them with respect to
9 operation of a rapid rail transit system.

10 Defined terms: "State" § 1-101

11 "Railroad" § 5.5-101

12 (F) WORKING DAY.

13 (1) "WORKING DAY" MEANS ANY DAY THAT OCCURS MONDAY THROUGH
14 FRIDAY UNLESS THE DAY IS DESIGNATED AS A HOLIDAY FOR EMPLOYEES OF THE
15 STATE.

16 (2) "WORKING DAY" DOES NOT INCLUDE A SATURDAY OR SUNDAY.

17 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
18 Utility Companies Article, also enacted this subsection, which is derived
19 without substantive change from former Art. 89, § 83(3).

20 Defined term: "State" § 1-101

21 5.5-102. PURPOSE OF TITLE.

22 IT IS THE INTENT AND PURPOSE OF THIS TITLE TO PROMOTE SAFETY AND
23 HEALTH IN ALL AREAS OF RAILROAD OPERATIONS, TO REDUCE RAILROAD RELATED
24 ACCIDENTS, TO REDUCE DEATHS AND INJURIES TO ALL PERSONS, TO REDUCE
25 DAMAGE TO PROPERTY CAUSED BY ACCIDENTS INVOLVING RAILROADS, AND TO THE
26 EXTENT POSSIBLE, TO ASSURE THE SAFETY AND HEALTH OF ALL PERSONS AND THE
27 PROTECTION OF PROPERTY BY PROVIDING FOR:

28 (1) AN EFFECTIVE ENFORCEMENT AND COMPLIANCE PROGRAM;

29 (2) DEVELOPMENT AND ADOPTION OF SAFETY AND HEALTH
30 STANDARDS AND REGULATIONS; AND

31 (3) APPROPRIATE REPORTING PROCEDURES WITH RESPECT TO SAFETY
32 AND HEALTH IN RAILROAD OPERATIONS TO HELP ACHIEVE THE OBJECTIVE OF THIS
33 TITLE AND TO DESCRIBE ACCURATELY THE NATURE OF RAILROAD SAFETY AND
34 HEALTH HAZARDS AND PROBLEMS.

35 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
36 Utility Companies Article, also enacted this section, which is derived

1 without substantive change from former Art. 89, § 82.

2 Defined terms: "Person" § 1-101

3 "Railroad" § 5.5-101

4 "State" § 1-101

5 5.5-103. SCOPE OF TITLE.

6 THIS TITLE DOES NOT APPLY TO ANY ACCEPTABLE WORKING CONDITIONS
7 DEFINED IN A COLLECTIVE BARGAINING AGREEMENT.

8 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
9 Utility Companies Article, also enacted this section, which is derived
10 without substantive change from former Art. 89, § 85(g).

11 5.5-104. AUTHORITY OF COMMISSIONER; DELEGATION.

12 (A) IN GENERAL.

13 THE COMMISSIONER SHALL:

14 (1) ADMINISTER AND ENFORCE THE PROVISIONS OF THIS TITLE;

15 (2) ADOPT REGULATIONS TO ESTABLISH RULES OF PROCEDURE FOR
16 HEARINGS HELD IN ACCORDANCE WITH THIS TITLE;

17 (3) ESTABLISH RECORD KEEPING AND REPORTING PROCEDURES
18 NECESSARY TO CARRY OUT THE DUTIES CREATED UNDER THIS TITLE;

19 (4) ACCEPT AND RECEIVE FROM ANY AGENCY OR AGENT OF THE
20 FEDERAL GOVERNMENT GRANTS OF MONEY APPROPRIATED UNDER ANY ACT OF THE
21 UNITED STATES CONGRESS RELATING TO RAILROAD SAFETY AND HEALTH; AND

22 (5) HAVE EXCLUSIVE JURISDICTION INVOLVING ALL AREAS OF
23 RAILROAD SAFETY AND HEALTH AS PROVIDED UNDER THIS TITLE.

24 (B) OFFICIAL ACTS; SUBPOENAS.

25 (1) TO CARRY OUT THIS TITLE, THE COMMISSIONER OR AUTHORIZED
26 REPRESENTATIVE OF THE COMMISSIONER MAY ADMINISTER AN OATH, CERTIFY TO
27 AN OFFICIAL ACT, TAKE OR CAUSE TO BE TAKEN A DEPOSITION OF A WITNESS, OR
28 ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS TO TESTIFY OR THE
29 PRODUCTION OF PAPERS, BOOKS, DOCUMENTS, RECORDS, AND TESTIMONY.

30 (2) IF A PERSON FAILS TO COMPLY WITH A LAWFULLY ISSUED
31 SUBPOENA, ON APPLICATION OF THE COMMISSIONER OR AUTHORIZED
32 REPRESENTATIVE OF THE COMMISSIONER IN A CONTEMPT PROCEEDING, A COURT
33 OF COMPETENT JURISDICTION MAY COMPEL THE PERSON TO COMPLY.

34 (C) USE OF OTHER RESOURCES.

1 TO ASSIST IN CARRYING OUT THIS TITLE, THE COMMISSIONER MAY ACCEPT
 2 AND USE ANY SERVICE, FACILITY, OR EMPLOYEE OF ANY UNIT OF THE STATE OR
 3 POLITICAL SUBDIVISION, WITH THE CONSENT OF THE UNIT OR SUBDIVISION AND
 4 WITH OR WITHOUT REIMBURSEMENT.

5 (D) DELEGATION.

6 THE COMMISSIONER MAY ASSIGN ANY FUNCTION OR DUTY UNDER THIS TITLE
 7 TO THE CHIEF INSPECTOR FOR RAILROAD SAFETY AND HEALTH.

8 (E) LIMITATION ON AUTHORITY.

9 NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, THE
 10 COMMISSIONER HAS NO JURISDICTION IN ANY AREA OF RAILROAD SAFETY AND
 11 HEALTH UNDER THIS TITLE RELATING TO ANY RAPID RAIL TRANSIT SYSTEM OR
 12 LIGHT RAIL SYSTEM OPERATING IN THE STATE.

13 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
 14 Utility Companies Article, also enacted this section, which is derived
 15 without substantive change from former Art. 89, §§ 97 and 84(a)(1), (6), (8),
 16 (9), (10), and (11), (b), and (c).

17 In subsection (a)(2) of this section, the reference to "regulations" is added
 18 to clarify the application of Title 10, Subtitle 1 of the State Government
 19 Article. Section 10-130(g) of the State Government Article defines a
 20 "regulation" to include a statement adopted by a unit to govern its
 21 procedures. As to rules of procedures for hearings under this title, see
 22 COMAR 09.12.91.02.

23 In subsection (a)(5) of this section, the reference to areas of railroad safety
 24 and health "as provided under this title" is substituted for the former
 25 language stating an exception for those areas "not transferred in this
 26 subtitle" to state expressly that which formerly was derived by negative
 27 inference.

28 In subsection (b)(1) of this section, the phrase "[t]o carry out this title" is
 29 added to clarify the extent of the Commissioner's authority. Other
 30 provisions elsewhere in State law that are administered by the
 31 Commissioner of Labor and Industry do not necessarily authorize the same
 32 activities.

33 In subsection (e) of this section, the reference to a "light rail system" is
 34 added for clarity.

35 As to appointment of the Chief Inspector for Railroad Safety and Health,
 36 see § 2-104(d) of this article.

37 Defined terms: "Commissioner" § 5.5-101

38 "Person" § 1-101

39 "Railroad" § 5.5-101

1 "State" § 1-101

2 5.5-105. TRACK CLEARANCE CERTIFICATES FOR CONSTRUCTION NEAR RAILROAD
3 TRACKS.

4 FOR ANY CONSTRUCTION WITHIN 8 FEET 6 INCHES LATERALLY FROM THE
5 CENTER LINE OF A RAILROAD TRACK OR WITHIN 22 FEET ABOVE THE TOP OF THE
6 RAIL, THE APPLICATION FOR A BUILDING PERMIT MUST BE ACCOMPANIED BY A
7 CLEARANCE CERTIFICATE FROM THE COMMISSIONER TO SHOW THAT THE
8 PROPOSED CONSTRUCTION COMPLIES WITH REQUIREMENTS RELATING TO
9 DISTANCE FROM AND HEIGHT OVER A RAILROAD TRACK.

10 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
11 Utility Companies Article, also enacted this section, which is derived
12 without substantive change from former Art. 89, § 100.

13 Defined terms: "Commissioner" § 5.5-101

14 "Railroad" § 5.5-101

15 5.5-106. COST OF ADMINISTRATION.

16 (A) BUDGETARY EXPENSE OF DIVISION OF LABOR AND INDUSTRY.

17 (1) THE PROPOSED BUDGET OF THE DIVISION OF LABOR AND INDUSTRY
18 SHALL INCLUDE AN APPROPRIATION FROM THE GENERAL FUND OF THE STATE TO
19 COVER THE COST OF ADMINISTERING THIS TITLE.

20 (2) UNLESS THE BOARD OF PUBLIC WORKS EXERCISES THE OPTION
21 UNDER SUBSECTION (B) OF THIS SECTION, THE PUBLIC SERVICE COMMISSION SHALL
22 REIMBURSE THE GENERAL FUND FOR THE COST OF ADMINISTERING THIS TITLE
23 FROM MONEY THE PUBLIC SERVICE COMMISSION RECEIVES UNDER § 2-110 OF THE
24 PUBLIC UTILITY COMPANIES ARTICLE .

25 (B) ASSESSMENT AT OPTION OF BOARD OF PUBLIC WORKS.

26 (1) THE BOARD OF PUBLIC WORKS MAY ADOPT A REGULATION TO
27 ASSESS, FAIRLY AND AS EQUALLY AS POSSIBLE, EACH RAILROAD COMPANY
28 OPERATING IN THE STATE THE COST OF THE STATE'S SHARE OF ACTIVITIES UNDER
29 THIS TITLE.

30 (2) THE AMOUNT TO BE REIMBURSED TO THE STATE GENERAL FUND
31 MAY NOT EXCEED \$1 MILLION IN ANY FISCAL YEAR.

32 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
33 Utility Companies Article, also enacted this section, which is derived
34 without substantive change from former Art. 89, § 99.

35 Subsection (a) of this section is revised to conform to the language of §
36 5-204 of this article, which codifies an identical provision related to the
37 program under the Maryland Occupational Safety and Health Act.

1 In subsection (b)(1) of this section, the word "regulation" is substituted for
2 the former word "rule" to conform to the language of Title 10, Subtitle 1 of
3 the State Government Article, which governs statements adopted by a unit
4 of State government to carry out a law that the unit administers. For the
5 definition of "regulation", see § 10-101(g) of the State Government Article.

6 Defined terms: "Railroad company" § 5.5-101

7 "State" § 1-101

8 5.5-107. ENFORCEMENT BY ATTORNEY GENERAL.

9 ON REQUEST OF THE COMMISSIONER, THE ATTORNEY GENERAL MAY PROCEED
10 IN A STATE OR FEDERAL COURT OR BEFORE ANY OTHER FEDERAL UNIT:

11 (1) TO ENFORCE A DECISION OF THE COMMISSIONER UNDER THIS
12 TITLE;

13 (2) SUBJECT TO § 3-302 OF THE STATE FINANCE AND PROCUREMENT
14 ARTICLE, TO COLLECT A CIVIL PENALTY THAT IS ASSESSED BY ORDER OF THE
15 COMMISSIONER UNDER THIS TITLE; OR

16 (3) TO ENFORCE ANY OTHER ORDER OF THE COMMISSIONER UNDER
17 THIS TITLE.

18 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
19 Utility Companies Article, also enacted this section, which is derived
20 without substantive change from former Art. 89, § 94. It is revised to
21 conform to the language of § 5-207 of this article, which codifies a
22 provision in the Maryland Occupational Safety and Health Act that is
23 substantively identical.

24 In item (2) of this section, the phrase "subject to § 3-302 of the State
25 Finance and Procurement Article", is added as a general reference to the
26 responsibility of the Central Collection Unit of the Department of Budget
27 and Management for recovery of debts. The Central Collection Unit may
28 collect a civil penalty up to \$10,000 in the District Court under this title.

29 Defined terms: "Commissioner" § 5.5-101

30 "State" § 1-101

31 5.5-108. REGULATIONS.

32 (A) ADOPTION BY COMMISSIONER.

33 AS NECESSARY, THE COMMISSIONER SHALL ADOPT APPROPRIATE HEALTH AND
34 SAFETY STANDARDS AND OTHER REGULATIONS RELATING TO:

35 (1) SANITATION ON RAILROAD PROPERTY AS IT AFFECTS THE HEALTH
36 OF RAILROAD EMPLOYEES, INCLUDING CLERICAL EMPLOYEES, ENGINE WORKERS,
37 EXPRESS EMPLOYEES, FREIGHT HOUSE EMPLOYEES, HIGHWAY CROSSING

1 WATCHMEN, MAINTENANCE OF WAY EMPLOYEES, PLATFORM EMPLOYEES, TRAIN
2 WORKERS, AND YARD WORKERS; AND

3 (2) ALL OTHER AREAS OF RAILROAD SAFETY AND HEALTH.

4 (B) PROCEDURE FOR ADOPTION.

5 (1) TO ADOPT A RAILROAD HEALTH AND SAFETY STANDARD OR OTHER
6 REGULATION, THE COMMISSIONER SHALL COMPLY WITH THIS SECTION AND TITLE
7 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE.

8 (2) AN ECONOMIC IMPACT STATEMENT PREPARED IN ACCORDANCE
9 WITH § 10-111(C) OF THE STATE GOVERNMENT ARTICLE SHALL:

10 (I) INCLUDE DIRECT AND INDIRECT EFFECTS OF THE
11 REGULATION ON THE RAILROAD INDUSTRY, THE PUBLIC, AND RAILROAD
12 EMPLOYEES; AND

13 (II) SET FORTH ANY ALTERNATIVE APPROACH AVAILABLE.

14 (3) IF ACCEPTABLE ALTERNATIVE APPROACHES ARE AVAILABLE IN
15 ADOPTION OF A REGULATION, THE COMMISSIONER SHALL ADOPT THE APPROACH
16 THAT HAS THE LEAST BURDENSOME ECONOMIC IMPACT ON THE RAILROAD
17 INDUSTRY, THE PUBLIC, AND RAILROAD EMPLOYEES.

18 (C) EFFECTIVE DATE.

19 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, RAILROAD
20 HEALTH AND SAFETY STANDARDS AND OTHER REGULATIONS THAT THE
21 COMMISSIONER ADOPTS SHALL BE EFFECTIVE AS PROVIDED IN § 10-117 OF THE
22 STATE GOVERNMENT ARTICLE.

23 (2) THE COMMISSIONER MAY DELAY THE EFFECTIVE DATE OF A
24 REGULATION FOR NOT MORE THAN 90 DAYS TO ENSURE THAT RAILROAD COMPANIES
25 HAVE AN OPPORTUNITY TO FAMILIARIZE THEIR AGENTS AND EMPLOYEES WITH THE
26 REQUIREMENTS OF THE REGULATION.

27 (D) EMERGENCY ADOPTION.

28 (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE BUT
29 SUBJECT TO THE LIMITATIONS ON EMERGENCY ADOPTION IN TITLE 10, SUBTITLE 1
30 OF THE STATE GOVERNMENT ARTICLE, THE COMMISSIONER MAY ADOPT
31 IMMEDIATELY AN EMERGENCY HEALTH AND SAFETY STANDARD THAT THE
32 COMMISSIONER DETERMINES IS NEEDED TO PROTECT THE PUBLIC AND EMPLOYEES
33 FROM THE GRAVE DANGER OF EXPOSURE TO AN AGENT OR CONDITION
34 DETERMINED TO BE TOXIC OR PHYSICALLY HARMFUL.

35 (2) AN EMERGENCY HEALTH AND SAFETY STANDARD ADOPTED UNDER
36 THIS SUBSECTION REMAINS IN EFFECT UNTIL THE EARLIER OF:

1 (I) EXPIRATION OF A PERIOD THAT THE JOINT COMMITTEE ON
2 ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW SETS;

3 (II) EXPIRATION OF A PERIOD, NOT EXCEEDING 6 MONTHS, THAT
4 THE COMMISSIONER SETS; OR

5 (III) REPLACEMENT OF THE EMERGENCY HEALTH AND SAFETY
6 STANDARD BY ANOTHER REGULATION ADOPTED IN ACCORDANCE WITH THIS
7 SECTION.

8 (3) ON REQUEST OF A RAILROAD COMPANY:

9 (I) THE COMMISSIONER SHALL HOLD A HEARING AND RECEIVE
10 EVIDENCE PERTAINING TO ANY EMERGENCY TEMPORARY HEALTH AND SAFETY
11 STANDARD; AND

12 (II) WITHIN 10 DAYS AFTER THE REQUEST FOR A HEARING, THE
13 COMMISSIONER SHALL REVOKE, MODIFY, OR CONTINUE THE STANDARD.

14 (4) IF A RAILROAD COMPANY IS AGGRIEVED BY AN EMERGENCY
15 TEMPORARY STANDARD:

16 (I) THE RAILROAD COMPANY SHALL HAVE THE RIGHT TO AN
17 IMMEDIATE APPEAL TO A COURT OF COMPETENT JURISDICTION; AND

18 (II) THE COURT SHALL HEAR AND DECIDE THE APPEAL.

19 (E) COPIES OF REGULATIONS.

20 (1) THE COMMISSIONER SHALL KEEP IN THE OFFICE OF THE
21 COMMISSIONER A SET OF THE CURRENT REGULATIONS ADOPTED TO CARRY OUT
22 THIS TITLE.

23 (2) THE COMMISSIONER MAY SET A FEE FOR THE COST TO PREPARE
24 AND MAIL A COPY OF THE CURRENT REGULATIONS.

25 (3) ON REQUEST AND PAYMENT OF THE FEE, IF ANY, THE
26 COMMISSIONER SHALL SEND A PERSON A COPY OF THE CURRENT REGULATIONS.

27 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
28 Utility Companies Article, also enacted this section, which is derived
29 without substantive change from former Art. 89, § 84(a)(2) and § 85(c), (d),
30 (e), and (f) and the third and fourth sentences of (a).

31 The former law specifically required compliance with SG § 10-117 but
32 failed to account for other provisions in Title 10, Subtitle 1 of the State
33 Government Article or for procedures not specifically outlined. Generally,
34 the provisions of Title 10, Subtitle 1, the Regulatory Review and
35 Evaluation Act, apply to all units of the Executive Branch that are not
36 expressly exempted. See SG § 10-102. Therefore, in subsection (b) of this

1 section, a specific reference to compliance with Title 10, Subtitle 1 is
2 substituted for the former reference to publication of a new, modified,
3 amended, or revoked regulation in the Maryland Register, and an
4 opportunity for public comment. In this section, provisions of the former
5 law that supplement the Regulatory Review and Evaluation Act are
6 retained.

7 Throughout this section, the words "health and safety" are added to modify
8 references to "standards", for consistency. This addition is based on
9 references in the former law to "health and safety", for example, in former
10 Art. 89, § 102(b) - revised as § 5.5-110(b) of this title. The addition is
11 consistent with language relating to "standards" in the Maryland
12 Occupational Safety and Health Act, which also is administered by the
13 Commissioner of Labor and Industry.

14 In subsection (d)(1) of this section, the reference to "limitations ... in Title
15 10, Subtitle 1 of the State Government Article" is added to clarify that the
16 Commissioner must comply with the requirements for submission of the
17 proposed regulation and a fiscal impact statement to the Joint Committee
18 on Administrative, Executive, and Legislative Review. See SG §
19 10-111(b)(1). Accordingly, the former reference to effectiveness "upon the
20 day of issuance and publication" is deleted, since the Joint Committee sets
21 the effective date of a regulation after its emergency adoption. See SG §
22 10-117(b). This deletion is consistent with the first sentence of former Art.
23 89, § 85(d), revised as subsection (c)(1) of this section.

24 Also in subsection (d)(1) of this section, the reference to this "title" is
25 substituted for the former reference to this "section" to reflect the
26 reorganization of former Art. 89, § 85 into several sections of this title.

27 In subsection (d)(3) of this section, the term "railroad company" is
28 substituted for the former term "railroad" to clarify the entity capable of
29 making a request of the Commissioner. The terms, as defined in this title,
30 distinguish a "railroad company" as the operator and a "railroad" as the
31 physical components of a rail system.

32 In subsection (e)(1) of this section, the former duty to "compile" is deleted
33 as included in the broader duty to "keep".

34 Also in subsection (e)(1) of this section, the former phrase "as a public
35 record" is deleted as unnecessary since a regulation is a public record
36 under SG § 10-611(g) and open to public inspection under Title 10, Subtitle
37 6, Part III of the State Government Article.

38 In subsection (e)(3) of this section, the words "[o]n ... payment of the fee, if
39 any" are added to conform to subsection (e)(2) of this section.

40 Also in subsection (e)(3) of this section, the word "interested", which
41 formerly modified "person", is deleted since the term "interested person"
42 has a legal connotation that is not appropriate in this context.

1 The Public Utility Companies Article Review Committee notes, for
2 consideration by the General Assembly, that under the provisions of §
3 10-115(a) of the State Government Article, a unit must have the written
4 approval of the Joint Committee on Administrative, Executive, and
5 Legislative Review to reset or reprint a regulation. Accordingly, in
6 subsection (e)(1) of this section, the former duty to "prepare copies" is
7 deleted. Since, however, the Commissioner could make individual copies
8 available by other means, the balance of former Art. 89, § 85(c) is retained
9 in this revision. Nonetheless, the Public Utility Companies Article Review
10 Committee suggests that the original purposes of former Art. 89, § 85(c)
11 now may be met under the State Government Article. See also SG § 10-621
12 on the general provisions for fees for public records.

13 Throughout this section, the word "regulation" is substituted for the
14 former references to "rules and regulations" to distinguish, to the extent
15 possible, between regulations of executive units and rules of judicial or
16 legislative units and to establish consistency in the use of these words.
17 This substitution conforms to the practice of the Division of State
18 Documents.

19 The first and second sentences of former Art. 89, § 85(a), on publication
20 and opportunity for public comment, are deleted as duplicative of §§
21 10-111(a) and 10-112(a) of the State Government Article.

22 Former Art. 89, § 85(b), which authorized any interested "person, political
23 subdivision, or railroad company" to petition the Commissioner for
24 adoption of a standard or regulation, is deleted as unnecessary in light of §
25 10-123 of the State Government Article, which allows interested persons
26 to submit a petition for adoption of a regulation and requires a response
27 within 60 days.

28 Defined terms: "Commissioner" § 5.5-101

29 "Employee" § 5.5-101

30 "Person" § 1-101

31 "Railroad" § 5.5-101

32 "Railroad company" § 5.5-101

33 5.5-109. REGULATIONS ON SANITARY CONDITIONS.

34 (A) SCOPE OF SECTION.

35 THIS SECTION DOES NOT APPLY TO A LOCOMOTIVE THAT IS USED ONLY FOR
36 YARD-SWITCHING SERVICE.

37 (B) AUTHORITY OF COMMISSIONER.

38 (1) THE COMMISSIONER MAY ADOPT REGULATIONS THAT REGULATE
39 THE SANITARY CONDITION OF LOCOMOTIVES.

1 (2) REGULATIONS ADOPTED UNDER THIS SUBSECTION SHALL REQUIRE
2 BASIC HEALTH AND SAFETY STANDARDS, IN ACCORDANCE WITH REGULATIONS
3 ADOPTED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, FOR DRINKING
4 WATER AND TOILET AND HAND TOWEL FACILITIES.

5 (C) PUBLIC HEARING REQUIRED.

6 BEFORE ADOPTION OF REGULATIONS UNDER SUBSECTION (B) OF THIS
7 SECTION, THE COMMISSIONER SHALL ANNOUNCE AND HOLD A PUBLIC HEARING.

8 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
9 Utility Companies Article, also enacted this section, which is derived
10 without substantive change from former Art. 89, § 103(a), (b), (c), and (d).

11 Defined term: "Commissioner" § 5.5-101

12 5.5-110. SPECIFIC HEALTH AND SAFETY STANDARDS.

13 (A) SEATING FOR TRANSPORTING EMPLOYEES.

14 A RAILROAD COMPANY MAY NOT TRANSPORT AN EMPLOYEE TO OR FROM WORK
15 ON A CABOOSE OR LOCOMOTIVE UNLESS THE RAILROAD COMPANY PROVIDES A
16 FIXED SEAT WITH A BACK SUPPORT FOR THE EMPLOYEE.

17 (B) TOILET FACILITIES.

18 TO PROTECT THE HEALTH AND SAFETY OF EMPLOYEES, A RAILROAD COMPANY
19 SHALL:

20 (1) INSTALL AND MAINTAIN WATER OR CHEMICAL TOILET FACILITIES
21 ON EACH CABOOSE USED FOR SERVICE BEYOND A 15-MILE RADIUS FROM A POINT OF
22 DISPATCHMENT WITHIN THE STATE FOR USE BY EMPLOYEES, UNLESS THE CABOOSE
23 IS A TEMPORARY SUBSTITUTE FOR ONE REGULARLY USED FOR THE SERVICE; AND

24 (2) ENCLOSE ALL TOILET FIXTURES, WITHIN THE CABOOSE, IN A
25 SEPARATE COMPARTMENT OF SUFFICIENT DIMENSIONS THAT IS VENTILATED
26 PROPERLY.

27 (C) LIGHTING FOR CABOOSES.

28 (1) THIS SUBSECTION DOES NOT APPLY TO ANY CABOOSE:

29 (I) OPERATED ON TRACKS OF LESS THAN STANDARD GAUGE;

30 (II) NORMALLY USED ONLY DURING DAYLIGHT HOURS;

31 (III) OPERATED ONLY WITHIN A 20-MILE RADIUS FROM POINT OF
32 DISPATCHMENT; OR

33 (IV) TEMPORARILY SUBSTITUTED FOR A REGULAR CABOOSE.

1 (2) TO PROTECT THE HEALTH AND SAFETY OF EMPLOYEES, THE
2 COMMISSIONER SHALL REQUIRE EACH RAILROAD COMPANY TO INSTALL AND
3 MAINTAIN:

4 (I) TWO OR MORE ELECTRIC MARKER LIGHTS ON THE REAR OF
5 EACH CABOOSE IN SERVICE; AND

6 (II) ONE ELECTRIC LIGHT FOR CLERICAL WORK WITHIN EACH
7 CABOOSE IN SERVICE, FOR WHICH THE RAILROAD COMPANY SHALL DETERMINE THE
8 SOURCE OF ELECTRICITY AND TYPE OF APPLIANCE.

9 (D) TOWELS AND DRINKING CUPS.

10 A RAILROAD COMPANY MAY NOT HAVE A COMMON TOWEL OR COMMON
11 DRINKING CUP AVAILABLE FOR USE ON PROPERTY OF THE RAILROAD COMPANY.

12 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
13 Utility Companies Article, also enacted this section, which is derived
14 without substantive change from former Art. 89, § 102(a)(1), (b), (c), and
15 (d).

16 The Public Utility Companies Article Review Committee notes, for the
17 consideration of the General Assembly, that the provisions of this section
18 relating to cabooses may be obsolete as a practical matter, as railroads
19 have virtually eliminated their use.

20 Defined terms: "Commissioner" § 5.5-101

21 "Employee" § 5.5-101

22 "Railroad company" § 5.5-101

23 5.5-111. MAINTENANCE OF YARD TRACK MARGINS AND SIDETRACKS.

24 (A) DUTY OF RAILROAD COMPANY.

25 (1) THIS SECTION DOES NOT APPLY TO DESIGNATED CLEANOUT AND
26 REPAIR TRACKS.

27 (2) TO PROVIDE EMPLOYEES A REASONABLY SAFE PLACE TO WORK,
28 EACH RAILROAD COMPANY SHALL KEEP AND MAINTAIN FREE FROM DEBRIS AND
29 VEGETATION THAT UNREASONABLY AFFECTS EMPLOYEE SAFETY THE MARGINS
30 ALONGSIDE YARD TRACKS AND SIDETRACKS WHERE EMPLOYEES ARE REQUIRED TO
31 WALK FREQUENTLY IN THE COURSE OF THEIR DUTIES.

32 (B) CLOSURE FOR DANGEROUS CONDITIONS.

33 IF THE COMMISSIONER OR AUTHORIZED REPRESENTATIVE OF THE
34 COMMISSIONER FINDS ANY CONDITION IN OR ON A YARD TRACK OR SIDETRACK OR
35 IN A WALKWAY THAT CONSTITUTES AN IMMEDIATE DANGER TO THE HEALTH OR
36 SAFETY OF THE PUBLIC OR ANY RAILROAD EMPLOYEE, OR ANY CONDITION IN A
37 SIDETRACK OR SWITCH THAT CONSTITUTES A DANGER TO THE HEALTH OR SAFETY

1 OF A RAILROAD EMPLOYEE, THE YARD TRACK, SIDETRACK, OR SWITCH MAY BE
2 CLOSED IMMEDIATELY UNTIL THE CONDITION IS CORRECTED.

3 (C) ENFORCEMENT.

4 (1) THIS SECTION AND § 5.5-123(C) OF THIS TITLE SHALL BE ENFORCED
5 BY THE COMMISSIONER ON A COMPLAINT AND AFTER A HEARING.

6 (2) EACH DAY OF NONCOMPLIANCE WITH AN ORDER THAT THE
7 COMMISSIONER ISSUES UNDER THIS SECTION SHALL BE REGARDED AS A SEPARATE
8 VIOLATION.

9 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
10 Utility Companies Article, also enacted this section, which is derived
11 without substantive change from former Art. 89, § 101(b), (c), and the first
12 sentence of (a) and the first clause of the second sentence of (a).

13 Defined terms: "Commissioner" § 5.5-101

14 "Employee" § 5.5-101

15 "Railroad" § 5.5-101

16 "Railroad company" § 5.5-101

17 5.5-112. VARIANCES.

18 (A) IN GENERAL.

19 THE COMMISSIONER SHALL ALLOW VARIANCES IN ACCORDANCE WITH THIS
20 SECTION.

21 (B) APPLICATION FOR A VARIANCE.

22 ANY AFFECTED RAILROAD COMPANY MAY APPLY IN WRITING TO THE
23 COMMISSIONER FOR AN ORDER FOR A VARIANCE FROM ANY REGULATION OR
24 HEALTH AND SAFETY STANDARD ADOPTED UNDER THIS TITLE.

25 (C) HEARING AND DETERMINATION.

26 AFTER A HEARING, THE COMMISSIONER MAY GRANT A VARIANCE FROM THE
27 REGULATIONS AND STANDARDS ADOPTED UNDER THIS TITLE, IF:

28 (1) THAT ACTION IS NECESSARY TO PREVENT UNDUE OPERATIONAL OR
29 ECONOMIC HARDSHIP; OR

30 (2) (I) EXISTING CONDITIONS PREVENT PRACTICAL COMPLIANCE;
31 AND

32 (II) THE COMMISSIONER DETERMINES THE REASONABLE SAFETY
33 OF THE PUBLIC AND EMPLOYEES OF THE RAILROAD COMPANY CAN BE ASSURED.

34 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
35 Utility Companies Article, also enacted this section, which is derived

1 without substantive change from former Art. 89, §§ 84(a)(5) and 86.

2 In subsection (c) of this section, the word "variance" is substituted for the
3 former word "exceptio[n]" for consistency with the language of subsections
4 (a) and (b) of this section.

5 As to the addition of the words "health and safety" to modify references to
6 "standard" in subsection (b) of this section, see Revisor's Note to § 5.5-108
7 of this title.

8 Defined terms: "Commissioner" § 5.5-101

9 "Employee" § 5.5-101

10 "Railroad" § 5.5-101

11 "Railroad company" § 5.5-101

12 5.5-113. INSPECTIONS AND INVESTIGATIONS.

13 (A) IN GENERAL.

14 THE COMMISSIONER SHALL CONDUCT INSPECTIONS AND INVESTIGATIONS IN
15 ACCORDANCE WITH THIS SECTION.

16 (B) AUTHORITY OF THE COMMISSIONER.

17 (1) THE PROVISIONS OF THIS SECTION APPLY TO EACH RAILROAD
18 ESTABLISHMENT, SITE, PLANT, WORKPLACE, PLACE OF EMPLOYMENT,
19 ENVIRONMENT, OR OTHER AREA.

20 (2) THE COMMISSIONER OR AUTHORIZED REPRESENTATIVE OF THE
21 COMMISSIONER MAY ENTER A RAILROAD AREA WITHOUT DELAY AT ANY
22 REASONABLE TIME TO:

23 (I) INSPECT THE RAILROAD AREA;

24 (II) INVESTIGATE ALL PERTINENT APPARATUS, CONDITIONS,
25 DEVICES, EQUIPMENT, MATERIALS, AND STRUCTURES AT THE RAILROAD AREA; AND

26 (III) QUESTION ANY AGENT OR EMPLOYEE OF THE RAILROAD, IF
27 THE RAILROAD AND AN EMPLOYEE REPRESENTATIVE RECEIVE NOTICE OF AND AN
28 OPPORTUNITY TO ATTEND THE QUESTIONING SESSION.

29 (C) ADMINISTRATIVE SEARCH WARRANT.

30 THE PROVISIONS OF ARTICLE 89, § 2A CONCERNING ADMINISTRATIVE SEARCH
31 WARRANTS APPLY TO THIS TITLE.

32 (D) ADVANCE NOTICE.

33 A PERSON MAY NOT GIVE ADVANCE NOTICE OF ANY INSPECTION TO BE
34 CONDUCTED UNDER THIS TITLE WITHOUT THE WRITTEN APPROVAL OF THE
35 COMMISSIONER OR AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER.

1 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
2 Utility Companies Article, also enacted this section, which is derived
3 without substantive change from former Art. 89, §§ 84(a)(3) and 89(a)
4 through (c).

5 In subsection (b)(2)(ii) of this section, the former reference to "machines" is
6 deleted as included in the references to "apparatus", "devices", and
7 "equipment".

8 Defined terms: "Commissioner" § 5.5-101

9 "Person" § 1-101

10 "Railroad" § 5.5-101

11 5.5-114. REQUEST FOR INSPECTION BY OR FOR EMPLOYEE.

12 (A) REQUEST AUTHORIZED.

13 AN EMPLOYEE OF A RAILROAD COMPANY OR REPRESENTATIVE OF EMPLOYEES
14 MAY REQUEST INSPECTION OF A RAILROAD IF THE EMPLOYEE OR REPRESENTATIVE
15 BELIEVES, IN GOOD FAITH, THAT:

16 (1) THERE IS IMMINENT DANGER TO EMPLOYEES; OR

17 (2) DUE TO A VIOLATION OF A HEALTH AND SAFETY STANDARD
18 ADOPTED UNDER THIS TITLE, THERE IS A THREAT OF SEVERE PHYSICAL HARM TO
19 AN EMPLOYEE.

20 (B) FORM OF REQUEST.

21 TO REQUEST AN INSPECTION, AN EMPLOYEE OR REPRESENTATIVE OF
22 EMPLOYEES SHALL SIGN AND SUBMIT TO THE COMMISSIONER OR AUTHORIZED
23 REPRESENTATIVE OF THE COMMISSIONER A WRITTEN NOTICE THAT DESCRIBES,
24 WITH REASONABLE PARTICULARITY, THE GROUNDS FOR THE NOTICE.

25 (C) DETERMINATION OF GROUNDS.

26 ON RECEIPT OF A NOTICE MADE IN ACCORDANCE WITH THIS SECTION, THE
27 COMMISSIONER SHALL DETERMINE WHETHER THERE ARE REASONABLE GROUNDS
28 TO BELIEVE THAT IMMINENT DANGER OR A THREAT EXISTS.

29 (D) ACTION ON REQUEST.

30 (1) IF THE COMMISSIONER DETERMINES THAT THERE ARE
31 REASONABLE GROUNDS, THE COMMISSIONER SHALL CONDUCT AN INVESTIGATION
32 AS SOON AS PRACTICABLE TO DETERMINE WHETHER THE DANGER OR THREAT
33 EXISTS.

34 (2) IF THE COMMISSIONER DETERMINES THAT THERE ARE NO
35 REASONABLE GROUNDS, THE COMMISSIONER SHALL GIVE THE PERSON WHO
36 SUBMITTED THE REQUEST WRITTEN NOTICE OF THAT DETERMINATION.

1 (E) DISCLOSURE.

2 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A COPY OF THE
3 NOTICE UNDER SUBSECTION (B) OF THIS SECTION SHALL BE GIVEN TO THE
4 RAILROAD COMPANY OR REPRESENTATIVE OF THE RAILROAD COMPANY NO LATER
5 THAN AT THE TIME OF THE INSPECTION.

6 (2) ON REQUEST OF THE PERSON WHO SUBMITS A NOTICE UNDER
7 SUBSECTION (B) OF THIS SECTION, THE NAME OF THE PERSON AND THE NAME OF
8 EACH EMPLOYEE TO WHOM THE NOTICE REFERS MAY NOT APPEAR IN THE COPY OF
9 THE NOTICE TO BE GIVEN TO THE RAILROAD COMPANY AND IN EACH OTHER RECORD
10 TO BE DISCLOSED UNDER THIS TITLE.

11 (F) COMPLAINT AND HEARING.

12 (1) IF AN EMPLOYEE OR REPRESENTATIVE OF THE EMPLOYEE FILES A
13 COMPLAINT WITH THE COMMISSIONER CHARGING THE EMPLOYER WITH A
14 VIOLATION OF A REGULATION ADOPTED BY THE COMMISSIONER UNDER § 5.5-108 OF
15 THIS TITLE, OR THE COMMISSIONER ISSUES A COMPLAINT, THE COMMISSIONER
16 SHALL SERVE THE EMPLOYER WITH A COPY OF THE COMPLAINT.

17 (2) WITHIN 20 DAYS AFTER RECEIPT OF THE COMPLAINT, THE
18 EMPLOYER SHALL FILE A WRITTEN ANSWER WITH THE COMMISSIONER.

19 (3) WITHIN 10 DAYS AFTER AN ANSWER IS FILED, THE COMMISSIONER
20 SHALL SET A DATE FOR A HEARING ON THE COMPLAINT.

21 (4) THE COMMISSIONER MAY ALLOW ANY INTERESTED PERSON OR
22 ORGANIZATION TO INTERVENE.

23 (5) A PARTY TO THE HEARING MAY APPEAR AND BE HEARD IN PERSON
24 OR BY A REPRESENTATIVE AND MAY EXAMINE AND CROSS-EXAMINE WITNESSES OR
25 PRESENT EVIDENCE.

26 (6) ON MOTION OF A PARTY, THE COMMISSIONER MAY ALLOW A
27 CONTINUANCE FOR NOT MORE THAN 30 DAYS.

28 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
29 Utility Companies Article, also enacted this section.

30 Subsections (a), (b), (d), (e), and (f) of this section, are new language
31 derived without substantive change from former Art. 89, § 89(d) and (e).

32 Subsection (c) of this section is new language added to state expressly that
33 which only was implied in former Art. 89, § 89(d), i.e., the Commissioner
34 must consider each request made in accordance with this section.

35 In subsection (f)(1) of this section, the reference to a "representative of the
36 employee" is substituted for the former reference to an "authorized
37 representative" for consistency within this section.

1 In subsection (f)(2) of this section, the phrase "after receipt of the
2 complaint" is added to clarify the date by which the employer must file a
3 written answer with the Commissioner.

4 Defined terms: "Commissioner" § 5.5-101

5 "Employee" § 5.5-101

6 "Person" § 1-101

7 "Railroad" § 5.5-101

8 "Railroad company" § 5.5-101

9 5.5-115. NOTICE PROHIBITING USE OF APPARATUS.

10 (A) "APPARATUS" DEFINED.

11 IN THIS SECTION, "APPARATUS" MEANS ANY MACHINERY, DEVICE, OR
12 EQUIPMENT OR ANY PART OF ANY MACHINERY, DEVICE, OR EQUIPMENT.

13 (B) NOTICE.

14 THE COMMISSIONER OR AUTHORIZED REPRESENTATIVE OF THE
15 COMMISSIONER SHALL GIVE WRITTEN NOTICE TO A RAILROAD COMPANY OR THE
16 RAILROAD COMPANY'S AGENT IN CHARGE OF THE OPERATION, IF, AFTER AN
17 INSPECTION OR INVESTIGATION OF THE RAILROAD, THE COMMISSIONER OR
18 AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER DETERMINES THAT:

19 (1) AN APPARATUS VIOLATES A HEALTH AND SAFETY STANDARD
20 ADOPTED UNDER THIS TITLE; AND

21 (2) THERE IS A SUBSTANTIAL PROBABILITY THAT DEATH OR SERIOUS
22 PHYSICAL HARM TO AN INDIVIDUAL OR DAMAGE TO PROPERTY COULD RESULT
23 FROM CONTINUED USE OF THE APPARATUS.

24 (C) POSTING; USE PROHIBITED.

25 (1) A COPY OF A NOTICE UNDER SUBSECTION (B) OF THIS SECTION:

26 (I) SHALL BE ATTACHED TO THE APPARATUS; AND

27 (II) MAY NOT BE REMOVED UNTIL THE APPARATUS IS MADE SAFE
28 AND EACH REQUIRED SAFEGUARD IS PROVIDED.

29 (2) EXCEPT FOR USE THAT IS NECESSARY TO REPAIR THE APPARATUS
30 AND TO PROVIDE ANY REQUIRED SAFEGUARDS, THE APPARATUS MAY NOT BE USED
31 WHILE A NOTICE UNDER THIS SECTION IS POSTED ON THE APPARATUS.

32 (3) ONLY THE COMMISSIONER OR AUTHORIZED REPRESENTATIVE OF
33 THE COMMISSIONER MAY REMOVE THE NOTICE.

34 (D) JUDICIAL REVIEW.

1 (1) ANY PERSON AGGRIEVED BY A DECISION OF THE COMMISSIONER
2 UNDER THIS SECTION MAY APPEAL TO A COURT OF COMPETENT JURISDICTION IN
3 ACCORDANCE WITH THE MARYLAND RULES.

4 (2) AN ACTION UNDER THIS SUBSECTION SHALL BE BROUGHT IN THE
5 COURT OF COMPETENT JURISDICTION WHERE THE APPARATUS IS LOCATED.

6 (3) IN A PROCEEDING UNDER THIS SUBSECTION, A COURT MAY NOT
7 STAY AN ORDER OF THE COMMISSIONER UNLESS:

8 (I) THE COURT GIVES THE COMMISSIONER NOTICE AND AN
9 OPPORTUNITY FOR A HEARING; AND

10 (II) THE AGGRIEVED PERSON POSTS SECURITY.

11 (4) THE COURT SHALL EXPEDITE THE HEARING OF ANY ACTION
12 BROUGHT UNDER THIS SUBSECTION.

13 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public Utility
14 Companies Article, also enacted this section.

15 Subsection (a) of this section is new language added to avoid repetition of
16 the words "machinery, apparatus, devices, or equipment".

17 Subsections (b) through (d) of this section are new language derived
18 without substantive change from former Art. 89, § 88.

19 Subsection (b) of this section is revised in the active voice to clarify that the
20 Commissioner is responsible for giving written notice to a railroad
21 company that an apparatus violates a standard adopted under this title.

22 In subsection (b)(1) of this section, the reference to violation of "a health
23 and safety standard adopted under this title" is substituted for the former
24 reference to violation of "any rule, regulation, or standard promulgated
25 under this subtitle" for clarity and consistency with § 5.5-108 of this title.

26 In subsection (c)(2) of this section, the words "the apparatus may not be
27 used" are substituted for the former words "use of the ... apparatus ... is
28 prohibited" in conformity with Article 1, § 26 of the Code.

29 In subsection (d)(3)(ii) of this section, the former reference to posting a
30 "bond" is deleted as included in the reference to posting a "security".

31 Also in subsection (d)(3)(ii) of this section, the former reference to posting
32 security "as [the court] deems proper" is deleted as implicit in the
33 discretion of the court to review and stay an order of the Commissioner.

34 Defined terms: "Commissioner" § 5.5-101

35 "Person" § 1-101

36 "Railroad" § 5.5-101

1 "Railroad company" § 5.5-101

2 5.5-116. CITATIONS.

3 (A) ISSUANCE.

4 IF, AFTER AN INSPECTION OR INVESTIGATION, THE COMMISSIONER OR
5 AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER IS OF THE OPINION THAT A
6 RAILROAD COMPANY HAS VIOLATED THIS TITLE OR A REGULATION OR HEALTH AND
7 SAFETY STANDARD ADOPTED OR ORDER ISSUED TO CARRY OUT THIS TITLE, THE
8 COMMISSIONER OR AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER SHALL,
9 WITH REASONABLE PROMPTNESS, ISSUE A CITATION TO THE RAILROAD COMPANY.

10 (B) CONTENTS OF CITATION.

11 EACH CITATION UNDER THIS SECTION SHALL:

12 (1) DESCRIBE, WITH PARTICULARITY, THE NATURE OF THE ALLEGED
13 VIOLATION;

14 (2) REFER TO THE PROVISION OF THIS TITLE, ORDER, REGULATION, OR
15 HEALTH AND SAFETY STANDARD THAT THE RAILROAD COMPANY IS ALLEGED TO
16 HAVE VIOLATED; AND

17 (3) SET A REASONABLE PERIOD FOR ABATEMENT AND CORRECTION OF
18 THE ALLEGED VIOLATION.

19 (C) POSTING OF CITATION.

20 IN ACCORDANCE WITH ANY REGULATION THAT THE COMMISSIONER ADOPTS
21 TO CARRY OUT THIS TITLE, A RAILROAD COMPANY THAT IS ISSUED A CITATION
22 SHALL PROMINENTLY POST THE CITATION OR A COPY OF IT AS SET FORTH IN
23 REGULATIONS ADOPTED BY THE COMMISSIONER.

24 (D) LIMITATION PERIOD.

25 NO CITATION MAY BE ISSUED AFTER 6 MONTHS AFTER THE OCCURRENCE OF A
26 VIOLATION.

27 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public Utility
28 Companies Article, also enacted this section, which is derived without
29 substantive change from former Art. 89, §§ 84(a)(4) and 90.

30 In subsection (b)(1) of this section, the word "alleged" is added to conform
31 with the use of that word in subsection (b)(2) and (3) of this section.

32 In subsection (c) of this section, the reference to a "railroad company" is
33 added for clarity.

34 As to the addition of the words "health and safety" to modify references to
35 "standard" in subsections (a) and (b)(2) of this section, see Revisor's Note to

1 § 5.5-108 of this title.

2 Defined terms: "Commissioner" § 5.5-101

3 "Railroad company" § 5.5-101

4 5.5-117. ENFORCEMENT OF CITATION.

5 (A) NOTICE OF PROPOSED PENALTY.

6 WITHIN A REASONABLE TIME AFTER ISSUANCE OF A CITATION UNDER § 5.5-116
7 OF THIS TITLE, THE COMMISSIONER SHALL SEND BY CERTIFIED MAIL TO THE
8 RAILROAD COMPANY AT ITS PRINCIPAL PLACE OF BUSINESS A NOTICE THAT:

9 (1) STATES THAT THE CITATION HAS BEEN ISSUED AND ANY CIVIL
10 PENALTY THAT WILL BE ASSESSED UNDER THIS TITLE; AND

11 (2) INFORMS THE RAILROAD COMPANY THAT, WITHIN 15 WORKING DAYS
12 AFTER RECEIPT OF THE NOTICE, THE RAILROAD COMPANY MAY SUBMIT TO THE
13 COMMISSIONER A WRITTEN NOTICE OF CONTEST ON THE CITATION OR CIVIL
14 PENALTY.

15 (B) CITATION AND PENALTY AS FINAL ORDER.

16 A CITATION AND ANY PENALTY THAT THE COMMISSIONER PROPOSES TO
17 ASSESS SHALL BE CONSIDERED A FINAL ORDER OF THE COMMISSIONER UNLESS
18 WITHIN 15 WORKING DAYS AFTER RECEIPT OF A NOTICE UNDER SUBSECTION (A) OF
19 THIS SECTION THE RAILROAD COMPANY NOTIFIES THE COMMISSIONER OF AN
20 INTENT TO CONTEST THE CITATION OR ANY PENALTY.

21 (C) PERIOD FOR CORRECTION OF VIOLATION.

22 A RAILROAD COMPANY SHALL CORRECT EACH VIOLATION FOR WHICH THE
23 COMMISSIONER ISSUES A CITATION WITHIN THE PERIOD SET FOR CORRECTION IN A
24 FINAL ORDER UNDER THIS TITLE.

25 (D) NOTICE OF FAILURE TO CORRECT.

26 IF THE COMMISSIONER HAS REASON TO BELIEVE THAT A RAILROAD COMPANY
27 HAS FAILED TO CORRECT A VIOLATION WITHIN THE TIME ALLOWED, THE
28 COMMISSIONER SHALL SEND BY CERTIFIED MAIL TO THE RAILROAD COMPANY A
29 NOTICE THAT:

30 (1) STATES THAT THE RAILROAD COMPANY HAS FAILED TO CORRECT
31 THE VIOLATION;

32 (2) STATES THE CIVIL PENALTY, IF ANY, THAT THE COMMISSIONER
33 INTENDS TO ASSESS UNDER § 5.5-121 OF THIS TITLE FOR THE FAILURE; AND

34 (3) INFORMS THE RAILROAD COMPANY THAT, WITHIN 15 WORKING DAYS
35 AFTER RECEIPT OF THE NOTICE, THE RAILROAD COMPANY MAY SUBMIT TO THE
36 COMMISSIONER A WRITTEN NOTICE OF CONTEST ON THE NOTICE OR CIVIL PENALTY.

1 (E) NOTIFICATION AND PENALTY AS FINAL ORDER.

2 UNLESS A RAILROAD COMPANY NOTIFIES THE COMMISSIONER WITHIN 15 DAYS
3 AFTER RECEIPT OF THE NOTIFICATION ISSUED BY THE COMMISSIONER OF AN
4 INTENT TO CONTEST AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, THE
5 NOTICE, INCLUDING ANY CIVIL PENALTY, IS A FINAL ORDER.

6 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public Utility
7 Companies Article, also enacted this section.

8 Subsections (a), (b), (d), and (e) of this section are new language derived
9 without substantive change from former Art. 89, § 91(a), (b), (c), and (d).

10 Subsection (c) of this section is new language added to state expressly that
11 which only was implied in former law.

12 In subsection (b) of this section, the words "shall be considered a final
13 order of the Commissioner" are new language added to state expressly that
14 which was only implied in former law.

15 In subsection (e) of this section, the word "order" is added for clarity.

16 Defined terms: "Commissioner" § 5.5-101

17 "Railroad company" § 5.5-101

18 5.5-118. HEARINGS.

19 (A) REQUIRED.

20 THE COMMISSIONER SHALL GRANT A HEARING, IF PRACTICABLE, WITHIN 30
21 DAYS AFTER RECEIPT OF A NOTICE THAT A RAILROAD COMPANY OR
22 REPRESENTATIVE OF A RAILROAD COMPANY SUBMITS UNDER § 5.5-116 OR § 5.5-117
23 OF THIS TITLE.

24 (B) APPLICATION OF CONTESTED CASE PROVISIONS.

25 THE COMMISSIONER SHALL GIVE NOTICE AND HOLD A HEARING UNDER THIS
26 TITLE IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
27 ARTICLE.

28 (C) HEARING EXAMINER.

29 (1) WHEN THE COMMISSIONER APPOINTS AN ADMINISTRATIVE LAW
30 JUDGE TO HOLD A HEARING UNDER THIS SECTION, THE ADMINISTRATIVE LAW
31 JUDGE SHALL PREPARE A RECORD THAT INCLUDES TESTIMONY.

32 (2) A WRITTEN REPORT THAT AN ADMINISTRATIVE LAW JUDGE SUBMITS
33 SHALL BECOME A FINAL ORDER OF THE COMMISSIONER UNLESS, WITHIN 15
34 WORKING DAYS AFTER SUBMISSION OF THE REPORT, THE:

35 (I) COMMISSIONER ORDERS A REVIEW OF THE PROCEEDING; OR

1 (II) RAILROAD COMPANY OR ANY AFFECTED PERSON SUBMITS TO
2 THE COMMISSIONER A WRITTEN REQUEST FOR A REVIEW OF THE PROCEEDING.

3 (D) ORDER OF COMMISSIONER ON CITATION OR PENALTY.

4 (1) AFTER REVIEW OF A PROCEEDING UNDER SUBSECTION (B) OF THIS
5 SECTION, WITH OR WITHOUT A HEARING, THE COMMISSIONER SHALL PASS AN
6 ORDER THAT, BASED ON FINDINGS OF FACT, AFFIRMS, MODIFIES, OR VACATES THE
7 CITATION OR PROPOSED PENALTY OR DIRECTS OTHER APPROPRIATE RELIEF.

8 (2) AN ORDER OF THE COMMISSIONER UNDER PARAGRAPH (1) OF THIS
9 SUBSECTION IS FINAL ON THE DATE OF ISSUANCE OF THE ORDER.

10 (E) ORDER OF COMMISSIONER ON ABATEMENT REQUIREMENTS.

11 AFTER AN OPPORTUNITY FOR A HEARING UNDER THIS SECTION, THE
12 COMMISSIONER MAY PASS AN ORDER THAT AFFIRMS OR MODIFIES A REQUIREMENT
13 OF A CITATION FOR ABATEMENT OF A VIOLATION ON A SHOWING BY THE AFFECTED
14 RAILROAD COMPANY THAT IT:

15 (1) MADE A GOOD FAITH EFFORT TO COMPLY WITH THE REQUIREMENT;
16 AND

17 (2) HAS NOT COMPLIED BECAUSE OF A FACTOR BEYOND THE
18 REASONABLE CONTROL OF THE RAILROAD COMPANY.

19 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public Utility
20 Companies Article, also enacted this section.

21 Subsections (a), (c), (d), and (e) of this section are new language derived
22 without substantive change from former Art. 89, § 91(e) through (h).

23 Subsection (b) of this section is standard language added to demonstrate
24 clearly the intended application of the referenced subtitle to
25 administrative hearings under this section.

26 In subsection (c) of this section, the references to an "administrative law
27 judge" are substituted for the former references to a "hearing examiner" to
28 reflect the establishment of the Office of Administrative Hearings and the
29 Office's general assumption of the duties of hearing examiners in the
30 State. See Ch. 59, Acts of 1993.

31 Subsection (c) of this section includes only those provisions of the former
32 law that seemed to add to the provisions of Title 10, Subtitle 2 of the State
33 Government Article. Thus, the introductory language included in the first
34 sentence of former Art. 89, § 91(f), which allowed appointment of a hearing
35 examiner, is deleted in light of SG § 10-205. Similarly, the former
36 requirement that the record include "exhibits" is deleted in light of SG §
37 10-218(2), while the former requirement for a written report is deleted in
38 light of SG § 10-205(e)(1).

1 The Public Utility Companies Article Review Committee notes, for the
2 consideration of the General Assembly, that the requirement for the record
3 to include "testimony" is retained. SG § 10-215 generally requires
4 transcription only on request and payment of costs. Thus, the specific
5 requirement revised in subsection (c)(1) of this section seemingly is more
6 stringent than the requirement generally imposed on units of the
7 Executive Branch.

8 Defined terms: "Commissioner" § 5.5-101

9 "Person" § 1-101

10 "Railroad company" § 5.5-101

11 5.5-119. JUDICIAL REVIEW AND ENFORCEMENT.

12 (A) REVIEW ALLOWED.

13 A PERSON ADVERSELY AFFECTED OR AGGRIEVED BY ANY ORDER THAT THE
14 COMMISSIONER PASSES UNDER THIS TITLE OR ANY REGULATION OR HEALTH AND
15 SAFETY STANDARD THAT THE COMMISSIONER ADOPTS TO CARRY OUT THIS TITLE
16 MAY APPEAL TO A COURT OF COMPETENT JURISDICTION IN ACCORDANCE WITH THE
17 MARYLAND RULES.

18 (B) EFFECT OF FILING.

19 IN A PROCEEDING UNDER THIS SECTION, A COURT MAY NOT STAY AN ORDER,
20 REGULATION, OR HEALTH AND SAFETY STANDARD OF THE COMMISSIONER UNLESS:

21 (1) THE COURT GIVES THE COMMISSIONER NOTICE AND AN
22 OPPORTUNITY FOR A HEARING; AND

23 (2) THE AGGRIEVED PERSON POSTS SECURITY AND MEETS EACH OTHER
24 CONDITION THAT THE COURT CONSIDERS PROPER.

25 (C) SCOPE OF REVIEW.

26 A REGULATION OR HEALTH AND SAFETY STANDARD THAT THE COMMISSIONER
27 ADOPTS TO CARRY OUT THIS TITLE MAY NOT BE HELD INVALID BECAUSE OF A
28 TECHNICAL DEFECT IF THERE IS SUBSTANTIAL COMPLIANCE WITH THIS TITLE.

29 (D) ENFORCEMENT.

30 (1) AT ANY APPROPRIATE TIME, THE COMMISSIONER MAY FILE A
31 COMPLAINT TO ENFORCE ANY ORDER THAT THE COMMISSIONER PASSES UNDER
32 THIS TITLE OR REGULATION OR HEALTH AND SAFETY STANDARD THAT THE
33 COMMISSIONER ADOPTS TO CARRY OUT THIS TITLE.

34 (2) A COMPLAINT FILED UNDER THIS SUBSECTION SHALL BE FILED IN A
35 COURT OF COMPETENT JURISDICTION IN ACCORDANCE WITH THE MARYLAND
36 ADMINISTRATIVE PROCEDURE ACT AND THE MARYLAND RULES.

1 (E) EXPEDITIOUS HEARING.

2 A COURT EXPEDITIOUSLY SHALL HEAR A COMPLAINT UNDER THIS SECTION.

3 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public Utility
4 Companies Article, also enacted this section, which is derived without
5 substantive change from former Art. 89, § 92.

6 As to the addition of the words "health and safety" to modify references to
7 "standard" in subsections (a), (b), (c), and (d)(1) of this section, see
8 Revisor's Note to § 5.5-108 of this title.

9 In subsection (b)(2) of this section, the former reference to posting a "bond"
10 is deleted as included in the references to posting "security".

11 Also in subsection (b)(2) of this section, the former reference to posting
12 security as "[the court] deems proper" is deleted as implicit in the
13 discretion of the court to review and stay an order, regulation, or health
14 and safety standard of the Commissioner.

15 Defined terms: "Commissioner" § 5.5-101

16 "Person" § 1-101

17 5.5-120. INJUNCTIVE RELIEF AGAINST IMMINENT DANGER.

18 (A) NOTICE OF DANGER; RECOMMENDATION TO COMMISSIONER.

19 IF THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF THE
20 COMMISSIONER CONCLUDES THAT A CONDITION OR PRACTICE IN THE OPERATION
21 OF ANY RAILROAD CREATES AN IMMINENT DANGER THAT REASONABLY COULD BE
22 EXPECTED TO CAUSE DEATH OR SERIOUS PHYSICAL HARM TO AN INDIVIDUAL OR
23 SERIOUS PHYSICAL DAMAGE TO PROPERTY, THE AUTHORIZED REPRESENTATIVE:

24 (1) SHALL GIVE NOTICE OF THE DANGER TO THE RAILROAD COMPANY
25 AND EACH EMPLOYEE WHOM THE DANGER AFFECTS; AND

26 (2) MAY RECOMMEND THAT THE COMMISSIONER SEEK TO ENJOIN THE
27 CONDITION OR PRACTICE.

28 (B) AUTHORITY OF COURT.

29 (1) ON A COMPLAINT FILED BY THE COMMISSIONER, A CIRCUIT COURT:

30 (I) MAY ENJOIN A CONDITION OR PRACTICE AT A RAILROAD
31 COMPANY IF THE CONDITION OR PRACTICE CREATES AN IMMINENT DANGER THAT
32 REASONABLY COULD BE EXPECTED TO CAUSE DEATH OR SERIOUS PHYSICAL HARM
33 TO AN INDIVIDUAL OR SERIOUS PHYSICAL DAMAGE TO PROPERTY; AND

34 (II) MAY GRANT AN INJUNCTION OR TEMPORARY RESTRAINING
35 ORDER, PENDING THE OUTCOME OF ENFORCEMENT PROCEDURES UNDER THIS
36 TITLE.

1 (2) A TEMPORARY RESTRAINING ORDER THAT IS PASSED WITHOUT
2 NOTICE MAY NOT BE IN EFFECT FOR MORE THAN 7 DAYS.

3 (3) AN INJUNCTION UNDER THIS SUBSECTION MAY REQUIRE EACH ACT
4 NEEDED TO:

5 (I) AVOID, CORRECT, OR REMOVE THE IMMINENT DANGER; OR

6 (II) PROHIBIT THE EMPLOYMENT OR PRESENCE OF ANY
7 INDIVIDUAL IN A LOCATION OR UNDER A CONDITION WHERE THE IMMINENT
8 DANGER EXISTS OTHER THAN AN INDIVIDUAL WHO NEEDS TO BE PRESENT TO:

9 1. REMOVE THE IMMINENT DANGER; OR

10 2. WHERE OPERATIONS MUST BE STOPPED, STOP AN
11 OPERATION IN AN ORDERLY AND SAFE MANNER.

12 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public Utility
13 Companies Article, also enacted this section, which is derived without
14 substantive change from former Art. 89, § 93.

15 The Public Utility Companies Article Review Committee notes, for the
16 consideration of the General Assembly, that in subsection (a) of this
17 section, the Commissioner is authorized to conclude that a condition or
18 practice in the operation of a railroad creates an imminent danger because
19 it is logical to infer that if an authorized representative of the
20 Commissioner can make such a finding, so may the Commissioner.

21 In subsection (a)(1) of this section, the words "each employee" are
22 substituted for the former word "personnel" in conformity with § 5-216 of
23 this article.

24 Subsections (a) and (b) of this section have been revised to eliminate an
25 ambiguity in former Art. 89, § 93(a) of the Code. The former modifying
26 phrase "serious physical" could have been interpreted to apply either to the
27 former phrase "harm to persons" and not to the former phrase "damage to
28 property", or to both. The Public Utility Companies Article Review
29 Committee concluded that the modifying phrase, "serious physical", is
30 intended to apply both to "physical harm to an individual" and to "damage
31 to property", and has revised these subsections accordingly.

32 In the introductory language of subsection (b)(1) of this section, the
33 reference to a "complaint" is substituted for the former references to a
34 "petition" in light of Md. Rule 2-302.

35 In subsection (b)(1)(i) of this section, the former word "restrain" is deleted
36 as unnecessary in light of the use of the word "enjoin".

37 Defined terms: "Commissioner" § 5.5-101

38 "Railroad" § 5.5-101

1 5.5-121. ACCIDENT REPORTS.

2 (A) REPORTS.

3 (1) A RAILROAD COMPANY SHALL PROMPTLY REPORT, IN WRITING OR
4 ORALLY, TO THE COMMISSIONER, AFTER THE OCCURRENCE OF AN ACCIDENT
5 RESULTING IN:

6 (I) A SERIOUS INJURY OR FATALITY TO AN INDIVIDUAL; OR

7 (II) DAMAGE TO PROPERTY EXCEEDING \$2,900, OR ANY OTHER SUM
8 AS DETERMINED BY FEDERAL REGULATIONS, INCURRED DURING THE OPERATION
9 OF THE RAILROAD IN THE STATE.

10 (2) THE COMMISSIONER SHALL INVESTIGATE THE OCCURRENCE
11 PROMPTLY AFTER RECEIVING NOTIFICATION OF THE ACCIDENT.

12 (B) FEDERAL REPORTS.

13 A RAILROAD COMPANY SHALL PROMPTLY SUBMIT TO THE COMMISSIONER
14 COPIES OF ALL ACCIDENT AND INCIDENT REPORTS FILED WITH THE FEDERAL
15 RAILROAD ADMINISTRATION OF ACCIDENTS AND INCIDENTS OCCURRING IN THE
16 STATE.

17 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public Utility
18 Companies Article, also enacted this section, which is derived without
19 substantive change from former Art. 89, § 87.

20 The Public Utility Companies Article Review Committee notes, for the
21 consideration of the General Assembly, that the reference to a specific
22 dollar value of property damage triggering an accident report, \$2,900, is
23 considerably lower than the comparable federal threshold amount of
24 \$6,300, found in 49 CFR § 225.19(e). It may be appropriate to examine
25 whether to increase the State threshold amount, or eliminate it altogether.

26 Defined terms: "Commissioner" § 5.5-101

27 "Person" § 1-101

28 "Railroad" § 5.5-101

29 "Railroad company" § 5.5-101

30 "State" § 1-101

31 5.5-122. PROHIBITED ACTS; CRIMINAL PENALTIES.

32 (A) VIOLATION OF REGULATIONS ON SANITARY CONDITIONS.

33 A PERSON WHO VIOLATES ANY REGULATION ADOPTED BY THE COMMISSIONER
34 UNDER § 5.5-109 OF THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION
35 FOR EACH OFFENSE IS SUBJECT TO A FINE NOT EXCEEDING THE LESSER OF THE
36 PENALTY PROVIDED BY THE REGULATION OR \$100.

1 (B) VIOLATIONS CAUSING DEATH.

2 IF A RAILROAD COMPANY WILLFULLY VIOLATES ANY PROVISION OF THIS TITLE
3 OR ANY ORDER, REGULATION, OR HEALTH AND SAFETY STANDARD ADOPTED UNDER
4 THIS TITLE, AND THE VIOLATION CAUSED DEATH TO AN INDIVIDUAL, ON
5 CONVICTION THE RAILROAD COMPANY IS SUBJECT TO:

6 (1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$25,000; OR

7 (2) FOR A SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING \$50,000.

8 (C) FALSE STATEMENTS.

9 (1) A PERSON MAY NOT KNOWINGLY MAKE A FALSE CERTIFICATION,
10 FALSE REPRESENTATION, OR FALSE STATEMENT IN AN APPLICATION, PLAN,
11 RECORD, REPORT, OR OTHER DOCUMENT THAT IS FILED OR REQUIRED TO BE KEPT
12 UNDER THIS TITLE.

13 (2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS
14 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
15 EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

16 (D) ADVANCE NOTICE OF INSPECTIONS.

17 (1) UNLESS THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE
18 OF THE COMMISSIONER AUTHORIZES ADVANCE NOTICE OF AN INSPECTION, A
19 PERSON MAY NOT GIVE ADVANCE NOTICE OF AN INSPECTION TO BE CONDUCTED
20 UNDER THIS TITLE.

21 (2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS
22 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
23 EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

24 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public
25 Utility Companies Article, also enacted this section, which is derived
26 without substantive change from former Art. 89, §§ 96 and 103(e).

27 In subsection (b) of this section, the word "individual" is substituted for the
28 former word "person" because the word "death" contemplates only a
29 human being and not the other types of entities included in the definition
30 of "person".

31 Also in subsection (b) of this section, the limitation to "expos[ure] to the
32 violation" is deleted as redundant, since the provision expressly states that
33 "the violation caused death".

34 As to the addition of the words "health and safety" to modify references to
35 "standard" in subsection (b) of this section, see Revisor's Note to § 5.5-108
36 of this title.

1 In subsections (c)(2) and (d)(2) of this section, the reference to being "guilty
2 of a misdemeanor" is added to state expressly that which only was implied
3 by the references in former Art. 89, § 96(c) to a "conviction". See State v.
4 Canova, 278 Md. 483, 490 (1976), and Dutton v. State, 123 Md. 373, 378
5 (1914).

6 Defined terms: "Commissioner" § 5.5-101

7 "Person" § 1-101

8 "Railroad company" § 5.5-101

9 5.5-123. CIVIL PENALTIES.

10 (A) DUTY OF COMMISSIONER.

11 THE COMMISSIONER SHALL IMPOSE CIVIL PENALTIES UNDER THIS TITLE.

12 (B) IN GENERAL.

13 (1) FOR THE PURPOSE OF THIS SUBSECTION, A VIOLATION IS
14 CONSIDERED TO BE A SERIOUS VIOLATION IF THERE IS SUBSTANTIAL PROBABILITY
15 THAT DEATH OR SERIOUS PHYSICAL HARM COULD RESULT FROM A CONDITION THAT
16 EXISTS OR A PRACTICE, MEANS, METHOD, OR OPERATION THAT IS IN USE BY THE
17 RAILROAD COMPANY, UNLESS THE RAILROAD COMPANY DID NOT KNOW AND WITH
18 THE EXERCISE OF REASONABLE DILIGENCE COULD NOT HAVE KNOWN OF THE
19 VIOLATION.

20 (2) THE COMMISSIONER MAY ASSESS A CIVIL PENALTY AGAINST A
21 RAILROAD COMPANY THAT:

22 (I) WILLFULLY VIOLATES THIS TITLE, AN ORDER PASSED UNDER
23 THIS TITLE, OR A REGULATION OR HEALTH AND SAFETY STANDARD ADOPTED TO
24 CARRY OUT THIS TITLE AND THE VIOLATION IS SPECIFICALLY DETERMINED TO BE
25 OF A SERIOUS NATURE, AN AMOUNT NOT EXCEEDING \$10,000 FOR EACH VIOLATION;

26 (II) RECEIVES A CITATION FOR A VIOLATION OF A PROVISION OF
27 THIS TITLE, AN ORDER PASSED UNDER THIS TITLE, OR A REGULATION OR HEALTH
28 AND SAFETY STANDARD ADOPTED TO CARRY OUT THIS TITLE AND THE VIOLATION IS
29 SPECIFICALLY DETERMINED TO BE OF A SERIOUS NATURE, AN AMOUNT NOT
30 EXCEEDING \$1,000 FOR EACH VIOLATION; OR

31 (III) RECEIVES A CITATION FOR A VIOLATION OF A PROVISION OF
32 THIS TITLE, AN ORDER PASSED UNDER THIS TITLE, OR A REGULATION OR HEALTH
33 AND SAFETY STANDARD ADOPTED TO CARRY OUT THIS TITLE AND THE VIOLATION IS
34 SPECIFICALLY DETERMINED NOT TO BE OF A SERIOUS NATURE, AN AMOUNT NOT
35 EXCEEDING \$500 FOR EACH VIOLATION.

36 (C) POSTING VIOLATIONS.

1 THE COMMISSIONER MAY ASSESS A CIVIL PENALTY NOT EXCEEDING \$100
2 AGAINST A RAILROAD COMPANY FOR EACH VIOLATION OF A REQUIREMENT FOR
3 POSTING IMPOSED UNDER THIS TITLE.

4 (D) VIOLATIONS OF MAINTENANCE REQUIREMENTS FOR YARD TRACK
5 MARGINS AND SIDETRACKS.

6 (1) THE COMMISSIONER MAY ASSESS A CIVIL PENALTY OF NOT LESS
7 THAN \$100 AND NOT EXCEEDING \$500 AGAINST A RAILROAD COMPANY THAT
8 VIOLATES A MAINTENANCE REQUIREMENT FOR YARD TRACK MARGINS AND
9 SIDETRACKS FOR EMPLOYEE SAFETY UNDER § 5.5-111 OF THIS TITLE.

10 (2) EACH DAY OF NONCOMPLIANCE WITH ANY ORDER THAT THE
11 COMMISSIONER ISSUES UNDER § 5.5-111 OF THIS TITLE SHALL BE CONSIDERED A
12 SEPARATE VIOLATION.

13 (E) REQUIRED FOR VIOLATIONS OF SEATING REQUIREMENTS FOR
14 TRANSPORTING EMPLOYEES.

15 THE COMMISSIONER SHALL ASSESS AGAINST AN AGENT OF A RAILROAD
16 COMPANY A CIVIL PENALTY OF \$100 FOR EACH EMPLOYEE THAT THE AGENT
17 REQUIRES TO RIDE MORE THAN 5 MILES WITHOUT A SEAT AS REQUIRED UNDER §
18 5.5-110(A) OF THIS TITLE, REGARDLESS OF WHETHER THE EMPLOYEE IS IN ACTIVE
19 SERVICE.

20 (F) AMOUNT OF CIVIL PENALTY.

21 IF A RAILROAD COMPANY DOES NOT CORRECT A VIOLATION FOR WHICH A
22 CITATION HAS BEEN ISSUED WITHIN THE PERIOD SET FOR CORRECTION IN
23 ACCORDANCE WITH § 5.5-116 OF THIS TITLE, THE COMMISSIONER MAY IMPOSE A
24 CIVIL PENALTY NOT EXCEEDING \$100 FOR EACH DAY THAT THE VIOLATION
25 CONTINUES.

26 (G) CONSIDERATIONS.

27 BEFORE THE COMMISSIONER ASSESSES A CIVIL PENALTY UNDER THIS
28 SECTION, THE COMMISSIONER SHALL CONSIDER THE APPROPRIATENESS OF THE
29 PENALTY IN RELATION TO:

30 (1) THE SIZE OF THE RAILROAD COMPANY;

31 (2) THE GRAVITY OF THE VIOLATION FOR WHICH THE PENALTY IS TO BE
32 ASSESSED;

33 (3) THE GOOD FAITH OF THE RAILROAD COMPANY; AND

34 (4) THE HISTORY OF VIOLATIONS BY THE RAILROAD COMPANY.

35 (H) COLLECTION OF CIVIL PENALTIES.

1 (1) EACH CIVIL PENALTY UNDER THIS SECTION SHALL BE PAYABLE
2 INTO THE GENERAL FUND OF THE STATE 90 DAYS AFTER THE VIOLATION BECOMES
3 FINAL AND NONREVIEWABLE.

4 (2) THE COMMISSIONER SHALL REDUCE THE PENALTY BY 50% IF
5 DURING THE 90-DAY PERIOD:

6 (I) THE RAILROAD COMPANY HAD NO REPORTABLE ACCIDENTS
7 ATTRIBUTABLE TO A STATE OR FEDERAL REGULATION; OR

8 (II) THE RAILROAD HAS NOT COMMITTED A WILLFUL OR SERIOUS
9 VIOLATION AS DESCRIBED IN THIS SECTION.

10 REVISOR'S NOTE: Chapter _____, Acts of 1998, which enacted the Public Utility
11 Companies Article, also enacted this section, which is derived without
12 substantive change from former Art. 89, §§ 84(a)(7), 95, 102(a)(2), and the
13 third sentence and the second clause of the second sentence of 101(a).

14 In subsection (a) of this section, the reference to this "title" is substituted
15 for the former reference to this "subtitle" to reflect the reorganization of
16 provisions on railroad safety and health derived from former Art. 89 into
17 this title.

18 Subsections (b)(2), (c), (d), (e), and (f) of this section are revised in the
19 active voice to clarify that the assessment of a civil penalty is a
20 responsibility of the Commissioner.

21 As to the addition of the words "health and safety" to modify references to
22 "standard" in subsection (a)(2) of this section, see Revisor's Note to §
23 5.5-108 of this title.

24 In subsection (b) of this section, the reference to the "General Fund of the
25 State" is substituted for the former reference to the "State Treasury" for
26 consistency with § 5-812 of this article.

27 Defined terms: "Commissioner" § 5.5-101

28 "Employee" § 5.5-101

29 "Railroad company" § 5.5-101

30 "State" § 1-101

31 SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 168 through
32 178, inclusive, of Article 23 - Miscellaneous Companies of the Annotated Code of
33 Maryland be repealed and reenacted, with amendments, and transferred to the
34 Session Laws, to read as follows:

1

MINING RAILROADS

2 [168.] 1.

3 The president and directors of any corporation mentioned in § 245 of An. Code of
4 1912 shall be invested with full power to locate and construct a railroad or railroads,
5 with necessary appurtenances, and shall be empowered to condemn a right-of-way
6 for such purposes, beginning the same at, or near, the mines, manufactories or works
7 of said corporation and running to any convenient point or points that may best suit
8 the convenience and interest of said corporation, or beginning at the tipple or other
9 works of said corporation or at a place where said corporation intends or designs to
10 erect such tipple or other works, and running either on the surface, underground, or
11 by elevated road, or partly on the surface and partly by the other methods, or one of
12 them, to the vein of coal or other minerals at the point at which said corporation may
13 desire to open or work the same; and to use and control said "railroad or railroads,
14 and the necessary vehicles and appurtenances thereto belonging"; provided however
15 that the right of condemnation granted by this section shall in no case be allowed to
16 interfere with the workings of any other mine or mines.

17 REVISOR'S NOTE: This section formerly was Art. 23, § 168.

18 Former § 168 is not retained in the Code because it is apparently obsolete.
19 However, it is transferred to the Session Laws to avoid any inadvertent
20 substantive effect that its repeal might have.

21 Specific incorporation provisions for Maryland mining, ore-processing,
22 quarrying, and refining operations, which were formerly found in Art. 23, §
23 245 of the Annotated Code of Maryland of 1912, were repealed effective
24 April 10, 1918. See, Ch. 417, Acts of 1918.

25 [169.] 2.

26 It shall not be lawful for any such corporation formed under [this article]
27 ARTICLE 23 OF THE CODE IN EFFECT ON SEPTEMBER 30, 1998, OR THE
28 CORPORATIONS AND ASSOCIATIONS ARTICLE to occupy any portion of the lands that
29 may be necessary for the accommodation of the works of the Chesapeake and Ohio
30 Canal Company, or the main route of the Baltimore and Ohio Railroad, or the works
31 of any other railroad company chartered by this State, except to cross said roads
32 without injury to the same.

33 REVISOR'S NOTE: This section formerly was Art. 23, § 169.

34 Former § 169 is not retained in the Code because it is apparently obsolete.
35 However, it is transferred to the Session Laws to avoid any inadvertent
36 substantive effect that its repeal might have.

37 The reference to "the Corporations and Associations Article" is added to
38 reflect that, at the time former § 169 was enacted, Article 23 contained all
39 the general corporation law provisions recodified as the Corporations and
40 Associations Article by Chapter 311 of the Acts of 1975. This addition

1 reflects the Public Utility Companies Article Review Committee's
2 interpretation of legislative intent. No substantive change is intended.

3 The only other changes are in style.

4 [170.] 3.

5 The legislature may at any time regulate, modify or change the control, use and
6 estate of any railroad constructed by such corporation, in such manner as it may
7 deem equitable towards the said corporation, and necessary to the accommodation of
8 the public travel or use of the said railroad or railroads.

9 REVISOR'S NOTE: This section formerly was Art. 23, § 170.

10 Former § 170 is not retained in the Code because it is apparently obsolete.
11 However, it is transferred to the Session Laws to avoid any inadvertent
12 substantive effect that its repeal might have.

13 [171.] 4.

14 No railroad constructed by such corporation shall pass through the limits of any
15 incorporated city or town without the consent of the corporate authorities thereof; nor
16 through any dwelling house, warehouse, stable, yard, garden or orchard, without the
17 written consent of the owners of the same.

18 REVISOR'S NOTE: This section formerly was Art. 23, § 171.

19 Former § 171 is not retained in the Code because it is apparently obsolete.
20 However, it is transferred to the Session Laws to avoid any inadvertent
21 substantive effect that its repeal might have.

22 [172.] 5.

23 The president and directors of any such corporation, or a majority of them, or
24 any person authorized by a majority of them, may agree with the owner or owners of
25 any land, earth, timber, stone or other materials which may be wanted for the
26 construction or repair of said railroad or railroads, for the purchase or for the use and
27 occupation of the same, or may obtain such land, earth or stone by condemnation.

28 REVISOR'S NOTE: This section formerly was Art. 23, § 172.

29 Former § 172 is not retained in the Code because it is apparently obsolete.
30 However, it is transferred to the Session Laws to avoid any inadvertent
31 substantive effect that its repeal might have.

32 [173.] 6.

33 The citizens of this State or any corporation now or hereafter to be incorporated
34 under the authority of [this article] ARTICLE 23 OF THE CODE IN EFFECT ON
35 SEPTEMBER 30, 1998, OR THE CORPORATIONS AND ASSOCIATIONS ARTICLE shall have
36 the right to connect with the railroad or railroads hereby provided for, any other

1 railroad, if, in the judgment of any three of the county commissioners of the county for
2 the time being, passed upon hearing of all parties interested, no injury will be done by
3 such connection to the railroad of said corporation.

4 REVISOR'S NOTE: This section formerly was Art. 23, § 173.

5 Former § 173 is not retained in the Code because it is apparently obsolete.
6 However, it is transferred to the Session Laws to avoid any inadvertent
7 substantive effect that its repeal might have.

8 The reference to "the Corporations and Associations Article" is added to
9 reflect that, at the time former § 173 was enacted, Article 23 contained all
10 the general corporation law provisions recodified as the Corporations and
11 Associations Article by Chapter 311 of the Acts of 1975. This addition
12 reflects the Public Utility Companies Article Review Committee's
13 interpretation of legislative intent. No substantive change is intended.

14 The only other changes are in style.

15 [174.] 7.

16 Any corporation authorized by § 245 of Article 23 of the Annotated Code of 1912
17 and § 168 of [this article] ARTICLE 23 OF THE CODE IN EFFECT ON SEPTEMBER 30,
18 1998 to construct the railroad therein mentioned, may charge any citizen or
19 corporation connecting with its said railroad, when using their own cars, a rate not
20 exceeding two cents per ton per mile, on all coal or other articles that may be
21 transported on the railroads of said corporation, from any point on said road to the
22 Chesapeake and Ohio Canal, or to the Baltimore and Ohio Railroad, or other lines of
23 canals and railroads; provided, that the said corporation shall return the empty cars
24 of such citizen or corporation to the point from whence they started, free of charge.

25 REVISOR'S NOTE: This section formerly was Art. 23, § 174.

26 Former § 174 is not retained in the Code because it is apparently obsolete.
27 However, it is transferred to the Session Laws to avoid any inadvertent
28 substantive effect that its repeal might have.

29 Specific incorporation provisions for Maryland mining, ore-processing,
30 quarrying, and refining operations, which were formerly found in Art. 23, §
31 245 of the Annotated Code of Maryland of 1912, were repealed effective
32 April 10, 1918. See, Ch. 417, Acts of 1918.

33 The only other changes are in style.

34 [175.] 8.

35 No cars shall be placed on any railroad of any such corporation aforesaid, unless
36 they be adapted in size and all necessary particulars to said railroad, in accordance
37 with the regulations of the said corporation, which shall always provide the necessary

1 motive power for running said cars; and the said cars shall be in the exclusive care
2 and charge of said corporation whilst on its railroad.

3 REVISOR'S NOTE: This section formerly was Art. 23, § 175.

4 Former § 175 is not retained in the Code because it is apparently obsolete.
5 However, it is transferred to the Session Laws to avoid any inadvertent
6 substantive effect that its repeal might have.

7 [176.] 9.

8 No railroad built by any mining or other corporation under §§ 168 to 175 of [this
9 article] ARTICLE 23 OF THE CODE IN EFFECT ON SEPTEMBER 30, 1998 shall be more
10 than ten miles in length.

11 REVISOR'S NOTE: This section formerly was Art. 23, § 176.

12 Former § 176 is not retained in the Code because it is apparently obsolete.
13 However, it is transferred to the Session Laws to avoid any inadvertent
14 substantive effect that its repeal might have.

15 Specific incorporation provisions for Maryland mining, ore-processing,
16 quarrying, and refining operations, which were formerly found in Art. 23, §
17 245 of the Annotated Code of Maryland of 1912, were repealed effective
18 April 10, 1918. See, Ch. 417, Acts of 1918.

19 The only other changes are in style.

20 [177.] 10.

21 Every railroad constructed under the preceding provisions of [this article]
22 ARTICLE 23 OF THE CODE IN EFFECT ON SEPTEMBER 30, 1998 shall be furnished with
23 all necessary means for the transportation of all persons and property that may be
24 offered for transportation thereon; and in all cases other than that provided for in §
25 174 of [this article] ARTICLE 23 OF THE CODE IN EFFECT ON SEPTEMBER 30, 1998, or
26 in all cases in which the said corporation furnishes the said cars and motive power,
27 and is subject to all the expenses of transportation, it shall be authorized to charge
28 rates not exceeding two and a half cents per ton per mile on all coal or other articles,
29 and two cents per mile for every passenger that may be transported on said road.

30 REVISOR'S NOTE: This section formerly was Art. 23, § 177.

31 Former § 177 is not retained in the Code because it is apparently obsolete.
32 However, it is transferred to the Session Laws to avoid any inadvertent
33 substantive effect that its repeal might have.

34 Specific incorporation provisions for Maryland mining, ore-processing,
35 quarrying, and refining operations, which were formerly found in Art. 23, §
36 245 of the Annotated Code of Maryland of 1912, were repealed effective
37 April 10, 1918. See, Ch. 417, Acts of 1918.

1 The only other changes are in style.

2 [178.] 11.

3 Any railroad that may hereafter be constructed or purchased by any such
4 corporation formed under [this article] ARTICLE 23 OF THE CODE IN EFFECT ON
5 SEPTEMBER 30, 1998, OR THE CORPORATIONS AND ASSOCIATIONS ARTICLE, shall be
6 so located or used as to occupy as little space at the passage through the gap at Will's
7 Mountain, near Cumberland, as may be compatible with the full and convenient use
8 of said railroad, and in such manner as to produce as little obstruction as may be to
9 the location of other railroads through said gap by any corporation now authorized, or
10 that may hereafter be authorized to construct the same under the authority of [this
11 article] ARTICLE 23 OF THE CODE IN EFFECT ON SEPTEMBER 30, 1998, OR THE
12 CORPORATIONS AND ASSOCIATIONS ARTICLE.

13 REVISOR'S NOTE: This section formerly was Art. 23, § 178.

14 Former § 178 is not retained in the Code because it is apparently obsolete.
15 However, it is transferred to the Session Laws to avoid any inadvertent
16 substantive effect that its repeal might have.

17 Specific incorporation provisions for Maryland mining, ore-processing,
18 quarrying, and refining operations, which were formerly found in Art. 23, §
19 245 of the Annotated Code of Maryland of 1912, were repealed effective
20 April 10, 1918. See, Ch. 417, Acts of 1918.

21 The references to "the Corporations and Associations Article" are added to
22 reflect that, at the time former § 178 was enacted, Article 23 contained all
23 the general corporation law provisions recodified as the Corporations and
24 Associations Article by Chapter 311 of the Acts of 1975. This addition
25 reflects the Public Utility Companies Article Review Committee's
26 interpretation of legislative intent. No substantive change is intended.

27 The only other changes are in style.

28 SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 207 through
29 210, inclusive, of Article 23 - Miscellaneous Companies of the Annotated Code of
30 Maryland be repealed and reenacted, with amendments, and transferred to the
31 Session Laws, to read as follows:

32 CONSOLIDATIONS AND TRANSFERS OF ASSETS OF RAILROAD COMPANIES

33 [207.] 1.

34 It shall be lawful for any railroad company heretofore or hereafter incorporated
35 under the laws of this State to consolidate with any other railroad company
36 incorporated under the laws of this State, or any other state, or of the United States,
37 whose railroad within or without this State shall, either directly or by means of
38 intervening line of railroad, connect with or form a continuous line with the railroad
39 of the company so consolidating upon such terms as may be agreed upon; provided,

1 however, that the agreement for such consolidation shall be submitted to the
2 stockholders of the railroad company incorporated under the laws of this State at a
3 special meeting called for considering the same, and shall be sanctioned by the
4 holders of a majority of the stock of such company, and if sanctioned at such meeting
5 by such holders of a majority of the stock, shall be filed in the office of the Secretary
6 of State of this State; and provided further, that such agreement shall contain no
7 provisions in conflict with the provisions of [this article] ARTICLE 23 OF THE CODE IN
8 EFFECT ON SEPTEMBER 30, 1998, OR THE CORPORATIONS AND ASSOCIATIONS
9 ARTICLE, or which shall exempt such railroad so far as it lies in this State from the
10 operation of the laws of this State, and nothing in this section shall be construed to
11 authorize the consolidation of any railroad companies owning or operating competing
12 or parallel roads or parallel lines of railroad, which is hereby declared to be unlawful
13 and expressly prohibited without the special consent of the General Assembly being
14 first obtained therefor.

15 REVISOR'S NOTE: This section formerly was Art. 23, § 207.

16 Former § 207 is not retained in the Code because it is apparently obsolete.
17 However, it is transferred to the Session Laws to avoid any inadvertent
18 substantive effect that its repeal might have.

19 The reference to "the Corporations and Associations Article" is added to
20 reflect that, at the time former § 207 was enacted, Article 23 contained all
21 the general corporation law provisions recodified as the Corporations and
22 Associations Article by Chapter 311 of the Acts of 1975. This addition
23 reflects the Public Utility Companies Article Review Committee's
24 interpretation of legislative intent. No substantive change is intended.

25 The only other changes are in style.

26 [208.] 2.

27 It shall be lawful for any railroad company incorporated under the laws of this
28 State, to lease its railroad and franchise for the operation thereof to any other
29 railroad company incorporated under the laws of this or of any other state of the
30 United States whose railroad, within or without this State, shall, either directly or by
31 means of intervening line, connect with the railroad so to be leased to said company,
32 and thus forming a continuous route or routes for the transportation of persons and
33 property. Any railroad company incorporated under the laws of this State may become
34 the lessee of the railroad and the franchises for its operation of any other railroad
35 company incorporated under the laws of this or of any other state of the United States
36 whose railroad, within or without this State, shall, either directly or by means of
37 intervening line, connect with the railroad of the lessee company, and thus forming a
38 continuous route or routes for the transportation of persons and property. This section
39 does not authorize any company incorporated under the laws of this State to lease its
40 railroad to any railroad company whose railroad within this State competes with the
41 railroad of the lessor company, nor shall any railroad company incorporated under the
42 laws of this State become the lessee of any railroad which competes in this State with
43 the railroad of the lessor company. The agreement of lease may not contain any

1 provisions in conflict with the provisions of [this article of the Code] ARTICLE 23 OF
2 THE CODE IN EFFECT ON SEPTEMBER 30, 1998, OR THE CORPORATIONS AND
3 ASSOCIATIONS ARTICLE, or which will exempt the railroad, so far as it lies within this
4 State, from the operation of the laws of this State. The agreement containing the
5 terms and conditions of any proposed lease shall, after due approval by the board of
6 directors of each company party thereto, be submitted to the stockholders of such one
7 or more of said railroad companies as shall have been incorporated under the laws of
8 this State at either a special meeting thereof, duly called in accordance with the
9 charter and bylaws of the companies whereof they are stockholders for the
10 consideration of the same, or at any annual meeting thereof, likewise duly called, and
11 in the call for which it shall be stated that the said agreement will be considered at
12 such meeting. If approved by a vote of not less than three fourths of the capital stock
13 of such company or companies outstanding and entitled to vote, the agreement shall
14 then be duly executed by each of the parties thereto, and, when so executed, a copy
15 thereof, duly certified by the secretary of each of the companies parties thereto under
16 their respective corporate seals, shall be filed in the office of the Secretary of the State
17 of Maryland, and upon such filing the agreement and the lease thereby effected shall
18 become and be in full force and operation in accordance with its terms. If any
19 stockholder of any company incorporated under the laws of this State who shall not,
20 either in person or by proxy, have voted at such meeting of stockholders in favor of the
21 agreement, shall be dissatisfied with the lease thereby effected, it shall and may be
22 lawful for such stockholder, within thirty days after the filing of said agreement in
23 the office of the Secretary of State, as hereinbefore prescribed, to apply by petition to
24 any judge of the circuit court for any county in this State wherein any part of the
25 leased railroad is situated, for the appointment of three disinterested commissioners
26 to estimate and appraise the damage, if any, which such stockholders may suffer or
27 sustain by reason of the lease, and also to estimate and appraise the share or shares
28 of such stockholder at their market value, without regard to any depreciation
29 resultant from such lease, and the award of said commissioners, or any two of them,
30 when confirmed by the court, shall be final and conclusive; and thereupon the lessee
31 company shall, at its election, either pay to the stockholder the amount of damages
32 appraised by the commissioners and permit the stockholder to retain title and
33 possession of his shares, or shall pay to the stockholder the value of his shares as
34 ascertained by said appraisal; and upon payment of the last mentioned value the
35 stockholder shall transfer the shares absolutely to the lessee company, and the same
36 shall be thereafter owned, held or disposed of by the latter as its directors may
37 determine, authorize and direct. The commissioners shall make their award in
38 writing in triplicate original, and shall deliver one of such originals to each party and
39 file the other with the clerk of the court within five days after completing the same;
40 and if either party be dissatisfied with such award, exceptions thereto shall be filed
41 on or before the first day of the term of court succeeding the date of the award; and
42 thereupon the court shall fully hear and consider the exceptions, and either affirm the
43 award or set the same aside, as it shall determine, and if set aside, appoint three
44 other disinterested commissioners to make another appraisal.

45 REVISOR'S NOTE: This section formerly was Art. 23, § 208.

46 Former § 208 is not retained in the Code because it is apparently obsolete.

47 However, it is transferred to the Session Laws to avoid any inadvertent

1 substantive effect that its repeal might have.

2 The reference to "the Corporations and Associations Article" is added to
3 reflect that, at the time former § 208 was enacted, Article 23 contained all
4 the general corporation law provisions recodified as the Corporations and
5 Associations Article by Chapter 311 of the Acts of 1975. This addition
6 reflects the Public Utility Companies Article Review Committee's
7 interpretation of legislative intent. No substantive change is intended.

8 The only other changes are in style.

9 [209.] 3.

10 It shall be lawful for any railroad company, incorporated under the laws of this
11 State, or of any other state of the United States, owning a railroad in this State,
12 connecting with that of any other railroad company of this State, or of any other state
13 of the United States, in this State, and owning at least two thirds of the capital stock
14 of the latter, to acquire, in the manner hereinafter provided, and thereafter to be
15 possessed of, own, hold, exercise and enjoy, all the property, real and personal, and all
16 the rights, privileges and franchises and credits then possessed, owned, held or
17 exercised by said last-mentioned vendor corporation; and such acquisition shall be
18 effected in the manner and upon the conditions hereinafter stated, to wit:

19 First. The corporations shall, pursuant to resolution duly adopted by the
20 directors of each, make and execute, under their respective corporate seals, duly
21 attested, an agreement providing for such acquisition and sale, specifying all
22 essential details, terms, stipulations and conditions thereof, and particularly showing
23 the number of outstanding shares of capital stock of the vendor corporation, the
24 amount fixed as the price or value per share thereof, and the mode by which the
25 respective holders shall receive payment for the same, and with a map of the railroad
26 to be acquired thereunder, annexed to and made part thereof.

27 Second. Said agreement, after due notice is given all directors of such
28 corporation, shall be submitted for approval or disapproval to the stockholders of each
29 corporation at separate meetings, either annual or special, duly convened, and if said
30 agreement shall be approved by a majority of the stockholders of each corporation
31 present at such meeting, then that fact shall be certified by the secretary of each
32 corporation under its corporate seal, and a copy of the agreement, with said
33 certificates attached, shall be filed with an application drawn in accordance with the
34 regulations of the Public Service Commission of Maryland, with the Public Service
35 Commission of Maryland, for their approval; and upon the approval thereof by the
36 Public Service Commission of Maryland, a copy of the agreement, with a certified
37 copy of the order of Public Service Commission of Maryland approving the same, shall
38 be filed in the office of the Secretary of State of this State; and immediately upon the
39 filing thereof all the property, real and personal and mixed, and all the corporate
40 rights, privileges and franchises and credits, owned, possessed, held, used, or
41 otherwise exercised, by the vendor corporation, shall (subject, however, to full
42 payment in the manner prescribed by said agreement of the stipulated price or value
43 of the whole capital stock of said vendor corporation), become and be vested in the

1 acquiring corporation, subject to all the debts, liabilities and duties of said vendor
2 corporation, and shall thereafter be possessed, held, used, exercised and enjoyed by
3 said acquiring corporation, as fully, completely and absolutely in all respects as the
4 same had been theretofore owned, held, exercised and enjoyed by said vendor
5 corporation; and said acquiring corporation may also, with respect to the property so
6 acquired, have, exercise and enjoy all the rights, powers, privileges and franchises
7 which it has and may exercise respecting its other railroads and property. Upon the
8 filing in the office of the Secretary of State of said copy of agreement as hereinabove
9 provided, the capital stock of said vendor corporation shall be wholly extinguished by
10 payment, in the mode prescribed in said agreement, of the stipulated price or value
11 thereof, and all certificates, representative thereof, shall be delivered to the acquiring
12 corporation for immediate cancellation, and all corporate rights, privileges and
13 franchises and property of every kind and nature acquired under said agreement,
14 shall thereafter be represented by the capital stock of the acquiring corporation, and
15 thereupon the corporate existence of the said vendor corporation shall terminate.

16 Third. That the copy of said agreement, filed in the office of the Secretary of
17 State, as hereinabove as in this section provided, shall be evidence of the lawful
18 holding of the meetings of the stockholders of each corporation, and of the due
19 approval of the said agreement as required by this section, both by the stockholders
20 and Public Service Commission of Maryland, and also of the precedent action of the
21 directors of each corporation. If any stockholder or stockholders of the railroad
22 corporation, whose franchises, corporate property, rights, privileges and credits are
23 acquired under said agreement, shall be dissatisfied with said acquisition, and the
24 terms and conditions thereof contained in said agreement, then it shall and may be
25 lawful for any such stockholder or stockholders, within thirty days after the filing of
26 said agreement in the office of the Secretary of State as hereinabove provided, to
27 apply by petition to the circuit court for the county in which the chief office of the said
28 vendor corporation may be situated, to appoint three disinterested persons to
29 estimate and appraise the damage, if any, which such stockholder or stockholders
30 shall suffer or sustain by reason of the purchase and acquisition provided for by said
31 agreement and whose award, or that of a majority of them, when confirmed by said
32 court, shall be final and conclusive; and the person so appointed shall also appraise
33 the share or shares of said stockholders in the said company, at the market value
34 thereof, without regard to any depreciation resulting from said purchase and
35 acquisition, and the said company may, at its election, either pay to the said holder
36 the amount of damages so found, or the value of the stock so ascertained, and upon
37 payment of the value of the stock, as aforesaid, the same shall be transferred to and
38 be vested in said acquiring company.

39 Fourth. In connection with and upon consummation of such acquisition as
40 aforesaid, the acquiring company may issue its own then authorized capital stock or
41 its own bonds, either or both, at not less than the par or face value thereof, to such
42 amount as may be required by said agreement, or as may be found otherwise
43 necessary for paying and extinguishing the outstanding capital stock and bonded
44 indebtedness, or either, of the corporation whose rights, property, privileges,
45 franchises and credits are so acquired.

46 REVISOR'S NOTE: This section formerly was Art. 23, § 209.

1 Former § 209 is not retained in the Code because it is apparently obsolete.
2 However, it is transferred to the Session Laws to avoid any inadvertent
3 substantive effect that its repeal might have.

4 No changes are made.

5 [210.] 4.

6 It shall be lawful for any railroad company, incorporated under the laws of this
7 State, or of this and any other state or states, whether incorporated under the
8 provisions of [this article] THE CORPORATIONS AND ASSOCIATIONS ARTICLE or by
9 special act or otherwise, to purchase the railroad, property, rights, privileges,
10 franchises and credits of any other railroad company incorporated under the laws of
11 this, or of this and any other state or states, or of any other state or states, provided
12 the railroads of the two companies connect, either within or without this State,
13 directly or by means of intervening lines and form a continuous route or routes for the
14 transportation of persons and property; and any railroad company incorporated as
15 aforesaid of this State or of this and any other state or states, is hereby empowered to
16 sell its railroad, property, rights, privileges, franchises and credits to any other
17 railroad company which is authorized by the terms hereof to acquire the same, or to
18 any railroad company of another state or states which is lawfully empowered to
19 acquire the same. The purchase hereby authorized shall be made and consummated
20 in the manner hereinafter provided, and when the same has been consummated, the
21 purchasing company shall be possessed of and shall own, hold, operate, exercise and
22 enjoy the railroad, property, rights, privileges, franchises and credits of the selling
23 company; but nothing herein contained shall be construed as exempting the
24 purchasing company from the operation of the laws of this State in respect to its
25 railroad and property within the State. Such purchase and sale shall be effected in
26 the manner following:

27 First. The two companies shall, pursuant to resolutions duly adopted by their
28 respective board of directors, make and execute an agreement under their respective
29 corporate seals, duly attested, which shall contain and set forth the terms and
30 conditions of said purchase and sale, and shall designate the number of outstanding
31 shares of the capital stock of the selling company and the amount which under the
32 terms of said agreement will accrue and be payable to the holder of each share in cash
33 out of the purchase money or consideration to be paid by the purchasing company.
34 Such agreement may further provide that all or any shareholders of the selling
35 company desiring so to do may, in lieu of the cash payment to which they shall be
36 entitled under and by virtue of the terms of the agreement convert and exchange upon
37 the terms and conditions set forth and defined in the agreement their shares of the
38 stock of the selling company into shares of stock of the purchasing company. After the
39 said agreement shall have been executed it shall be submitted to the stockholders of
40 each of the companies parties thereto at separate meetings, either annual or special,
41 duly called and held in accordance with their respective charters and bylaws and the
42 applicable laws of this or of other states. In the call for or notice of any meeting of
43 stockholders of a corporation of this or of this and any other state or states, whether
44 annual or special, reference shall be made to the fact that the said agreement will be
45 submitted to and considered at such meeting. If the agreement shall be approved by

1 the holders of a majority in interest of the capital stock of each company party thereto
2 outstanding and entitled to vote, then that fact shall be certified by the secretary of
3 each corporation under its corporate seal and a copy of the agreement with the said
4 certificates attached shall be filed in the office of the Secretary of State of this State,
5 and concurrently with such filing all the railroad, property, real and personal, rights,
6 privileges, franchises and credits of the selling company shall become and be vested
7 in the purchasing company, subject to full payment in the manner prescribed in said
8 agreement of the stipulated price or value of the capital stock of the selling company
9 or to the right of exchange of stocks if the same shall be provided for in said
10 agreement, and to all the debts, liabilities, duties and obligations of the selling
11 company, and shall be thereafter possessed, held, used, operated, exercised and
12 enjoyed by the purchasing company as fully and completely in all respects as the
13 same has been theretofore possessed, held, used, operated, exercised and enjoyed by
14 the selling company, and the said purchasing company shall also with respect to the
15 said property and railroad so purchased and acquired have, exercise and enjoy all the
16 rights, powers, privileges and franchises possessed, held and exercisable by it in
17 respect to its other railroads and property in this State.

18 Second. If any stockholder of any selling company incorporated under the laws
19 of this or of this and any other state or states, who shall not either in person or by
20 proxy have voted at such meeting of stockholders in favor of said agreement, shall be
21 dissatisfied with the price payable by the terms thereof to the holders of shares of the
22 selling company, such shareholder may within thirty (30) days after the filing of said
23 agreement in the office of the Secretary of State apply by petition to any judge of the
24 circuit court for any county in this State wherein any part of the railroad embraced in
25 said agreement is situated, for the appointment of three disinterested commissioners
26 to estimate and appraise the share or shares of such stockholder at their market
27 value, without regard to any depreciation resultant from such sale, and the award of
28 said commissioners, when confirmed by the court, shall be final and conclusive, and
29 thereupon the purchasing company shall pay to the stockholder the value of his share
30 or shares as ascertained by said appraisal, and upon payment as aforesaid the
31 stockholder shall transfer the said share or shares absolutely to the purchasing
32 company to be cancelled. The commissioners aforesaid shall make their award in
33 writing in triplicate original, and shall deliver one of such originals to each party and
34 file the other with the clerk of the court within 5 days after completing the same; and
35 if either party be dissatisfied with such award, exceptions thereto shall be filed
36 within 15 days after the award shall be filed by the commissioners as aforesaid; and
37 thereupon the court shall fully hear and consider the said exceptions, and either
38 affirm the said award or set the same aside, as it shall determine, and if set aside,
39 appoint three other disinterested commissioners to make another appraisal;
40 whereupon the same procedure shall be had as often as the court shall set aside said
41 appraisal; and commissioners appointed by the court as aforesaid shall file their
42 award as hereinabove provided within 5 days after the day of their appointment. If
43 any stockholder shall proceed as herein authorized for the ascertainment and
44 determination of the value of his stock of the selling company, such action shall be
45 treated as and conclusively presumed to be an election on the part of such stockholder
46 to accept the cash value of his stock as the same shall be ascertained and determined
47 in the proceeding herein authorized, and any right of conversion or exchange of his

1 stock for stock of the purchasing company shall by the institution of such proceedings
2 be terminated and annulled.

3 Third. If by the terms of the agreement stockholders of the selling company shall
4 be given the right to convert or exchange their shares of stock into shares of stock of
5 the purchasing company, the failure or refusal of any holders of shares of the selling
6 company to accept within the period of six months after the date named in said
7 agreement for payment thereof the cash value of their said shares as defined and set
8 forth in said agreement, shall be treated as and conclusively presumed to be an
9 election on the part of such holders to accept the stock of the purchasing company to
10 which by the terms of said agreement they shall be entitled, and thereafter such
11 holders shall be entitled only to exercise the privilege of exchange of their stock for
12 stock of the purchasing company upon the terms and conditions provided in said
13 agreement, and the cash value of said shares as defined and set forth in said
14 agreement shall be retained by and become the property of the purchasing company.
15 But the provision of this paragraph shall not apply to the holder or holders of stock of
16 the selling company who shall, pursuant to the provisions of paragraph second
17 thereof, have taken the proceedings authorized therein for the determination of the
18 value of their shares.

19 Fourth. In connection with and to consummate only purchase authorized by the
20 terms of this section, the purchasing company may issue its own capital stock or
21 bonds, either or both, to such amount as may be required by the agreement or as may
22 be otherwise necessary in order to provide the price or consideration to be paid by the
23 purchasing company or to pay off or retire the bonds or capital stock of the selling
24 company, or to effect exchanges of the bonds and stock of the selling company for
25 those of the purchasing company.

26 REVISOR'S NOTE: This section formerly was Art. 23, § 210.

27 Former § 210 is not retained in the Code because it is apparently obsolete.
28 However, it is transferred to the Session Laws to avoid any inadvertent
29 substantive effect that its repeal might have.

30 The only changes are in style.

31 SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 321 of Article
32 23 - Miscellaneous Companies of the Annotated Code of Maryland be repealed and
33 reenacted, with amendments, and transferred to the Session Laws, to read as follows:

34 TELEPHONE AND TELEGRAPH CORPORATIONS

35 [321.] 1.

36 Any such TELEGRAPH OR TELEPHONE corporation formed as aforesaid may,
37 with the consent of the majority of the owners of the capital stock of such
38 corporations, given in general meeting, extend their lines of telegraph into any other
39 state, or may construct branch lines in this State or any other state, or may lease, sell
40 or convey its property, rights, privileges and franchises or any interest therein or any

1 part thereof to any telegraph OR TELEPHONE company organized under or created by
2 the laws of this or any other state, and may acquire by lease, purchase or conveyance
3 the property, rights, privileges and franchises or any interest therein or any part
4 thereof of any telegraph OR TELEPHONE company organized under and created by the
5 laws of this or any other state upon such terms and conditions as may be agreed upon
6 between the respective companies, or by purchase at any sale of the property and
7 franchises of any such corporation heretofore incorporated or hereafter to be
8 incorporated under the terms of a mortgage or deed of trust heretofore made, or
9 hereafter to be made, conveying the property and franchises of any such company, or
10 under decree of any court, or under an execution issued against the property of said
11 company; and said purchasing company shall have and possess all the rights,
12 franchises and privileges heretofore enjoyed by the company whose property is so
13 acquired, whether the same were acquired under grant from any state, municipality
14 or other corporation; or may consolidate with any other telegraph company or
15 corporation of this or any other state, under such name and with such capital stock,
16 and upon such terms as may be agreed upon between such companies or corporations;
17 and whenever such consolidation as aforesaid is made, a certificate of the same and of
18 the particulars thereof shall be executed and acknowledged by the president or other
19 principal officers of said corporations so consolidating, which said certificate shall be
20 recorded. When said consolidated company is formed it shall be subject to the
21 provisions of [this article] THE PUBLIC UTILITY COMPANIES ARTICLE and the
22 Corporations and Associations Article, as far as the same are applicable.

23 REVISOR'S NOTE: This section formerly was Art. 23, § 321.

24 Former § 321 is not retained in the Code because it is apparently obsolete.
25 However, it is transferred to the Session Laws to avoid any inadvertent
26 substantive effect that its repeal might have.

27 The only changes are in style.

28 SECTION 7. AND BE IT FURTHER ENACTED, That the Revisor's Notes,
29 Special Revisor's Notes, and catchlines contained in this Act are not law and may not
30 be considered to have been enacted as a part of this Act.

31 SECTION 8. AND BE IT FURTHER ENACTED, That nothing in this Act affects
32 the term of office of an appointed or elected member of any commission, office,
33 department, agency, or other unit. An individual who is a member of a unit on the
34 effective date of this Act shall remain a member for the balance of the term to which
35 appointed or elected, unless the member sooner dies, resigns, or is removed under
36 provisions of law.

37 SECTION 9. AND BE IT FURTHER ENACTED, That, except as expressly
38 provided to the contrary in this Act, any transaction or employment status affected by
39 or flowing from any change of nomenclature or any statute amended, repealed, or
40 transferred by this Act and validly entered into or existing before the effective date of
41 this Act and every right, duty, or interest flowing from the statute, remains valid after
42 the effective date of this Act and may be terminated, completed, consummated, or
43 enforced as required or allowed by any statute amended, repealed, or transferred by

1 this Act as though the repeal, amendment, or transfer had not occurred. If the change
2 in nomenclature involves a change in name or designation of any State unit, the
3 successor unit shall be considered in all respects as having the powers and obligations
4 granted the former unit.

5 SECTION 10. AND BE IT FURTHER ENACTED, That the continuity of every
6 commission, office, department, agency, or other unit is retained. The personnel,
7 records, files, furniture, fixtures, and other properties and all appropriations, credits,
8 assets, liabilities, and obligations of each retained unit are continued as the
9 personnel, records, files, furniture, fixtures, properties, appropriations, credits,
10 assets, liabilities, and obligations of the unit under the laws enacted by this Act.

11 SECTION 11. AND BE IT FURTHER ENACTED, That, except as expressly
12 provided to the contrary in this Act, any person licensed, registered, certified, or
13 issued a permit or certificate by any commission, office, department, agency, or other
14 unit established or continued by any statute amended, repealed, or transferred by
15 this Act is considered for all purposes to be licensed, registered, certified, or issued a
16 permit or certificate by the appropriate unit continued under this Act for the duration
17 of the term for which the license, registration, certification, or permit was issued, and
18 may renew that authorization in accordance with the appropriate renewal provisions
19 of this Act.

20 SECTION 12. AND BE IT FURTHER ENACTED, That, subject to the approval
21 of the Executive Director of the Department of Legislative Services, the publishers of
22 the Annotated Code of Maryland shall propose the correction of cross-references that
23 are rendered incorrect by this Act.

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