

SENATE BILL 783

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1998 Regular Session
8r1170

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

Introduced and read first time: March 9, 1998

Assigned to: Rules

Re-referred to: Finance, March 12, 1998

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 1998

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of correcting certain cross-references to the Public Utility

4 Companies Article in the Annotated Code of Maryland; correcting certain errors

5 and omissions in the Public Utility Companies Article; making stylistic changes;

6 and generally relating to the Public Utility Companies Article.

7 BY repealing and reenacting, with amendments,

8 Article 23 - Miscellaneous Companies

9 Section 182

10 Annotated Code of Maryland

11 (1996 Replacement Volume and 1997 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article 41 - Governor - Executive and Administrative Departments

14 Section 10-801(e) and 18-106(c)

15 Annotated Code of Maryland

16 (1997 Replacement Volume and 1997 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article 83B - Department of Housing and Community Development

19 Section 6-404(a)(1)(vii) and (viii) and (e) and 6-406(d)(2)

20 Annotated Code of Maryland

21 (1995 Replacement Volume and 1997 Supplement)

- 1 BY repealing and reenacting, with amendments,
2 Article - Business Occupations and Professions
3 Section 11-502(a)
4 Annotated Code of Maryland
5 (1995 Replacement Volume and 1997 Supplement)
- 6 BY repealing and reenacting, with amendments,
7 Article - Commercial Law
8 Section 13-301(15)
9 Annotated Code of Maryland
10 (1990 Replacement Volume and 1997 Supplement)
- 11 BY repealing and reenacting, with amendments,
12 Article - Environment
13 Section 2-405(a)(1), (b), (e)(1), and (f) and 5-502(e)
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 1997 Supplement)
- 16 BY repealing and reenacting, with amendments,
17 Article - Labor and Employment
18 Section 8-206(e)(3)
19 Annotated Code of Maryland
20 (1991 Volume and 1997 Supplement)
- 21 BY repealing and reenacting, with amendments,
22 Article - Natural Resources
23 Section 3-128(b), 3-304(2), 3-305(a)(3), 3-307, 3-919(b), 5-409(c)(1),
24 5-1602(b)(5), and 5-1603(f)
25 Annotated Code of Maryland
26 (1997 Replacement Volume and 1997 Supplement)
- 27 BY repealing and reenacting, with amendments,
28 Article - Public Utility Companies
29 Section 1-101(g), (j), (q), (aa), (cc), and (gg), 2-103(b)(3), 3-102(e)(2), 3-112(a),
30 3-202(c), 4-102(b), 4-301(a) and (b)(1), 5-410(a), (b), and (d), 6-101(c)(2)
31 and (3), 6-209(b)(1), 7-207(e)(3)(vi), ~~and~~ 8-103 through 8-106,
32 12-101(d)(2) and (g), and 12-111
33 Annotated Code of Maryland
34 (As enacted by Chapter ____ (S.B. 1) of the Acts of the General Assembly of 1998)
- 35 BY repealing and reenacting, without amendments,
36 Article - Public Utility Companies
37 Section 13-207

1 Annotated Code of Maryland
 2 (As enacted by Chapter ____ (S.B. 1) of the Acts of the General Assembly of 1998)

3 BY repealing and reenacting, with amendments,
 4 Article - Real Property
 5 Section 11-131(b)(2)
 6 Annotated Code of Maryland
 7 (1996 Replacement Volume and 1997 Supplement)

8 BY repealing and reenacting, with amendments,
 9 Article - State Government
 10 Section 15-829(c)(3)(iv), 15-838(b)(2)(iv), and 15-848(b)(3)(iv)
 11 Annotated Code of Maryland
 12 (1995 Replacement Volume and 1997 Supplement)

13 BY repealing and reenacting, with amendments,
 14 Article - Tax - General
 15 Section 8-401(b)(2)(ii) and 8-407
 16 Annotated Code of Maryland
 17 (1997 Replacement Volume)

18 BY repealing and reenacting, with amendments,
 19 Article - Transportation
 20 Section 6-301(b)(3)
 21 Annotated Code of Maryland
 22 (1993 Replacement Volume and 1997 Supplement)

23 BY repealing and reenacting, with amendments,
 24 Article - Transportation
 25 Section 13-423(a) and 22-404.3(e)(1)
 26 Annotated Code of Maryland
 27 (1992 Replacement Volume and 1997 Supplement)

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

30 **Article 23 - Miscellaneous Companies**

31 182.

32 (A) [Any] SUBJECT TO SUBSECTION (B) OF THIS SECTION, A municipal
 33 corporation of this State now owning or hereafter acquiring an electric plant [and/or]
 34 OR gas plant, as defined in [Article 78, § 2] § 1-101 OF THE PUBLIC UTILITY
 35 COMPANIES ARTICLE, [shall have power to] MAY sell, lease, exchange or otherwise
 36 dispose of [such] THE electric plant [and/or] OR gas plant, or any part of or interest

1 in either [thereof], to any [electrical corporation and/or gas corporation] ELECTRIC
 2 COMPANY OR GAS COMPANY, as defined [by said Article 78, § 2] IN § 1-101 OF THE
 3 PUBLIC UTILITY COMPANIES ARTICLE, [upon such] ON terms and conditions [as
 4 such] DETERMINED BY THE municipal corporation [shall determine, provided any
 5 such].

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

8 (2) AT LEAST TWICE WITHIN 15 DAYS AFTER THE DATE OF THE ORDER
 9 OF APPROVAL BY THE PUBLIC SERVICE COMMISSION, THE MUNICIPAL
 10 CORPORATION SHALL PUBLISH notice of [any such] THE sale, lease, exchange or
 11 other disposition, and of the approval [thereof by said Public Service] OF THE
 12 Commission[, shall be inserted by said municipal corporation in some] IN A
 13 newspaper published in the:

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

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

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

21 10-801.

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

25 18-106.

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

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

33 6-404.

34 (a) The Department shall:

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

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

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

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

7 (1) On or before January 1, 1997, a copy of its duly adopted local code
8 provisions that are more restrictive than the Energy Code required under [Article 78,
9 § 54J of the Code] TITLE 7, SUBTITLE 4 OF THE PUBLIC UTILITY COMPANIES ARTICLE;
10 and

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

15 6-406.

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

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

20 **Article - Business Occupations and Professions**

21 11-502.

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

25 **Article - Commercial Law**

26 13-301.

27 Unfair or deceptive trade practices include any:

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

Article - Environment

1
2 2-405.

3 (a) (1) Whenever the Public Service Commission notifies the Secretary of an
4 application for a certificate of public convenience and necessity under [Article 78, §
5 54A of the Code] § 7-207 OF THE PUBLIC UTILITY COMPANIES ARTICLE, the Secretary
6 shall prepare a recommendation in connection with the permit or registration
7 required by this subtitle. The recommendation shall be presented at the hearing
8 required by [Article 78, § 54A of the Code] § 7-207 OF THE PUBLIC UTILITY
9 COMPANIES ARTICLE.

10 (b) Subject to judicial review as provided under [Article 78, §§ 89 through 98
11 of the Code] TITLE 3, SUBTITLE 2 OF THE PUBLIC UTILITY COMPANIES ARTICLE, the
12 decision of the Public Service Commission in connection with a certificate of public
13 convenience and necessity or a filing under [Article 78, § 54L of the Code] § 7-206 OF
14 THE PUBLIC UTILITY COMPANIES ARTICLE is binding on the Secretary.

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

21 (f) (1) The Commission shall conduct the hearing required by subsection (e)
22 of this section in the manner set forth in [Article 78, §§ 54A and 54-I of the Code] §§
23 7-205 AND 7-207 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

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

27 5-502.

28 (e) Notwithstanding any other provision of this subtitle, an application for a
29 certificate of public convenience and necessity associated with power plant
30 construction which involves use or diversion of waters of the State made to the Public
31 Service Commission under [Article 78 of the Code] THE PUBLIC UTILITY COMPANIES
32 ARTICLE constitutes an application for the permit required by this section, and the
33 provisions of § 3-306 of the Natural Resources Article apply. If an application is made
34 to the Public Service Commission, the hearing provided for by this subtitle is not
35 required. All evidence relevant to the purposes of this subtitle shall be presented at
36 the hearing held by the Public Service Commission, as required by [Article 78, § 54A
37 of the Code] § 7-207 OF THE PUBLIC UTILITY COMPANIES ARTICLE. The permit
38 required by this subtitle is included in the certificate of public convenience and
39 necessity issued by the Public Service Commission.

Article - Labor and Employment

1 8-206.

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

5 (3) the driver has access to the taxicab or taxicab equipment at all hours
6 and, subject to [Article 78 of the Code] THE PUBLIC UTILITY COMPANIES ARTICLE,
7 may set personal work hours and places; and
8

Article - Natural Resources

9 3-128.

10 (b) The Service may not be deemed to be a public service company within the
11 meaning of [Article 78 of the Code] THE PUBLIC UTILITY COMPANIES ARTICLE, and,
12 except as provided in this section, the jurisdiction and powers of the Public Service
13 Commission do not extend to the Service.
14

15 3-304.

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

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

30 (i) The environmental impact at the proposed site;

31 (ii) Any adverse environmental effects which cannot be avoided if
32 the proposed site is accepted;

33 (iii) Possible alternatives to the proposed site;

34 (iv) Any irreversible and irretrievable commitments of resources
35 which would be involved at the proposed site if it is approved;

1 (v) Where appropriate, a discussion of problems and objections
2 raised by other State and federal agencies and local entities;

3 (vi) A plan for monitoring environmental effects of the proposed
4 action and provision for remedial actions if the monitoring reveals unanticipated
5 environmental effects of significant adverse consequences; and

6 (vii) The ability to adequately provide emergency response plans to
7 residents if a nuclear power plant is considered for location at a site.

8 The Secretary shall state to the Public Service Commission which possible and
9 proposed sites, based on preliminary environmental statement, justify an unsuitable
10 classification. Unless the electric company whose proposed site is involved offers the
11 Secretary substantial evidence to the contrary, the site shall be deleted from the plan.
12 The site may be included in a subsequent ten-year plan.

13 3-305.

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

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

24 3-307.

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

28 3-919.

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

33 5-409.

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

1 (1) A public service company, as defined in [Article 78, § 2(o) of the
2 Code] § 1-101 OF THE PUBLIC UTILITY COMPANIES ARTICLE; and
3 5-1602.

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

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

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

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

13 5-1603.

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

21 **Article - Public Utility Companies**

22 1-101.

23 (g) "Electric plant" means the material, equipment, and property owned by an
24 electric company AND USED OR TO BE USED FOR OR IN CONNECTION WITH
25 ~~ELECTRICAL~~ ELECTRIC SERVICE.

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

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

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

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

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

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

7 2-103.

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

10 3-102.

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

14 3-112.

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

21 3-202.

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

25 4-102.

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

29 4-301.

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

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

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

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

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

5 5-410.

6 (a) This section applies to:

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

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

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

11 [(3)] (4) a telephone company that owns lines and provides local
12 exchange or interexchange service in the State with the approval of the Commission.

13 (b) A company described in subsection (a) of this section has the same power
14 granted to telegraph AND TELEPHONE companies by §§ 8-103, 8-104, 8-105, and
15 8-106(a) of this article and may:

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

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

21 (d) This section does not authorize a telephone company described in
22 subsection [(a)(3)] (A)(4) of this section that, as of September 30, 1993, did not have
23 the power of condemnation granted to a telegraph company under §§ 8-103, 8-104,
24 8-105, and 8-106(a) of this article, to acquire property for communications towers or
25 buildings.

26 6-101.

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

30 (i) incorporated in Maryland; and

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

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

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

2 2. the Commission approves the acquisition.

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

6 6-209.

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

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

13 7-207.

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

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

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

18 8-103.

19 (a) (1) A telegraph or telephone [company] ~~COMPANY, OR, AS OR A~~
20 ~~CORPORATION AUTHORIZED UNDER § 5-410 § 5-410(A)(3) OF THIS ARTICLE, AN~~
21 ~~ELECTRIC COMPANY~~ may construct [telegraph or telephone] lines:

22 (i) through the State;

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

24 (iii) on the boundaries of the State;

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

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

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

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

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

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

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

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

7 8-104.

8 Notwithstanding the provisions of § 8-103(b) of this subtitle, a telegraph or
9 telephone [company] COMPANY, ~~OR, AS OR A CORPORATION AUTHORIZED UNDER §~~
10 ~~5-410 § 5-410(A)(3) OF THIS ARTICLE, AN ELECTRIC COMPANY~~ is responsible for
11 damage a person may sustain through the erection, continuance, or use of [telegraph
12 or telephone] TELEGRAPH, TELEPHONE, OR ELECTRIC facilities.

13 8-105.

14 (a) If, within a reasonable time after due notice, a telegraph or telephone
15 [company] COMPANY, ~~OR, AS OR A CORPORATION AUTHORIZED UNDER § 5-410 §~~
16 ~~5-410(A)(3) OF THIS ARTICLE, AN ELECTRIC COMPANY~~ fails or refuses to remove
17 [telegraph or telephone] TELEGRAPH, TELEPHONE, OR ELECTRIC facilities causing
18 damage, the owner or possessor of land or a political subdivision may sue for
19 damages.

20 (b) (1) If the person filing suit for damages under this section prevails, the
21 [telegraph or telephone] company may elect to pay damages for allowing the
22 [telegraph or telephone] company to maintain the [telegraph or telephone] facilities
23 permanently.

24 (2) If the damages paid include damages for allowing the [telegraph or
25 telephone] company to maintain the [telegraph or telephone] facilities permanently,
26 the right of the [telegraph or telephone] company to maintain the [telegraph or
27 telephone] facilities permanently shall be confirmed as if the right were granted by
28 the parties to the suit.

29 8-106.

30 (a) To obtain an easement, the president and directors of a telegraph or
31 telephone [company] COMPANY, ~~OR, AS OR A CORPORATION AUTHORIZED UNDER §~~
32 ~~5-410 § 5-410(A)(3) OF THIS ARTICLE, AN ELECTRIC COMPANY~~ may apply to the circuit
33 court of the county containing the land or bridge where the [telegraph or telephone]
34 TELEGRAPH, TELEPHONE, OR ELECTRIC facilities will be placed to empanel a jury to
35 appraise the loss or damage that will be sustained by the owner or possessor of the
36 land or bridge.

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

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

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

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

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

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

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

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

18 12-101.

19 (d) (2) "Excavation" includes grading, trenching, digging, ditching, drilling,
20 augering, tunnelling, scraping, cable or pipe plowing and driving A MASS OF material
21 [mass].

22 (g) (1) "PERSON" HAS THE MEANING STATED IN § 1-101 OF THIS ARTICLE.

23 (2) "Person" includes:

24 [(1)] (I) a municipal corporation; and

25 [(2)] (II) a governmental unit, department, or agency.

26 12-111.

27 (a) A political subdivision or municipal corporation may charge, assess, or
28 collect from a person a one-time initial marking fee not exceeding \$35 for
29 reimbursement of expenses THAT THE POLITICAL SUBDIVISION OR MUNICIPAL
30 CORPORATION INCURS to comply with this subtitle.

31 (b) If re-marking is requested, or is required after renotification under §
32 12-108(b) of this subtitle, a political subdivision or municipal corporation may charge,
33 assess, or collect from a person a re-marking fee not exceeding \$15 for
34 reimbursement of expenses THAT THE POLITICAL SUBDIVISION OR MUNICIPAL
35 CORPORATION INCURS to comply with this subtitle.

1 13-207.

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

3 GENERAL REVISOR'S NOTE TO ARTICLE:

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

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

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

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

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

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

31 Former Art. 23, §§ 328 through 330, which authorized the formation of
32 corporations to make turnpikes, plank roads, and passenger railways, subject to
33 certain construction standards and oversight procedures by local governments, are
34 deleted as obsolete.

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

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

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

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

7 **Article - Real Property**

8 11-131.

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

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

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

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

28 **Article - State Government**

29 15-829.

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

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

35 15-838.

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

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

3 15-848.

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

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

7 **Article - Tax - General**

8 8-401.

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

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

14 8-407.

15 A telephone company may claim a credit against the public service company
16 franchise tax equal to all approved and applicable federal and State tariff charges for
17 telephone lifeline service not billed to eligible subscribers as provided in [Article 78,
18 § 26A of the Code] § 8-201 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

19 **Article - Transportation**

20 6-301.

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

24 (i) Devoted to public use; or

25 (ii) Reasonably necessary for future public use by the public service
26 company.

27 13-423.

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

31 22-404.3.

32 (e) This section does not apply to:

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

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

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