

BY: Senator Frosh

AMENDMENTS TO SENATE BILL NO. 300, AS AMENDED

(First Reading File Bill)

AMENDMENT NO. 1

On page 5 of the Finance Committee Amendments (SB0300/047563/1), in line 5 of Amendment No. 7, strike "FOR CUSTOMERS"; in line 6, strike "ACCESS"; and in the same line, strike "APPLY TO".

On pages 22 and 23 of the Finance Committee Amendments, strike in its entirety Amendment No. 21.

On pages 25 through 27 of the bill, strike in their entirety the lines beginning with line 30 on page 25 through line 27 on page 27, inclusive, and substitute:

"7-513.

(A) ON OR BEFORE APRIL 1, 2000, AN INVESTOR-OWNED ELECTRIC COMPANY MUST APPLY TO THE COMMISSION FOR A DETERMINATION ON THE RECOVERY OF TRANSITION COSTS.

(B) BEFORE THE COMMENCEMENT OF RETAIL ACCESS UNDER § 7-502 OF THIS SUBTITLE, THE COMMISSION SHALL DETERMINE, AFTER NOTICE AND HEARING, WHETHER AN ELECTRIC UTILITY HAS TRANSITION COSTS OR BENEFITS.

(C) IN MAKING ITS DETERMINATION, THE COMMISSION SHALL APPLY THE FOLLOWING STANDARDS:

(1) EXCEPT AS PROVIDED IN ITEM (2) OF THIS SUBSECTION, AN ELECTRIC COMPANY MAY NOT CLAIM OR COLLECT ANY TRANSITION COSTS UNLESS IT HAS SUBMITTED ALL OF ITS GENERATION ASSETS, EXCEPT FOR NUCLEAR

(Over)

ASSETS OR PURPA CONTRACTS AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, TO A PUBLIC AUCTION HELD IN A COMMERCIALY REASONABLE MANNER ON OR BEFORE JULY 1, 2000;

(2) IF THE COMMISSION DETERMINES, AFTER NOTICE AND A HEARING, THAT AN AUCTION WOULD NOT BE IN THE PUBLIC INTEREST, IT MAY ISSUE AN ORDER ESTABLISHING THE MARKET VALUE OF ANY GENERATION ASSETS; AND

(3) THE COMMISSION MAY GRANT AN EXTENSION OF THE DEADLINE IN ITEM (1) OF THIS SUBSECTION FOR GOOD CAUSE.

(D) (1) IN THE CASE OF NON-NUCLEAR GENERATION ASSETS, THE COMMISSION SHALL SET THE MINIMUM ACCEPTABLE SALE PRICE AT THE BOOK VALUE OF THE ASSET, AS DETERMINED BY THE COMMISSION.

(2) IN THE CASE OF NUCLEAR GENERATION ASSETS, THE COMMISSION SHALL EVALUATE THE MARKET, DETERMINE THE TIMING OF THE AUCTION, AND ESTABLISH A MINIMUM ACCEPTABLE SALE PRICE OF NOT LESS THAN 80% OF BOOK VALUE, AS DETERMINED BY THE COMMISSION.

(3) IN THE CASE OF POWER PURCHASE CONTRACTS, INCLUDING PURPA CONTRACTS, THE COMMISSION SHALL APPLY A REBUTTABLE PRESUMPTION THAT THE POWER PURCHASE CONTRACTS SHOULD BE AUCTIONED WITH OTHER GENERATION ASSETS.

(E) (1) THE COMMISSION SHALL DETERMINE THE REQUIRED QUALIFICATIONS FOR BIDDERS AND SHALL PREQUALIFY ALL BIDDERS;

(2) AN AFFILIATE OR SUBSIDIARY OF THE ELECTRIC COMPANY MAY QUALIFY TO BID ON ASSETS BUT MAY PARTICIPATE IN THE AUCTION ONLY ON A COMPETITIVELY NEUTRAL BASIS; AND

(3) THE COMMISSION SHALL USE THE RESULTS OF THE AUCTION

PROCESS, ADJUSTED FOR ANY TAX EFFECTS AND OTHER NECESSARY AND APPROPRIATE ADJUSTMENTS, INCLUDING THE TREATMENT OF NUCLEAR ASSETS, TO DETERMINE THE TRANSITION COSTS OR BENEFITS RELATING TO GENERATION ASSETS.

(F) ANY GENERATING ASSETS NOT SOLD SHALL BE TRANSFERRED AT BOOK VALUE TO AN AFFILIATE OR SUBSIDIARY OF THE ELECTRIC UTILITY.

(G) THE COMMISSION SHALL REVIEW A SUBSEQUENT SALE, LEASE, DISPOSAL, OR OTHER TRANSACTION ON OR BEFORE JANUARY 1, 2005, RELATING TO GENERATION ASSETS TRANSFERRED TO AN AFFILIATE OR SUBSIDIARY UNDER SUBSECTION (F) OF THIS SECTION TO MAKE THE FOLLOWING DETERMINATIONS:

(1) WHETHER THE TRANSACTION WAS AT ARM'S LENGTH AND CONDUCTED IN A COMMERCIALY REASONABLE MANNER;

(2) WHETHER THE TRANSACTION PRODUCED A TRANSITION BENEFIT; AND

(3) IF THE TRANSACTION PRODUCED A NET TRANSITION BENEFIT, THE MANNER IN WHICH THE NET TRANSITION BENEFIT WILL BE CREDITED TO THE RATEPAYERS AND THE ELECTRIC COMPANY.

(H) THE COMMISSION SHALL CALCULATE TRANSITION COSTS OR NET TRANSITION BENEFITS BY:

(1) DETERMINING THE VALUE OF RECOVERABLE REGULATORY ASSETS RELATED TO GENERATION;

(2) CALCULATING THE DIFFERENCE BETWEEN THE BOOK VALUE, AS DETERMINED BY THE COMMISSION, AND THE MARKET VALUE OF POWER PURCHASE CONTRACTS NOT SOLD; AND

(3) COMBINING THE VALUES IN ITEMS (1) AND (2) OF THIS SUBSECTION WITH THE VALUE DETERMINED UNDER SUBSECTION (E)(3) OF THIS SECTION.

(I) THE COMMISSION SHALL DETERMINE THE PROPER METHOD OF RECOVERING NUCLEAR DECOMMISSIONING COSTS, IF ANY, BASED UPON THE DISPOSITION OF NUCLEAR GENERATION ASSETS.

(J) IF, AS A RESULT OF AN AUCTION OR A COMMISSION DETERMINATION OF MARKET VALUE, INCLUDING THE MARKET VALUE OF ASSETS TRANSFERRED TO AN AFFILIATE, THE COMMISSION DETERMINES THAT THERE IS POTENTIAL TRANSITION COSTS, THE COMMISSION SHALL DETERMINE THE EXTENT OF PERMITTED RECOVERY BASED ON THE FOLLOWING FACTORS:

(1) THE PRUDENCE AND VERIFIABILITY OF THE ORIGINAL INVESTMENT;

(2) WHETHER THE INVESTMENT CONTINUES TO BE USED AND USEFUL;

(3) WHETHER THE LOSS IS ONE OF WHICH INVESTORS CAN BE SAID TO HAVE REASONABLY BORNE THE RISK; AND

(4) WHETHER INVESTORS ALREADY HAVE BEEN COMPENSATED FOR THE RISK.

(K) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE NET TRANSITION COSTS THAT AN ELECTRIC COMPANY MAY RECOVER UNDER THIS SECTION SHALL BE A NET AMOUNT DETERMINED AFTER CREDITING AGAINST ANY TRANSITION COSTS THE EXCESS FAIR MARKET VALUE OVER BOOK VALUE OF EACH GENERATION-RELATED ASSET THAT HAS A FAIR MARKET VALUE IN EXCESS OF ITS BOOK VALUE.

(L) IF THE COMMISSION DETERMINES THAT AN ELECTRIC COMPANY MAY

RECOVER TRANSITION COSTS, THE COMMISSION MAY UTILIZE A NONBYPASSABLE, NONDISCRIMINATORY MECHANISM THAT IS:

(1) FAIR TO ALL CUSTOMER CLASSES; AND

(2) LIMITED IN DURATION.

(M) IF THE COMMISSION DETERMINES THAT AN ELECTRIC COMPANY HAS NET TRANSITION BENEFITS, DURING THE FIRST YEAR THAT NET TRANSITION BENEFITS ARE ESTABLISHED, THEY SHALL BE RETURNED TO THE ELECTRIC COMPANY'S CUSTOMERS IN THE FORM OF A CASH PAYMENT.

(N) THE COMMISSION SHALL RECONCILE ANY RECOVERY OF TRANSITION COSTS ON A PERIODIC BASIS WITH ACTUAL MARKET CONDITIONS.

(O) THE COMMISSION MAY ESTABLISH REASONABLE INCENTIVES FOR THE REDUCTION OF ANY AUTHORIZED RECOVERY OF TRANSITION COSTS."

AMENDMENT NO. 2

On page 17 of the bill, strike beginning with "REQUIRE" in line 10 down through "OR" in line 11.

AMENDMENT NO. 3

On page 21 of the bill, in line 30, strike "(A) THROUGH (C)".

On page 23 of the bill, in line 3, strike "(A) THROUGH (C)".