

BY: Environmental Matters Committee

AMENDMENTS TO SENATE BILL NO. 300
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, after line 2, insert:

“FOR the purpose of enabling the restructuring of the electric utility industry of the State in a certain manner, subject to oversight of the Public Service Commission; stating the findings and declaration of intent of the General Assembly; allowing the Commission to require certain consumer education programs, customer information, nondiscrimination policies, and operational requirements; requiring the Commission to order certain universal programs; providing for the implementation of standard offer service in a certain manner; requiring the Commission to ensure the creation of certain competitive electricity services in a certain manner; allowing the Commission to adopt alternative forms of regulation for certain regulated services; requiring the Commission to limit certain rates for a certain period; requiring the Commission to reduce certain rates for a certain time under certain circumstances; requiring an electric company to provide certain services in certain territory; requiring certain persons to be licensed by the Commission before providing electricity supply services in the State, subject to certain requirements and enforcement mechanisms; requiring the Commission to adopt certain regulations or issue certain orders by a certain time; requiring certain electricity suppliers to provide certain information in a certain manner; providing that certain provisions of this Act may not be construed as preventing the application of certain protections of laws; requiring the Department of the Environment, in consultation with the Commission, to adopt certain measures regarding certain environmental programs; requiring the Commission to consider certain evidence in determining certain costs and benefits; requiring a certain electric company to continue purchasing electricity under a certain contract under certain circumstances; requiring the Commission, in consultation with the Maryland Energy Administration, to report by a certain date on the feasibility of requiring certain renewable portfolio standards; altering the imposition of the environmental surcharge to certain customers; allowing an electric

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company to transfer or sell certain generation facilities or assets in a certain manner, subject to certain review by the Commission for certain purposes; providing for the opportunity to recover certain costs by certain means and secured or obtained in certain manners; requiring the phased implementation of customer choice for electric customers in the State in a certain manner by certain dates, subject to Commission determination and certain contingencies; establishing the obligation of an electric company to serve customers after a certain date; requiring the implementation of competitive metering and billing on certain dates; providing for investigation of market power in certain manners, subject to certain remedial action by the Commission; providing for reciprocity of customer choice with respect to certain other jurisdictions; providing for certain long-range planning for certain regulated utility services only; requiring certain tariff and rate filings for certain regulated utility services only; eliminating a certain required plan on the State's generating needs; altering certain criteria for obtaining a certificate of public convenience and necessity for a generating station; requiring the Secretary of Natural Resources to use certain funds for certain purposes; providing that certain provisions of the Uniform Commercial Code do not apply to certain property; providing for the adoption of certain regulations; defining certain terms; extending to a certain date the termination date of the Environmental Trust Fund; extending the termination date of a certain surcharge; requiring the Attorney General, Division of Consumer Protection, to develop and maintain certain information in a certain manner; providing that provisions of this Act are severable; providing for the effective date of a portion of this Act; and generally relating to restructuring of the electric utility industry.

BY repealing and reenacting, with amendments,

Article - Public Utility Companies

Section 1-101, 2-110, 2-118, 4-201, 4-202, 7-201, 7-203, 7-207, and 7-211

Annotated Code of Maryland

(1998 Volume)

BY adding to

Article - Public Utility Companies

Section 7-501 through 7-520, inclusive, to be under the new subtitle "Subtitle 5. Electric

Industry Restructuring"

Annotated Code of Maryland

(1998 Volume)

BY adding to

Article - Natural Resources
Section 3-308
Annotated Code of Maryland
(1997 Replacement Volume and 1998 Supplement)

BY repealing and reenacting, with amendments,

Article - Commercial Law
Section 9-104(m)
Annotated Code of Maryland
(1997 Replacement Volume and 1998 Supplement)

BY adding to

Article - Commercial Law
Section 9-104(n)
Annotated Code of Maryland
(1997 Replacement Volume and 1998 Supplement)

BY repealing

Article - Public Utility Companies
Section 4-403
Annotated Code of Maryland
(1998 Volume)

BY repealing and reenacting, with amendments,

Article - Natural Resources
Section 3-302
Annotated Code of Maryland
(1997 Replacement Volume and 1998 Supplement)

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

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Article - Public Utility Companies

1-101.

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

(B) (1) "AGGREGATOR" MEANS AN ENTITY OR INDIVIDUAL THAT ACTS ON BEHALF OF A CUSTOMER TO PURCHASE ELECTRICITY.

(2) "AGGREGATOR" DOES NOT INCLUDE AN ENTITY OR INDIVIDUAL THAT PURCHASES ELECTRICITY FOR ITS OWN USE OR FOR THE USE OF ITS SUBSIDIARIES OR AFFILIATES.

(C) "BILLING AGENT" MEANS AN ENTITY THAT PROVIDES BILLING AND COLLECTION SERVICES AND DISTRIBUTION OF RECEIPTS TO UNITS COVERED IN THE BILLING.

(D) "BROKER" MEANS AN ENTITY OR INDIVIDUAL THAT ACTS AS AN AGENT OR INTERMEDIARY IN THE SALE AND PURCHASE OF ELECTRICITY BUT DOES NOT TAKE TITLE TO ELECTRICITY.

[(b)] (E) "Commission" means the Public Service Commission.

[(c)] (F) (1) "Common carrier" means a person, public authority, or federal, State, district, or municipal transportation unit that is engaged in the public transportation of persons for hire, by land, water, air, or any combination of them.

(2) "Common carrier" includes:

(i) an airline company;

(ii) a car company, motor vehicle company, automobile company, or motor bus company;

ferry company;

- (iii) a power boat company, vessel-boat company, steamboat company, or

- (iv) a railroad company, street railroad company, or sleeping car company;

- (v) a taxicab company;

- (vi) a toll bridge company; and

- (vii) a transit company.

(3) "Common carrier" does not include:

- (i) a county revenue authority;

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

- (iii) a vanpool or launch service.

[(d)] (G) "Company", as a designation for a type of enterprise, includes a person that owns a company individually or as an agent, trustee, or receiver of a company.

[(e)] (H) "County" means a county of the State or Baltimore City.

[(f)] (I) (1) "Electric company" means a [public service company that:

- (i) owns an electric plant and transmits, sells, or distributes electricity;

- (ii) generates electricity for distribution or sale; or

- (iii) is authorized to install or maintain facilities in, over, or under streets

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for furnishing or distributing electricity.

(2) "Electric company" includes a municipal corporation that is in the business of supplying electricity for other than municipal purposes] PERSON WHO PHYSICALLY TRANSMITS OR DISTRIBUTES ELECTRICITY IN THE STATE TO A RETAIL ELECTRIC CUSTOMER.

~~[(3)]~~ (2) "Electric company" does not include [a company that generates or transmits electricity exclusively for its own use]:

(I) THE FOLLOWING PERSONS WHO SUPPLY ELECTRICITY AND ELECTRICITY SUPPLY SERVICES SOLELY TO OCCUPANTS OF A BUILDING FOR USE BY THE OCCUPANTS:

1. AN OWNER/OPERATOR WHO HOLDS OWNERSHIP IN AND MANAGES THE INTERNAL DISTRIBUTION SYSTEM SERVING THE BUILDING; OR

2. A LESSEE/OPERATOR WHO HOLDS A LEASEHOLD INTEREST IN AND MANAGES THE INTERNAL DISTRIBUTION SYSTEM SERVING THE BUILDING;

(II) ANY PERSON WHO GENERATES ON-SITE GENERATED ELECTRICITY; OR

(III) A PERSON WHO TRANSMITS OR DISTRIBUTES ELECTRICITY WITHIN A SITE OWNED BY THE PERSON OR THE PERSON'S AFFILIATE THAT IS INCIDENTAL TO A PRIMARILY LANDLORD-TENANT RELATIONSHIP.

~~[(g)]~~ (J) "Electric plant" means the material, equipment, and property owned by an electric company and used or to be used for or in connection with electric service.

(K) (1) "ELECTRICITY SUPPLIER" MEANS A PERSON WHO SELLS ELECTRICITY OR ELECTRICITY SUPPLY SERVICES OR WHO PURCHASES, BROKERS, ARRANGES, OR MARKETS ELECTRICITY OR ELECTRICITY SUPPLY SERVICES OR COMPETITIVE BILLING OR COMPETITIVE METERING SERVICES FOR SALE TO A

RETAIL ELECTRIC CUSTOMER.

(2) "ELECTRICITY SUPPLIER" INCLUDES AN ELECTRIC COMPANY, AN AGGREGATOR, A BROKER, A MARKETER OF ELECTRICITY, AND A BILLING AGENT.

(3) "ELECTRICITY SUPPLIER" DOES NOT INCLUDE:

(I) THE FOLLOWING PERSONS WHO SUPPLY ELECTRICITY AND ELECTRICITY SUPPLY SERVICES SOLELY TO OCCUPANTS OF A BUILDING FOR USE BY THE OCCUPANTS:

1. AN OWNER/OPERATOR WHO HOLDS OWNERSHIP IN AND MANAGES THE INTERNAL DISTRIBUTION SYSTEM SERVING THE BUILDING; OR

2. A LESSEE/OPERATOR WHO HOLDS A LEASEHOLD INTEREST IN AND MANAGES THE INTERNAL DISTRIBUTION SYSTEM SERVING THE BUILDING; OR

(II) A PERSON WHO GENERATES ON-SITE GENERATED ELECTRICITY.

[(h)] (L) (1) "Gas company" means a public service company that:

(i) is authorized to install or maintain facilities in, over, or under streets for furnishing or distributing gas; or

(ii) owns a gas plant and:

1. transmits, sells, supplies, or distributes artificial or natural gas;

or

2. manufactures gas for distribution or sale.

(2) "Gas company" includes a municipal corporation that is in the business of

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supplying gas for other than municipal purposes.

[(i)] (M) "Gas master meter operator" means a person that owns or operates a pipeline system, other than piping within a building:

(1) that distributes gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex;

(2) for which the person purchases metered, artificial, or natural gas from an outside source for resale through the pipeline system; and

(3) that supplies the ultimate consumer, who purchases the gas directly through a meter or by other means, such as by rent.

[(j)] (N) "Gas plant" means the material, equipment, and property owned by a gas company and used or to be used for or in connection with gas service.

[(k)] (O) "Launch service" means a power boat company that transports passengers or freight between the shore and vessels on a body of water in the State.

(P) "MARKETER" MEANS A PERSON WHO PURCHASES AND TAKES TITLE TO ELECTRICITY AS AN INTERMEDIARY FOR SALE TO A CUSTOMER.

(Q) "ON-SITE GENERATED ELECTRICITY" MEANS ELECTRICITY THAT:

(1) IS NOT TRANSMITTED OR DISTRIBUTED OVER AN ELECTRIC COMPANY'S TRANSMISSION OR DISTRIBUTION SYSTEM; AND

(2) IS GENERATED AT A FACILITY OWNED OR OPERATED BY AN ELECTRIC CUSTOMER OR OPERATED BY A DESIGNEE OF THE OWNER WHO, WITH THE OTHER TENANTS OF THE FACILITY, CONSUMES AT LEAST 80% OF THE POWER GENERATED BY THE FACILITY EACH YEAR.

[(l)] (R) "Own" includes own, operate, lease to or from, manage, or control.

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

[(n)] (T) "Plant" includes all material, equipment, and property owned by a public service company and used or to be used for or in connection with a public utility service.

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

[(p)] (V) "Public service company" means a common carrier company, electric company, gas company, sewage disposal company, steam heating company, telegraph company, telephone company, water company, or any combination of public service companies.

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

(2) "Railroad" includes material, equipment, and property used on or in connection with a railroad.

[(r)] (X) (1) "Rate" means a toll, fare, tariff, fee, price, or other charge, or a combination of these items, by a public service company for public utility service.

(2) "Rate" includes a schedule, regulation, classification, or practice of a public service company that affects:

(i) the amount of a charge; or

(ii) the nature and value of the service rendered for the charge.

[(s)] (Y) (1) "Record" means the original or a copy of any documentary material.

(2) "Record" includes an account, book, chart, contract, document, file, map, paper, profile, report, or schedule.

(Z) "RENEWABLE ENERGY RESOURCE" MEANS ONE OR MORE OF THE FOLLOWING SOURCES OF ENERGY, ENERGY TECHNOLOGY, OR RELATED CREDIT:

(1) SOLAR;

(2) WIND;

(3) TIDAL;

(4) GEOTHERMAL;

(5) BIOMASS, INCLUDING WASTE-TO-ENERGY AND LANDFILL GAS RECOVERY;

(6) HYDROELECTRIC FACILITIES;

(7) DIGESTER GAS; AND

(8) A MANUFACTURING OR COMMERCIAL WASTE-TO-ENERGY SYSTEM OR FACILITY.

(AA) (1) "RETAIL ELECTRIC CUSTOMER" MEANS A PURCHASER OF ELECTRICITY FOR END USE IN THE STATE.

(2) "RETAIL ELECTRIC CUSTOMER" EXCLUDES:

(I) AN OCCUPANT OF A BUILDING IN WHICH THE OWNER/OPERATOR OR LESSEE/OPERATOR MANAGES THE INTERNAL DISTRIBUTION SYSTEM SERVING THE BUILDING AND SUPPLIES ELECTRICITY AND ELECTRICITY SUPPLY SERVICES SOLELY TO OCCUPANTS OF THE BUILDING FOR USE BY THE OCCUPANTS; AND

(II) A PERSON WHO GENERATES ON-SITE GENERATED

ELECTRICITY, TO THE EXTENT THE ON-SITE GENERATED ELECTRICITY IS CONSUMED BY THAT PERSON OR ITS TENANTS.

[(t)] (BB) "Sewage disposal company" means a privately-owned public service company that owns or maintains facilities for the disposal of sewage.

[(u)] (CC) "Small rural electric cooperative" means an electric company that:

- (1) serves only the consumers that exclusively own and control the company;
- (2) conducts its business on a not-for-profit basis; and
- (3) supplies electricity to less than 1,000 electric meters in the State.

[(v)] (DD) "State" means:

- (1) a state, possession, territory, or commonwealth of the United States; or
- (2) the District of Columbia.

[(w)] (EE) "Steam heating company" means a public service company that manufactures, sells, or distributes steam for use, sale, or distribution.

[(x)] (FF) "Street railroad" means a railroad:

- (1) that is not part of a trunk line railway system; and
- (2) whose routes are mainly within Baltimore City or a municipal corporation with a population of at least 2,000.

[(y)] (GG) (1) "Taxicab" means a motor vehicle for hire that:

- (i) is designed to carry seven or fewer individuals, including the driver;

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and

(ii) is used to accept or solicit passengers for transportation between points along public streets as the passengers request.

(2) "Taxicab" does not include a motor vehicle operated on a regular schedule and between fixed points with the approval of the Commission as defined in Title 11 of the Transportation Article.

[(z)] (HH) "Telegraph company" means a public service company that:

(1) owns telegraph lines to receive, transmit, or communicate telegraphic communications; or

(2) leases, licenses, or sells telegraphic communications.

[(aa)] (II) "Telegraph lines" means the material, equipment, and property owned by a telegraph company and used or to be used for or in connection with telegraph service.

[(bb)] (JJ) (1) "Telephone company" means a public service company that:

(i) owns telephone lines to receive, transmit, or communicate telephone or teletype communications; or

(ii) leases, licenses, or sells telephone or teletype communications.

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

[(cc)] (KK) "Telephone lines" means the material, equipment, and property owned by a telephone company and used or to be used for or in connection with telephone service.

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

[(ee)] (MM) (1) "Transportation of persons for hire" means the transportation of

persons by:

- (i) regularly scheduled operations;
- (ii) charter or contract operations; or
- (iii) tour or sightseeing operations.

(2) "Transportation of persons for hire" includes the transportation of persons, whether on the cooperative plan, carried by a corporation, group, or association engaged in the transportation of its stockholders, shareholders, or members.

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

[(gg)] (OO) "Water plant" means the material, equipment, and property owned by a water company and used or to be used for or in connection with water service.

2-110.

(A) IN THIS SECTION, "PUBLIC SERVICE COMPANY" INCLUDES AN ELECTRICITY SUPPLIER AS DEFINED IN § 1-101 OF THIS ARTICLE.

[(a)] (B) (1) (i) Subject to paragraphs (2) and (3) of this subsection, the costs and expenses of the Commission shall be borne by the public service companies that are subject to the Commission's jurisdiction.

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

(2) An appropriation for the costs and expenses of the Commission shall be included in the State budget and paid from the State treasury.

(3) The State treasury shall be reimbursed from the money collected under this section.

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

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

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

3. all other maintenance and operation expenses; and

4. all other direct and indirect costs.

(ii) The estimate shall exclude the costs of maintaining testing equipment reimbursable under § 2-111(a) of this subtitle.

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

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

(4) The bill shall equal the product of:

(i) the estimated total costs and expenses of the Commission during the next fiscal year; multiplied by

(ii) the ratio of the gross operating revenues for the public service company derived from intrastate utility AND ELECTRICITY SUPPLIER operations in the preceding calendar year, or other 12-month period as the Chairman determines, to the total of the gross operating revenues derived from intrastate utility AND ELECTRICITY SUPPLIER operations for all public service companies that are billed under this section over that period.

- (5) The minimum bill for a public service company shall be \$10.
- (6) The public service company:
- (i) shall pay the bill on or before the next July 15th; or
- (ii) may elect to make partial payments on the 15th days of July, October, January, and April.
- (7) A partial payment shall equal 25% of the bill and may not be less than \$10.
- (8) During any State fiscal year, the Chairman may change the estimate of costs and expenses of the Commission.
- (9) (i) If the estimate is changed, the Commission shall send a revised bill to each public service company that has elected to make partial payments.
- (ii) The change shall be apportioned equally against the remaining payments for the fiscal year.
- (10) (i) On or before September 15th of each year, the Chairman shall compute the actual costs and expenses of the Commission for the preceding fiscal year.
- (ii) After deducting the amounts recovered under § 2-111(a) of this subtitle, on or before October 15th, the Chairman shall send to any public service company that is affected a statement that shows the amount due or the amount to the credit of the public service company.
- (11) (i) A public service company shall pay an amount due within 30 days after the statement is received.
- (ii) At the option of the public service company, an amount to the credit of a public service company shall be refunded or applied against any succeeding payment due.

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

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

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

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

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

2-118.

(a) This section does not apply to taxicabs, power boat companies, toll bridges, or towing and lightering companies.

(b) The Commission shall require each public service company subject to its jurisdiction to formulate and, after approval by the Commission, to implement long-range plans to provide REGULATED service.

(c) The Commission shall require each electric company in the State to include in the long-range plan adequate provisions to promote energy conservation to decrease or moderate electric and, as appropriate, natural gas demand FOR REGULATED SERVICE from customers.

(d) (1) The Commission shall review each plan for adequacy under the criteria of § 2-113 of this subtitle, giving attention to the interrelationship of services of other public service companies and to provisions for research and development to ensure adequate service.

(2) As part of the review, and subject to any applicable Freedom of Information Act, the Commission shall consult with other State units and provide an opportunity for public comment.

(3) The Commission shall require the revisions to a plan that the Commission considers appropriate unless the authority to review and approve a plan has been granted to another State unit by other law.

4-201.

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

4-202.

(a) A public service company shall file with the Commission a tariff schedule of its rates and charges FOR ITS REGULATED SERVICES.

(b) As ordered by the Commission, a public service company shall:

(1) plainly print the tariff schedule of its rates and charges FOR ITS REGULATED SERVICES;

(2) make available the tariff schedules for public inspection; and

(3) post the tariff schedules to make the tariff schedules readily accessible to and convenient for inspection by the public.

7-201.

(a) [In cooperation with the Secretary of Natural Resources as provided under § 3-304 of the Natural Resources Article, the Commission shall assemble and evaluate annually the long-range

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plans of the State's electric companies regarding generating needs and the means to meet those needs.

(b)] (1) Annually, the chairman of the Commission shall forward to the Secretary of Natural Resources a 10-year plan listing possible and proposed sites, including the associated transmission routes, for the construction of electric plants within the State.

(2) (i) The chairman shall delete from the 10-year plan any site that the Secretary of Natural Resources identifies as unsuitable in accordance with the requirements of § 3-304 of the Natural Resources Article.

(ii) The chairman may include a site deleted from a 10-year plan under subparagraph (i) of this paragraph in a subsequent 10-year plan.

(3) The chairman shall include information in the annual 10-year plan on current and projected efforts by electric companies and the Commission to moderate overall electrical generation demand and peak demand through the electric companies' promotion of energy conservation by customers and through the electric companies' use of alternative energy sources, including cogeneration.

[(c)] (B) (1) The Commission shall evaluate the cost-effectiveness of the investments by electric companies in energy conservation to reduce electrical demand and in renewable energy sources to help meet electrical demand.

(2) The evaluation of investments shall include:

(i) the electric companies' promotion and conduct of a building audit and weatherization program, including low-interest or no-interest electric company financing for the installation of energy conservation materials and renewable energy devices;

(ii) utilization of renewable energy sources;

(iii) promotion and utilization of electricity from cogeneration and wastes;

and

(iv) widespread public promotion of energy conservation programs.

7-207.

(a) (1) In this section and § 7-208 of this subtitle, "construction" means the clearing of land, excavation, or other action that affects the natural environment of a site or route of a bulk power supply facility.

(2) "Construction" does not include a change that is needed for the temporary use of a site or route for nonutility purposes or for use in securing geological data, including any boring that is necessary to ascertain foundation conditions.

(b) [An electric company may not begin construction in the State of a generating station or of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts, or exercise the right of condemnation in connection with the construction, unless] UNLESS a certificate of public convenience and necessity for the construction is first obtained from the Commission:

(1) A PERSON MAY NOT:

(I) BEGIN CONSTRUCTION IN THE STATE OF A GENERATING STATION; OR

(II) EXERCISE A RIGHT OF CONDEMNATION IN CONNECTION WITH THE CONSTRUCTION UNLESS THE COMMISSION HAS FOUND THAT THE CAPACITY IS NECESSARY TO ENSURE A SUFFICIENT SUPPLY OF ELECTRICITY TO CUSTOMERS IN THE STATE; AND

(2) AN ELECTRIC COMPANY MAY NOT BEGIN CONSTRUCTION OF AN OVERHEAD TRANSMISSION LINE THAT IS DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS OR EXERCISE A RIGHT OF CONDEMNATION IN CONNECTION WITH THE CONSTRUCTION.

(c) (1) On receipt of an application for a certificate of public convenience and

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necessity under this section, the Commission shall provide notice to the Office of Planning and to all other interested persons.

(2) The Office of Planning shall forward the application to each appropriate State unit and unit of local government for review, evaluation, and comment regarding the significance of the proposal to State, area-wide, and local plans or programs.

(d) (1) The Commission shall hold a public hearing on the application for a certificate of public convenience and necessity in each county and municipal corporation in which any portion of the construction of a generating station or of an overhead transmission line designed to carry a voltage in excess of 69,000 volts is proposed to be located.

(2) The Commission shall hold the public hearing jointly with the governing body of the county or municipal corporation in which any portion of the construction of the generating station or overhead transmission line is proposed to be located, unless the governing body declines to participate in the hearing.

(3) Once in each of the 2 successive weeks immediately before the hearing date, the Commission shall provide weekly notice of the public hearing by advertisement in a newspaper of general circulation in the county or municipal corporation affected by the application.

(4) (i) The Commission shall ensure presentation and recommendations from each interested State unit, and shall allow representatives of each State unit to sit during hearing of all parties.

(ii) The Commission shall allow each State unit 15 days after the conclusion of the hearing to modify the State unit's initial recommendations.

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

(1) the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station or overhead transmission line is proposed to be located; AND

(2) [the need to meet existing and future demand for electric service; and

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

(i) the stability and reliability of the electric system;

(ii) economics;

(iii) esthetics;

(iv) historic sites;

(v) aviation safety as determined by the Maryland Aviation Administration and the administrator of the Federal Aviation Administration;

(vi) when applicable, air and water pollution; and

(vii) the availability of means for the required timely disposal of wastes produced by any generating station.

(f) FOR THE CONSTRUCTION OF AN OVERHEAD TRANSMISSION LINE, IN ADDITION TO THE CONSIDERATIONS LISTED IN SUBSECTION (E) OF THIS SECTION, THE COMMISSION SHALL TAKE FINAL ACTION ON AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY ONLY AFTER DUE CONSIDERATION OF THE FOLLOWING ADDITIONAL FACTORS:

(1) THE NEED TO MEET EXISTING AND FUTURE DEMAND FOR ELECTRIC SERVICE; AND

(2) THE EFFECT OF THE OVERHEAD TRANSMISSION LINE ON THE STABILITY AND RELIABILITY OF THE ELECTRIC SYSTEM.

(G) (1) The Commission may not authorize, and an electric company may not

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undertake, the construction of an overhead transmission line that is aligned with and within 1 mile of either end of a public airport runway, unless:

(i) the Federal Aviation Administration determines that the construction of an overhead transmission line will not constitute a hazard to air navigation; and

(ii) the Maryland Aviation Administration concurs in that determination.

(2) A privately owned airport runway shall qualify as a public airport runway under this subsection only if the runway has been on file with the Federal Aviation Administration for at least 2 years as being open to the public without restriction.

7-211.

(a) Subject to review and approval by the Commission, each gas company and electric company shall develop and implement programs and services to encourage and promote the efficient use and conservation of energy by consumers, gas companies, and electric companies.

(b) The Commission shall:

(1) require each gas company and electric company to establish any program or service that the Commission deems appropriate and cost effective to encourage and promote the efficient use and conservation of energy; [and]

(2) adopt rate-making policies that provide cost recovery and, in appropriate circumstances, reasonable financial incentives for gas companies and electric companies to establish programs and services that encourage and promote the efficient use and conservation of energy;
AND

(3) ASSURE THAT ADOPTION OF ELECTRIC CUSTOMER CHOICE UNDER SUBTITLE 5 OF THIS TITLE DOES NOT ADVERSELY IMPACT THE CONTINUATION OF COST EFFECTIVE ENERGY CONSERVATION AND EFFICIENCY PROGRAMS.

SUBTITLE 5. ELECTRIC INDUSTRY RESTRUCTURING.

PART I. GENERAL PROVISIONS.

7-501.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "AFFILIATE" MEANS A PERSON THAT DIRECTLY OR INDIRECTLY, OR THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH, OR HAS, DIRECTLY OR INDIRECTLY, ANY ECONOMIC INTEREST IN ANOTHER PERSON.

(C) (1) "ASSIGNEE" MEANS A PERSON TO WHOM AN ELECTRIC COMPANY ASSIGNS OR TRANSFERS ALL OR A PORTION OF ITS INTEREST IN INTANGIBLE TRANSITION PROPERTY, OTHER THAN AS SECURITY.

(2) "ASSIGNEE" INCLUDES A PERSON TO WHOM ALL OR A PORTION OF THE INTEREST IS SUBSEQUENTLY ASSIGNED OR TRANSFERRED.

(D) "COMPETITIVE TRANSITION CHARGE" MEANS A RATE, CHARGE, CREDIT, OR OTHER APPROPRIATE MECHANISM AUTHORIZED TO BE IMPOSED FOR THE RECOVERY OF TRANSITION COSTS OR THE RETURN OF A NET TRANSITION BENEFIT AS DETERMINED BY THE COMMISSION UNDER § 7-513 OF THIS SUBTITLE.

(E) "CONSUMER" AND "CUSTOMER" EACH MEANS A RETAIL ELECTRIC CUSTOMER.

(F) "CUSTOMER CHOICE" MEANS THE RIGHT OF ELECTRICITY SUPPLIERS AND CUSTOMERS TO UTILIZE AND INTERCONNECT WITH THE ELECTRIC DISTRIBUTION SYSTEM ON A NONDISCRIMINATORY BASIS AT RATES, TERMS, AND CONDITIONS OF SERVICE COMPARABLE TO THE ELECTRIC COMPANY'S OWN USE OF

(Over)

THE SYSTEM TO DISTRIBUTE ELECTRICITY FROM A ELECTRICITY SUPPLIER TO A CUSTOMER, UNDER WHICH A CUSTOMER HAS THE OPPORTUNITY TO PURCHASE ELECTRICITY FROM THE CUSTOMER'S CHOICE OF LICENSED ELECTRICITY SUPPLIERS.

(G) "DISTRIBUTION TERRITORY" MEANS THE GEOGRAPHIC AREA IN WHICH AN ELECTRIC COMPANY WAS PROVIDING ELECTRIC TRANSMISSION OR DISTRIBUTION SERVICES TO CUSTOMERS ON JULY 1, 1999.

(H) "INDEPENDENT SYSTEM OPERATOR" MEANS AN ENTITY AUTHORIZED BY THE FEDERAL ENERGY REGULATORY COMMISSION TO CONTROL A REGIONAL TRANSMISSION GRID.

(I) "INITIAL IMPLEMENTATION DATE" MEANS:

(1) JULY 1, 2000, FOR INVESTOR-OWNED ELECTRIC COMPANIES;

(2) THE DATE OR DATES DETERMINED BY THE COMMISSION FOR ELECTRIC COOPERATIVES AND MUNICIPAL UTILITIES; OR

(3) ANOTHER DATE OR DATES DETERMINED BY THE COMMISSION UNDER § 7-510(B) OF THIS SUBTITLE.

(J) "INTANGIBLE TRANSITION CHARGE" MEANS A NONBYPASSABLE RATE, CHARGE, OR SIMILAR APPROPRIATE MECHANISM FOR THE PROVISION, AVAILABILITY, OR TERMINATION OF ELECTRIC SERVICE, AUTHORIZED TO BE IMPOSED FOR THE RECOVERY OF QUALIFIED TRANSITION COSTS UNDER A QUALIFIED RATE ORDER OF THE COMMISSION.

(K) "INTANGIBLE TRANSITION PROPERTY" MEANS THE RIGHT, TITLE, AND INTEREST OF AN ELECTRIC COMPANY OR ASSIGNEE IN A QUALIFIED RATE ORDER, INCLUDING:

(1) ALL RIGHTS IN, TO, AND UNDER THE ORDER, INCLUDING RIGHTS

TO REVENUES, COLLECTIONS, CLAIMS, PAYMENTS, MONEY, OR OTHER PROPERTY AND AMOUNTS ARISING FROM THE IMPOSITION OF INTANGIBLE TRANSITION CHARGES UNDER THE ORDER; AND

(2) IN THE HANDS OF AN ASSIGNEE:

(I) THE RIGHT TO REQUIRE THE ELECTRIC COMPANY TO PROVIDE ELECTRIC SERVICES, AND TO COLLECT AND REMIT THE INTANGIBLE TRANSITION CHARGES AUTHORIZED IN THE QUALIFIED RATE ORDER; BUT

(II) NOT THE RIGHT OR DUTY TO PROVIDE ELECTRIC SERVICES.

(L) "PUBLIC PURPOSE PROGRAM" MEANS:

(1) A UNIVERSAL SERVICE PROGRAM;

(2) A PROGRAM ENCOURAGING RENEWABLE ENERGY RESOURCES;

OR

(3) ANOTHER PROGRAM IMPLEMENTED WITH THE INTENTION OF FURTHERING A PUBLIC PURPOSE.

(M) "QUALIFIED RATE ORDER" MEANS AN ORDER OF THE COMMISSION APPROVING ONE OR MORE INTANGIBLE TRANSITION CHARGES.

(N) "STANDARD OFFER SERVICE" MEANS ELECTRIC SERVICE THAT AN ELECTRIC COMPANY MUST OFFER TO ITS CUSTOMERS UNDER § 7-510(C) OF THIS SUBTITLE.

(O) "TRANSITION BOND" MEANS A BOND, DEBENTURE, NOTE, CERTIFICATE OF PARTICIPATION OR BENEFICIAL INTEREST, OR OTHER EVIDENCE OF INDEBTEDNESS OR OWNERSHIP, APPROVED IN A QUALIFIED RATE ORDER AND ISSUED UNDER AN EXECUTED TRUST INDENTURE OR OTHER AGREEMENT OF AN

(Over)

ELECTRIC COMPANY OR ASSIGNEE, AND WHICH IS SECURED BY, EVIDENCES OWNERSHIP INTEREST IN, OR IS PAYABLE FROM INTANGIBLE TRANSITION PROPERTY.

(P) "TRANSITION COST" MEANS A COST, LIABILITY, OR INVESTMENT THAT:

(1) TRADITIONALLY WOULD HAVE BEEN OR WOULD BE RECOVERABLE UNDER RATE-OF-RETURN REGULATION BUT WHICH MAY NOT BE RECOVERABLE IN A RESTRUCTURED ELECTRICITY SUPPLY MARKET; OR

(2) ARISES AS A RESULT OF ELECTRIC INDUSTRY RESTRUCTURING AND IS RELATED TO THE CREATION OF CUSTOMER CHOICE.

(Q) (1) "UNIVERSAL SERVICE PROGRAM" MEANS A POLICY, PROTECTION, OR SERVICE THAT HELPS LOW-INCOME CUSTOMERS MAINTAIN ELECTRIC SERVICE.

(2) "UNIVERSAL SERVICE PROGRAM" INCLUDES CUSTOMER BILL REDUCTION AND AFFORDABILITY PROGRAMS, TERMINATION OF SERVICE PROTECTION, AND POLICIES AND SERVICES THAT HELP LOW-INCOME CUSTOMERS TO REDUCE OR MANAGE ENERGY CONSUMPTION IN A COST-EFFECTIVE MANNER.

7-502. RESERVED.

7-503. RESERVED.

PART II. ELECTRIC INDUSTRY RESTRUCTURING ENABLED.

7-504.

THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE PURPOSE OF THIS SUBTITLE IS TO:

(1) ESTABLISH CUSTOMER CHOICE OF ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES;

(2) CREATE COMPETITIVE RETAIL ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES MARKETS; AND

(3) DEREGULATE THE GENERATION, SUPPLY, AND PRICING OF ELECTRICITY.

7-505.

(A) IN ASSESSING AND APPROVING EACH ELECTRIC COMPANY'S RESTRUCTURING PLAN, AND OVERSEEING THE TRANSITION PROCESS AND REGULATION OF THE RESTRUCTURED ELECTRIC INDUSTRY, THE COMMISSION SHALL PROVIDE THAT THE TRANSITION TO A COMPETITIVE ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES MARKET SHALL BE ORDERLY, MAINTAIN ELECTRIC SYSTEM RELIABILITY, ENSURE COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL REGULATIONS, AND BE FAIR TO CUSTOMERS, ELECTRIC COMPANY INVESTORS, ELECTRIC COMPANIES, AND ELECTRICITY SUPPLIERS, AND PROVIDE ECONOMIC BENEFITS TO ALL CUSTOMER CLASSES.

(B) (1) THE COMMISSION SHALL ISSUE THE ORDERS OR ADOPT REGULATIONS REQUIRED UNDER THIS SUBSECTION BEFORE THE IMPLEMENTATION OF CUSTOMER CHOICE.

(2) (I) THE COMMISSION SHALL ORDER EACH ELECTRIC COMPANY, IN CONJUNCTION WITH THE COMMISSION, THE OFFICE OF PEOPLE'S COUNSEL, AND OTHER PARTIES, TO IMPLEMENT A CONSUMER EDUCATION PROGRAM INFORMING CUSTOMERS OF CHANGES IN THE ELECTRIC INDUSTRY.

(II) 1. AS PART OF THE CONSUMER EDUCATION PROGRAM UNDER THIS PARAGRAPH, THE OFFICE OF THE ATTORNEY GENERAL, DIVISION OF CONSUMER PROTECTION, SHALL DEVELOP AND MAINTAIN INFORMATION AS TO RATES AND SERVICES OF THE ELECTRICITY SUPPLIERS LICENSED IN MARYLAND TO SERVE SMALL COMMERCIAL AND RESIDENTIAL ELECTRIC CUSTOMERS.

(Over)

2. THE INFORMATION REQUIRED IN THIS SUBPARAGRAPH SHALL BE:

A. READILY UNDERSTANDABLE AND FORMATTED AS TO PROVIDE A COMPARISON OF RATES AND SERVICES AMONG SUPPLIERS OF SIMILAR SERVICES; AND

B. MADE AVAILABLE TO THE PUBLIC THROUGH THE DIVISION'S ORDINARY MEANS OF PUBLICATION, WHICH SHALL INCLUDE PUBLICATION ON THE INTERNET.

(3) THE COMMISSION SHALL ORDER UNIVERSAL SERVICE PROGRAMS TO BE MADE AVAILABLE ON A STATEWIDE BASIS TO LOW-INCOME CUSTOMERS.

(4) (I) THE COMMISSION SHALL ORDER AN ELECTRIC COMPANY TO ADOPT POLICIES AND PRACTICES REASONABLY DESIGNED TO PREVENT:

1. DISCRIMINATION AGAINST A PERSON, LOCALITY, OR PARTICULAR CLASS OF SERVICE OR GIVE UNDUE OR UNREASONABLE PREFERENCE IN FAVOR OF THE ELECTRIC COMPANY'S OWN ELECTRICITY SUPPLY, OTHER SERVICES, DIVISIONS, OR AFFILIATES, IF ANY; AND

2. ANY OTHER FORMS OF SELF-DEALING OR PRACTICES THAT COULD RESULT IN NONCOMPETITIVE ELECTRICITY PRICES TO CUSTOMERS.

(II) THE COMMISSION SHALL ORDER AN AGGREGATOR TO ADOPT POLICIES AND PRACTICES DESIGNED TO PREVENT SELF-DEALING OR PRACTICES THAT COULD RESULT IN NONCOMPETITIVE ELECTRICITY PRICES TO CUSTOMERS.

(5) THE COMMISSION SHALL, BY REGULATION OR ORDER, REQUIRE EACH ELECTRIC COMPANY AND ELECTRICITY SUPPLIER TO PROVIDE ADEQUATE AND ACCURATE CUSTOMER INFORMATION ON THE AVAILABLE ELECTRIC SERVICES

OF THE ELECTRIC COMPANY OR ELECTRICITY SUPPLIER, INCLUDING DISCLOSURE ON A QUARTERLY BASIS OF:

(I) A UNIFORM COMMON SET OF INFORMATION ABOUT THE FUEL MIX OF THE ELECTRICITY PURCHASED BY CUSTOMERS INCLUDING CATEGORIES OF ELECTRICITY FROM COAL, NATURAL GAS, NUCLEAR, OIL, HYDROELECTRIC, SOLAR, BIOMASS, WIND, AND OTHER RESOURCES, OR DISCLOSURE OF A REGIONAL AVERAGE; AND

(II) THE EMISSIONS, ON A POUND PER MEGAWATT-HOUR BASIS, OF POLLUTANTS IDENTIFIED BY THE COMMISSION, OR DISCLOSURE OF A REGIONAL AVERAGE.

(6) THE COMMISSION SHALL ISSUE ORDERS OR REGULATIONS TO PREVENT AN ELECTRIC COMPANY AND AN ELECTRICITY SUPPLIER FROM DISCLOSING A RETAIL CUSTOMER'S BILLING, PAYMENT, AND CREDIT INFORMATION WITHOUT THE RETAIL CUSTOMER'S CONSENT, EXCEPT AS ALLOWED BY THE COMMISSION FOR BILL COLLECTION OR CREDIT RATING REPORTING PURPOSES.

(7) AN ELECTRICITY SUPPLIER MAY NOT ENGAGE IN UNFAIR, FALSE, MISLEADING, OR DECEPTIVE MARKETING, ADVERTISING, OR TRADE PRACTICES.

(8) THE COMMISSION SHALL, BY REGULATION OR ORDER, REQUIRE THE UNBUNDLING OF ELECTRIC COMPANY RATES, CHARGES, AND SERVICES INTO CATEGORIES THAT THE COMMISSION DETERMINES. THE COMMISSION SHALL ORDER THE BILLING AGENT TO SEPARATE BILLING TO INDICATE CHARGES FOR:

(I) DISTRIBUTION AND TRANSMISSION;

(II) TRANSITION CHARGE OR CREDIT;

(III) UNIVERSAL SERVICE PROGRAM CHARGES;

(IV) CUSTOMER CHARGES;

(Over)

(V) TAXES; AND

(VI) OTHER CHARGES IDENTIFIED BY THE COMMISSION.

(9) THE COMMISSION SHALL DETERMINE THE TERMS, CONDITIONS, AND RATES OF STANDARD OFFER SERVICE UNDER TITLE 4 OF THIS ARTICLE.

(10) IN CONNECTION WITH § 7-513 OF THIS SUBTITLE, THE COMMISSION MAY NOT PROHIBIT AN ELECTRIC COMPANY FROM DIVESTING ITSELF VOLUNTARILY OF A GENERATION ASSET.

(11) ON OR BEFORE JULY 1, 2000, THE COMMISSION SHALL, BY REGULATION OR ORDER, ENSURE THE CREATION OF COMPETITIVE ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES MARKETS, WITH APPROPRIATE CUSTOMER SAFEGUARDS BY REQUIRING, THE FOLLOWING SAFEGUARDS:

(I) AN APPROPRIATE CODE OF CONDUCT BETWEEN THE ELECTRIC COMPANY AND AN AFFILIATE PROVIDING ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES IN THE STATE;

(II) ACCESS BY ELECTRICITY SUPPLIERS AND CUSTOMERS TO THE ELECTRIC COMPANY'S TRANSMISSION AND DISTRIBUTION SYSTEM ON A NONDISCRIMINATORY BASIS;

(III) STRUCTURAL OR LEGAL SEPARATION BETWEEN THE ELECTRIC COMPANY'S REGULATED BUSINESSES AND ITS NONREGULATED BUSINESSES OR NONREGULATED AFFILIATES; AND

(IV) APPROPRIATE COMPLAINT AND ENFORCEMENT PROCEDURES.

(12) AN ELECTRIC COMPANY SHALL COMPLY WITH ALL REQUIREMENTS OF THE COMMISSION IN CONDUCTING REGULATED OPERATIONS IN COMPLIANCE WITH THIS ARTICLE. IN ADDITION, THE COMMISSION SHALL REQUIRE

EACH ELECTRIC COMPANY TO ADOPT A CODE OF CONDUCT BEFORE JULY 1, 2000 THAT HAS BEEN APPROVED BY THE COMMISSION TO PREVENT REGULATED SERVICE CUSTOMERS FROM SUBSIDIZING THE SERVICES OF UNREGULATED BUSINESSES OR AFFILIATES OF THE ELECTRIC COMPANY.

(13) THE DEPARTMENT OF THE ENVIRONMENT, IN CONSULTATION WITH THE COMMISSION, SHALL EVALUATE EXISTING PROGRAMS TO MAINTAIN ENVIRONMENTAL REGULATIONS AND EVALUATE ANY NEW PROGRAMS AS APPROPRIATE TO ENSURE COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL REGULATIONS.

(14) NOTHING IN THIS SUBTITLE MAY OPERATE TO PREVENT THE APPLICATION OF STATE CONSUMER PROTECTION AND ANTITRUST STATUTES APPLICABLE TO ELECTRIC COMPANIES AND THEIR AFFILIATES AND TO ELECTRICITY SUPPLIERS.

(C) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, INCLUDING SUBSECTION (D) OF THIS SECTION, THE COMMISSION MAY REGULATE THE REGULATED SERVICES OF AN ELECTRIC COMPANY THROUGH ALTERNATIVE FORMS OF REGULATION.

(2) THE COMMISSION MAY ADOPT AN ALTERNATIVE FORM OF REGULATION UNDER THIS SECTION IF THE COMMISSION FINDS, AFTER NOTICE AND HEARING, THAT THE ALTERNATIVE FORM OF REGULATION:

(I) PROTECTS CONSUMERS;

(II) ENSURES THE QUALITY, AVAILABILITY, AND RELIABILITY OF REGULATED ELECTRIC SERVICES; AND

(III) IS IN THE INTEREST OF THE PUBLIC, INCLUDING SHAREHOLDERS OF THE ELECTRIC COMPANY.

(Over)

(3) ALTERNATIVE FORMS OF REGULATION MAY INCLUDE:

(I) PRICE REGULATION, INCLUDING PRICE FREEZES OR CAPS;

(II) REVENUE REGULATION;

(III) RANGES OF AUTHORIZED RETURN;

(IV) RATE OF RETURN;

(V) CATEGORIES OF SERVICES; OR

(VI) PRICE-INDEXING.

(D) (1) THE COMMISSION SHALL CAP, FOR 4 YEARS AFTER INITIAL IMPLEMENTATION OF CUSTOMER CHOICE IN THE ELECTRIC COMPANY'S DISTRIBUTION TERRITORY, THE TOTAL OF THE RATES OF AN ELECTRIC COMPANY CHARGED TO A RETAIL ELECTRIC CUSTOMER AT THE ACTUAL LEVEL OF THE RATES IN EFFECT OR AUTHORIZED BY THE COMMISSION ON THE DATE IMMEDIATELY PRECEDING THE INITIAL IMPLEMENTATION OF CUSTOMER CHOICE IN THE ELECTRIC COMPANY'S DISTRIBUTION TERRITORY.

(2) THE CAP SHALL NOT APPLY TO THE RECOVERY OF COSTS UNDER § 7-512(A) THROUGH (C) OF THIS SUBTITLE THAT ARE NOT INCLUDED IN RATES ON JANUARY 1, 2000 EXCEPT FOR COSTS FOR THE UNIVERSAL SERVICE PROGRAM UNDER § 7-516 OF THIS SUBTITLE. THE CAP SHALL APPLY TO THE RECOVERY OF ANY TRANSITION COSTS UNDER § 7-513 AND THE RECOVERY OF COSTS FOR THE UNIVERSAL SERVICE PROGRAM UNDER § 7-516 OF THIS SUBTITLE.

(3) AS PART OF A SETTLEMENT, THE COMMISSION MAY APPROVE A CAP FOR A DIFFERENT TIME PERIOD OR AN ALTERNATIVE PRICE PROTECTION PLAN THAT IS EQUALLY PROTECTIVE OF RATEPAYERS.

(4) (I) BY JULY 1, 2000, THE COMMISSION SHALL REDUCE

RESIDENTIAL RATES FOR EACH INVESTOR-OWNED ELECTRIC COMPANY BY AN AMOUNT BETWEEN 3% AND 7% OF BASE RATES AS OF JUNE 30, 1999. THAT REDUCTION SHALL REMAIN IN EFFECT UNTIL THE LATER OF JULY 1, 2003 AND THE DATE WHEN ALL RESIDENTIAL CUSTOMERS HAVE THE RIGHT TO ELECT CUSTOMER CHOICE IN ELECTRIC SUPPLY.

(II) IN ACHIEVING THE RATE REDUCTION UNDER THIS PARAGRAPH, THE COMMISSION MAY CONSIDER:

1. THE EXPIRATION OF SURCHARGES;
2. CHANGES IN AN ELECTRIC COMPANY'S TAX LIABILITY;
3. COST OF SERVICE DETERMINATIONS ORDERED BY THE COMMISSION;
4. NET TRANSITION COSTS; AND
5. THE EFFECT OF THE RATE REDUCTION ON THE COMPETITIVE ELECTRICITY SUPPLY MARKET.

(III) THE COMMISSION MAY INCREASE OR DECREASE THE ACTUAL RATE REDUCTION REQUIRED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH OR ALLOW THE RECOVERY OF ANY EXTRAORDINARY COSTS BASED ON INDIVIDUAL ELECTRIC COMPANY CIRCUMSTANCES IF IT DETERMINES THAT THE ACTION IS NECESSARY AND IN THE PUBLIC INTEREST.

(IV) IN DETERMINING THE RATE REDUCTIONS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSION MAY NOT INCREASE RATES FOR NONRESIDENTIAL CUSTOMERS.

(5) THE REQUIREMENT OF PARAGRAPH (4) OF THIS SUBSECTION MAY

(Over)

NOT APPLY TO AN ELECTRIC COMPANY IF THE COMMISSION APPROVES A SETTLEMENT THAT IS EQUALLY PROTECTIVE OF RATEPAYERS.

7-506.

(A) THE ELECTRIC COMPANY IN A DISTRIBUTION TERRITORY SHALL PROVIDE AND BE RESPONSIBLE FOR DISTRIBUTION SERVICES IN THE TERRITORY.

(B) THE ELECTRIC COMPANY SHALL PROVIDE DISTRIBUTION SERVICES IN ITS DISTRIBUTION TERRITORY TO ALL CUSTOMERS AND ELECTRICITY SUPPLIERS ON RATES, TERMS OF ACCESS, AND CONDITIONS THAT ARE COMPARABLE TO THE ELECTRIC COMPANY'S OWN USE OF ITS DISTRIBUTION SYSTEM.

(C) EACH ELECTRIC COMPANY SHALL MAINTAIN THE RELIABILITY OF ITS DISTRIBUTION SYSTEM IN ACCORDANCE WITH APPLICABLE ORDERS, TARIFFS, AND REGULATIONS OF THE COMMISSION.

(D) THE ELECTRIC COMPANY MUST CONNECT CUSTOMERS AND DELIVER ELECTRICITY ON BEHALF OF ELECTRICITY SUPPLIERS CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE.

(E) (1) AN ELECTRICITY SUPPLIER MAY NOT DISCRIMINATE AGAINST ANY CUSTOMER BASED WHOLLY OR PARTLY ON RACE, COLOR, CREED, NATIONAL ORIGIN, OR SEX OF AN APPLICANT FOR SERVICE OR FOR ANY ARBITRARY, CAPRICIOUS, OR UNFAIRLY DISCRIMINATORY REASON.

(2) AN ELECTRICITY SUPPLIER MAY NOT REFUSE TO PROVIDE SERVICE TO A CUSTOMER EXCEPT BY THE APPLICATION OF STANDARDS THAT ARE REASONABLY RELATED TO THE ELECTRICITY SUPPLIER'S ECONOMIC AND BUSINESS PURPOSES.

(F) AN ELECTRIC COMPANY SHALL PROVIDE STANDARD OFFER SERVICE UNDER § 7-510 OF THIS SUBTITLE.

7-507.

(A) A PERSON, OTHER THAN AN ELECTRIC COMPANY PROVIDING STANDARD OFFER SERVICE UNDER § 7-510(C) OF THIS SUBTITLE OR A MUNICIPAL UTILITY SERVING CUSTOMERS SOLELY IN ITS DISTRIBUTION TERRITORY, MAY NOT ENGAGE IN THE BUSINESS OF AN ELECTRICITY SUPPLIER IN THE STATE UNLESS THE PERSON HOLDS A LICENSE ISSUED BY THE COMMISSION.

(B) AN APPLICATION FOR AN ELECTRICITY SUPPLIER LICENSE SHALL:

(1) BE MADE TO THE COMMISSION IN WRITING ON A FORM ADOPTED BY THE COMMISSION;

(2) BE VERIFIED BY OATH OR AFFIRMATION; AND

(3) CONTAIN INFORMATION THAT THE COMMISSION REQUIRES.

(C) THE COMMISSION SHALL, BY REGULATION OR ORDER:

(1) REQUIRE PROOF OF FINANCIAL INTEGRITY;

(2) REQUIRE A LICENSEE TO POST A BOND OR OTHER SIMILAR INSTRUMENT, IF, IN THE COMMISSION'S JUDGMENT, THE BOND OR SIMILAR INSTRUMENT IS NECESSARY TO INSURE AN ELECTRICITY SUPPLIER'S FINANCIAL INTEGRITY;

(3) REQUIRE A LICENSEE TO:

(I) PROVIDE PROOF THAT IT HAS QUALIFIED TO DO BUSINESS IN THE STATE WITH THE DEPARTMENT OF ASSESSMENTS AND TAXATION;

(II) AGREE TO BE SUBJECT TO ALL APPLICABLE TAXES; AND

(Over)

(III) MAINTAIN ON FILE WITH THE COMMISSION THE LICENSEE'S CERTIFICATION THAT ALL APPLICABLE FEDERAL AND REGIONAL RELIABILITY REQUIREMENTS AND REQUIREMENTS OF ANY APPLICABLE INDEPENDENT SYSTEM OPERATOR ARE SATISFIED; AND

(4) ADOPT ANY OTHER REQUIREMENTS IT FINDS TO BE IN THE PUBLIC INTEREST, WHICH MAY INCLUDE DIFFERENT REQUIREMENTS FOR:

(I) ELECTRICITY SUPPLIERS THAT SERVE ONLY LARGE CUSTOMERS; AND

(II) THE DIFFERENT CATEGORIES OF ELECTRICITY SUPPLIERS.

(D) A LICENSE ISSUED UNDER THIS SECTION MAY NOT BE TRANSFERRED WITHOUT PRIOR COMMISSION APPROVAL.

(E) THE COMMISSION SHALL ADOPT REGULATIONS OR ISSUE ORDERS BEFORE THE IMPLEMENTATION OF CUSTOMER CHOICE TO:

(1) PROTECT CONSUMERS, ELECTRIC COMPANIES, AND ELECTRICITY SUPPLIERS FROM ANTICOMPETITIVE AND ABUSIVE PRACTICES; AND

(2) REQUIRE EACH ELECTRICITY SUPPLIER TO PROVIDE ADEQUATE AND ACCURATE CUSTOMER INFORMATION TO ENABLE CUSTOMERS TO MAKE INFORMED CHOICES REGARDING THE PURCHASE OF ANY ELECTRICITY SERVICES OFFERED BY THE ELECTRICITY SUPPLIER.

(F) ELECTRICITY BILLS PROVIDED TO CONSUMERS MUST BE PREPARED AND ISSUED IN ACCORDANCE WITH REGULATIONS OR ORDERS OF THE COMMISSION.

(G) (1) AN ELECTRICITY SUPPLIER OR ANY PERSON OR GOVERNMENTAL UNIT MAY NOT MAKE ANY CHANGE IN THE ELECTRICITY SUPPLIER FOR A CUSTOMER OR ADD NEW SERVICES TO A CUSTOMER'S EXISTING ELECTRICITY

SERVICE OPTIONS WITHOUT FIRST OBTAINING THE CUSTOMER'S PERMISSION.

(2) THE COMMISSION SHALL ADOPT REGULATIONS OR ISSUE ORDERS ESTABLISHING PROCEDURES TO PREVENT THE PRACTICES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(H) (1) THE COMMISSION MAY REVOKE OR SUSPEND THE LICENSE OF AN ELECTRICITY SUPPLIER, IMPOSE A CIVIL PENALTY, ORDER A REFUND OR CREDIT TO A CUSTOMER, ORDER CANCELLATION OF CONTRACT, OR IMPOSE A MORATORIUM ON ADDING OR SOLICITING ADDITIONAL CUSTOMERS BY THE ELECTRICITY SUPPLIER, FOR JUST CAUSE ON THE COMMISSION'S OWN INVESTIGATION OR ON COMPLAINT OF THE OFFICE OF PEOPLE'S COUNSEL, THE ATTORNEY GENERAL, OR AN AFFECTED PARTY.

(2) A CIVIL PENALTY MAY BE IMPOSED IN ADDITION TO THE COMMISSION'S DECISION TO REVOKE, SUSPEND, OR IMPOSE A MORATORIUM.

(3) JUST CAUSE INCLUDES:

(I) INTENTIONALLY PROVIDING FALSE INFORMATION TO THE COMMISSION;

(II) SWITCHING, OR CAUSING TO BE SWITCHED, THE ELECTRICITY SUPPLY FOR A CUSTOMER WITHOUT FIRST OBTAINING THE CUSTOMER'S PERMISSION;

(III) FAILING TO PROVIDE ELECTRICITY FOR ITS CUSTOMERS;

(IV) COMMITTING FRAUD OR ENGAGING IN DECEPTIVE PRACTICES;

(V) FAILING TO MAINTAIN FINANCIAL INTEGRITY;

(VI) VIOLATING A COMMISSION REGULATION OR ORDER; AND

(Over)

(VII) FAILING TO PAY APPLICABLE STATE OR LOCAL TAXES.

(I) (1) THE COMMISSION SHALL ASSESS THE AMOUNT OF ELECTRICITY GENERATED IN MARYLAND AS WELL AS THE AMOUNT OF ELECTRICITY IMPORTED FROM OTHER STATES IN ORDER TO DETERMINE WHETHER A SUFFICIENT SUPPLY OF ELECTRICITY IS AVAILABLE TO CUSTOMERS IN THE STATE.

(2) ON OR BEFORE JANUARY 1 IN 2001, 2003, 2005, AND 2007, THE COMMISSION SHALL REPORT TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE ON ITS ASSESSMENT UNDER THIS SUBSECTION, AND ANY RECOMMENDATIONS FOR LEGISLATION WHICH MAY BE NEEDED TO ENSURE AN ADEQUATE SUPPLY OF ELECTRICITY FOR CUSTOMERS IN THE STATE.

(J) (1) AN ELECTRICITY SUPPLIER OR PERSON SELLING OR OFFERING TO SELL ELECTRICITY IN THE STATE IN VIOLATION OF THIS SECTION IS SUBJECT TO:

(I) A CIVIL PENALTY OF NOT MORE THAN \$2,500 FOR THE VIOLATION; OR

(II) LICENSE REVOCATION OR SUSPENSION.

(2) EACH DAY A VIOLATION CONTINUES IS A SEPARATE VIOLATION.

(3) THE COMMISSION SHALL DETERMINE THE AMOUNT OF ANY CIVIL PENALTY. IN MAKING THIS DETERMINATION, THE COMMISSION SHALL CONSIDER:

(I) THE NUMBER OF PREVIOUS VIOLATIONS OF ANY PROVISION OF THIS ARTICLE;

(II) THE GRAVITY OF THE CURRENT VIOLATION; AND

(III) THE GOOD FAITH OF THE ELECTRICITY SUPPLIER OR

PERSON CHARGED IN ATTEMPTING TO ACHIEVE COMPLIANCE AFTER NOTIFICATION OF THE VIOLATION.

(K) IN CONNECTION WITH A CONSUMER COMPLAINT OR COMMISSION INVESTIGATION UNDER THIS SECTION, AN ELECTRICITY SUPPLIER SHALL PROVIDE TO THE COMMISSION ACCESS TO ANY ACCOUNTS, BOOKS, PAPERS, AND DOCUMENTS WHICH THE COMMISSION CONSIDERS NECESSARY TO RESOLVE THE MATTER AT ISSUE.

(L) THE COMMISSION MAY ORDER THE ELECTRICITY SUPPLIER TO CEASE ADDING OR SOLICITING ADDITIONAL CUSTOMERS OR TO CEASE SERVING CUSTOMERS IN THE STATE.

(M) AN ELECTRICITY SUPPLIER SHALL BE SUBJECT TO ALL APPLICABLE FEDERAL AND STATE ENVIRONMENTAL LAWS AND REGULATIONS.

(N) AN ELECTRICITY SUPPLIER SHALL PUBLISH ON THE INTERNET INFORMATION THAT IS READILY UNDERSTANDABLE ABOUT ITS SERVICES AND RATES FOR SMALL COMMERCIAL AND RESIDENTIAL ELECTRIC CUSTOMERS.

7-508.

(A) AN ELECTRIC COMPANY MAY TRANSFER ANY OF ITS GENERATION FACILITIES OR GENERATION ASSETS TO AN AFFILIATE.

(B) THE TRANSFER OF A GENERATION FACILITY OR GENERATION ASSET MAY NOT AFFECT OR RESTRICT THE COMMISSION'S DETERMINATION OF THE VALUE OF A GENERATION ASSET FOR PURPOSES OF TRANSITION COSTS OR BENEFITS UNDER § 7-513(B) OF THIS SUBTITLE.

(C) (1) THIS SUBSECTION IS IN EFFECT UNTIL THE LATER OF THE DATE WHEN:

(Over)

(I) ALL CUSTOMERS OF THE ELECTRIC COMPANY ARE ELIGIBLE FOR CUSTOMER CHOICE UNDER § 7-510 OF THIS SUBTITLE; AND

(II) THE AMOUNT OF TRANSITION COSTS OR BENEFITS ARISING FROM THE GENERATION TO BE TRANSFERRED HAS BEEN FINALLY DETERMINED BY THE COMMISSION UNDER § 7-513(A) THROUGH (C) OF THIS SUBTITLE.

(2) THE COMMISSION MAY REVIEW AND APPROVE THE TRANSFER FOR THE SOLE PURPOSE OF DETERMINING THAT:

(I) THE APPROPRIATE ACCOUNTING HAS BEEN FOLLOWED;

(II) THE TRANSFER DOES NOT OR WOULD NOT RESULT IN AN UNDUE ADVERSE EFFECT ON THE PROPER FUNCTIONING OF A COMPETITIVE ELECTRICITY SUPPLY MARKET; AND

(III) THE APPROPRIATE TRANSFER PRICE AND RATE MAKING TREATMENT.

(3) THE COMMISSION SHALL ACT ON THE TRANSFER OF A GENERATION FACILITY OR GENERATION ASSET UNDER THIS SUBSECTION WITHIN 180 DAYS AFTER THE ELECTRIC COMPANY FILES ITS PROPOSED TRANSFER APPLICATION AND ANY REQUIRED SUPPORTING INFORMATION.

7-509.

(A) (1) ON AND AFTER THE INITIAL IMPLEMENTATION DATE, THE GENERATION, SUPPLY, AND SALE OF ELECTRICITY, INCLUDING ALL RELATED FACILITIES AND ASSETS, MAY NOT BE REGULATED AS AN ELECTRIC COMPANY SERVICE OR FUNCTION EXCEPT TO:

(I) ESTABLISH THE PRICE FOR STANDARD OFFER SERVICE UNDER § 7-510(C) OF THIS SUBTITLE; AND

(II) REVIEW AND APPROVE TRANSFERS OF GENERATION

ASSETS UNDER § 7-508 OF THIS SUBTITLE.

(2) THIS SUBSECTION DOES NOT APPLY TO:

(I) REGULATION OF AN ELECTRICITY SUPPLIER UNDER § 7-507 OF THIS SUBTITLE; OR

(II) AS PART OF A SETTLEMENT APPROVED OR ORDER ISSUED BY THE COMMISSION THE COSTS OF NUCLEAR GENERATION FACILITIES OR PURCHASED POWER CONTRACTS WHICH REMAIN REGULATED OR ARE RECOVERED THROUGH THE DISTRIBUTION FUNCTION.

(B) (1) EXCEPT FOR AN ELECTRIC COMPANY WHOSE RETAIL PEAK LOAD IN THE STATE ON JANUARY 1, 1999, WAS LESS THAN 1,000 MEGAWATTS, THIS SECTION DOES NOT APPLY TO AN ELECTRIC COMPANY UNTIL THE ELECTRIC COMPANY:

(I) TRANSFERS GENERATION FACILITIES AND GENERATION ASSETS TO AN AFFILIATE OF THE ELECTRIC COMPANY, AND THE AFFILIATE OPERATES THE FACILITIES AND ASSETS; OR

(II) SELLS THE GENERATION FACILITIES AND GENERATION ASSETS TO A NONAFFILIATE.

(2) FOR AN ELECTRIC COMPANY WHOSE RETAIL PEAK LOAD IN THE STATE ON JANUARY 1, 1999 WAS LESS THAN 1,000 MEGAWATTS, THE COMMISSION MAY REVIEW THE CORPORATE STRUCTURE OF THE ELECTRIC COMPANY IN ORDER TO ENSURE THE STRUCTURE DOES NOT RESULT IN AN UNDUE ADVERSE EFFECT ON THE PROPER FUNCTION OF A COMPETITIVE ELECTRICITY SUPPLY MARKET.

(3) THE EXCEPTION PROVIDED IN THIS SUBSECTION, AS IT APPLIES TO INVESTOR-OWNED UTILITIES, SHALL EXPIRE AND BE OF NO FURTHER FORCE AND EFFECT ON JANUARY 1, 2001.

(Over)

(C) THE EXCEPTIONS IN SUBSECTION (A)(1) OF THIS SECTION AS TO ANY ELECTRIC COMPANY SHALL REMAIN IN EFFECT UNTIL THE LATER OF THE DATE WHEN:

(1) ALL CUSTOMERS OF THAT ELECTRIC COMPANY ARE ELIGIBLE FOR CUSTOMER CHOICE UNDER § 7-510 OF THIS SUBTITLE; AND

(2) THE AMOUNT OF TRANSITION COSTS OR BENEFITS ARISING FROM THE GENERATION THAT IS DEREGULATED HAS BEEN FINALLY DETERMINED BY THE COMMISSION UNDER § 7-513(A) THROUGH (C) OF THIS SUBTITLE.

7-510.

(A) (1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE PHASED IMPLEMENTATION OF CUSTOMER CHOICE SHALL BE IMPLEMENTED AS FOLLOWS:

(I) ON JULY 1, 2000, ONE-THIRD OF THE RESIDENTIAL CLASS IN THE STATE OF EACH ELECTRIC COMPANY SHALL HAVE THE OPPORTUNITY FOR CUSTOMER CHOICE;

(II) ON JANUARY 1, 2001, THE ENTIRE INDUSTRIAL CLASS AND THE ENTIRE COMMERCIAL CLASS IN THE STATE OF EACH ELECTRIC COMPANY SHALL HAVE THE OPPORTUNITY FOR CUSTOMER CHOICE;

(III) ON JULY 1, 2001, TWO-THIRDS OF THE RESIDENTIAL CLASS IN THE STATE OF EACH ELECTRIC COMPANY SHALL HAVE THE OPPORTUNITY FOR CUSTOMER CHOICE;

(IV) ON JULY 1, 2002, ALL CUSTOMERS OF EACH ELECTRIC COMPANY SHALL HAVE THE OPPORTUNITY FOR CUSTOMER CHOICE; AND

(V) BY JULY 1, 2003, UNDER A SEPARATE SCHEDULE ADOPTED BY THE COMMISSION, ALL CUSTOMERS OF EACH ELECTRIC COOPERATIVE SHALL HAVE THE OPPORTUNITY FOR CUSTOMER CHOICE.

(2) THE COMMISSION MAY DEVELOP A SEPARATE SCHEDULE FOR MUNICIPAL UTILITIES IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.

(B) FOR GOOD CAUSE SHOWN AND IF THE COMMISSION FINDS THE ACTION TO BE IN THE PUBLIC INTEREST, THE COMMISSION MAY:

(1) ACCELERATE OR DELAY THE INITIAL IMPLEMENTATION DATE OF JULY 1, 2000 BY UP TO 3 MONTHS; OR

(2) ACCELERATE ANY OF THE OTHER IMPLEMENTATION DATES AND PHASE-IN PERCENTAGES IN SUBSECTION (A) OF THIS SECTION.

(C) (1) BEGINNING ON THE INITIAL IMPLEMENTATION DATE, AN ELECTRIC COMPANY'S OBLIGATION TO PROVIDE ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICE IS STATED BY THIS SUBSECTION.

(2) ELECTRIC SUPPLY PURCHASED FROM A CUSTOMER'S ELECTRIC COMPANY IS KNOWN AS STANDARD OFFER SERVICE. A CUSTOMER IS CONSIDERED TO HAVE CHOSEN THE STANDARD OFFER SERVICE IF THE CUSTOMER:

(I) IS NOT ALLOWED TO CHOOSE AN ELECTRICITY SUPPLIER UNDER THE PHASE IN OF CUSTOMER CHOICE IN § 7-510(A) OF THIS SUBTITLE;

(II) CONTRACTS FOR ELECTRICITY WITH AN ELECTRICITY SUPPLIER AND IT IS NOT DELIVERED;

(III) CANNOT ARRANGE FOR ELECTRICITY FROM AN ELECTRICITY SUPPLIER;

(IV) DOES NOT CHOOSE AN ELECTRICITY SUPPLIER; OR

(V) HAS BEEN DENIED SERVICE OR REFERRED AS A DELINQUENT ACCOUNT TO THE STANDARD OFFER SERVICE PROVIDER BY AN

(Over)

ELECTRIC SUPPLIER OR AGGREGATOR.

(3) (I) THE OBLIGATION OF AN ELECTRIC COMPANY TO PROVIDE STANDARD OFFER SERVICE SHALL CONTINUE UNTIL JULY 1, 2003, OR A LATER DATE WHEN THE COMMISSION DETERMINES THAT A COMPETITIVE MARKET EXISTS FOR RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS.

(II) IF THE COMMISSION DOES NOT FIND THAT THE ELECTRICITY SUPPLY MARKET IS COMPETITIVE, OR FINDS THAT NO ACCEPTABLE COMPETITIVE PROPOSALS HAVE BEEN RECEIVED, THE OBLIGATION TO PROVIDE STANDARD OFFER SERVICE TO RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS SHALL BE EXTENDED AT A PRICE THAT ALLOWS RECOVERY OF VERIFIABLE PRUDENTLY INCURRED MARKET COSTS TO PROCURE OR PRODUCE THE ELECTRICITY PLUS A REASONABLE RETURN. THE COMMISSION SHALL REEXAMINE THIS FINDING ANNUALLY.

(III) ELECTRIC COOPERATIVES AND MUNICIPAL UTILITIES MAY CHOOSE TO CONTINUE PROVIDING STANDARD OFFER SERVICE IN THEIR RESPECTIVE TERRITORIES, AND MAY CEASE OFFERING THAT SERVICE AFTER NOTIFYING THE COMMISSION AT LEAST 12 MONTHS IN ADVANCE.

(4) ON OR BEFORE JULY 1, 2001, THE COMMISSION SHALL ADOPT REGULATIONS OR ISSUE ORDERS TO ESTABLISH PROCEDURES FOR THE COMPETITIVE SELECTION OF ELECTRICITY SUPPLIERS, INCLUDING AN AFFILIATE OF AN ELECTRIC COMPANY, TO PROVIDE STANDARD OFFER SERVICE TO CUSTOMERS OF ELECTRIC COMPANIES, EXCEPT FOR CUSTOMERS OF ELECTRIC COOPERATIVES AND MUNICIPAL UTILITIES.

(5) AN ELECTRIC COMPANY MAY PROCURE THE ELECTRICITY NEEDED TO MEET ITS STANDARD OFFER SERVICE ELECTRICITY SUPPLY OBLIGATION FROM ANY ELECTRICITY SUPPLIER, INCLUDING AN AFFILIATE OF THE ELECTRIC COMPANY.

(6) AN ELECTRIC COMPANY SHALL CONTINUE TO PURCHASE

ELECTRICITY UNDER ANY CONTRACT IN EFFECT ON JANUARY 1, 1999 WITH A RENEWABLE ENERGY RESOURCE FACILITY LOCATED IN THE STATE UNTIL THE LATER OF THE EXPIRATION OF THE CONTRACT OR THE EXPIRATION OR SATISFACTION OF BONDS EXISTING ON JANUARY 1, 1999 SUPPORTING THE FACILITY.

(D) (1) EACH MUNICIPAL ELECTRIC UTILITY MAY FILE WITH THE COMMISSION A SEPARATE PLAN AND SCHEDULE FOR PROVIDING CUSTOMER CHOICE OF ELECTRICITY SUPPLY TO ITS CUSTOMERS. THE COMMISSION MAY APPROVE EACH MUNICIPAL ELECTRIC UTILITY PLAN AND SCHEDULE AFTER CONSIDERING THE FEATURES THAT DISTINGUISH THE MUNICIPAL ELECTRIC UTILITY FROM OTHER ELECTRIC COMPANIES.

(2) SUBJECT TO SUBSECTION (F) OF THIS SECTION, MUNICIPAL ELECTRIC UTILITIES MAY ELECT TO INDEFINITELY CONTINUE TO PROVIDE STANDARD OFFER SERVICE FOR ELECTRICITY SUPPLY ONLY IN THEIR RESPECTIVE DISTRIBUTION TERRITORIES, INSTEAD OF IMPLEMENTING CUSTOMER CHOICE.

(3) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO REQUIRE THE FUNCTIONAL, OPERATIONAL, STRUCTURAL, OR LEGAL SEPARATION OF A MUNICIPAL UTILITY'S REGULATED AND NONREGULATED OPERATIONS.

(E) NOTWITHSTANDING THE DATES SET FORTH IN THIS SECTION OR ANY OTHER LAW, CUSTOMER CHOICE MAY NOT COMMENCE UNTIL LEGISLATION IS ENACTED TO RESTRUCTURE MARYLAND TAXES TO ADDRESS THE STATE AND LOCAL TAX IMPLICATIONS OF RESTRUCTURING THE ELECTRIC UTILITY INDUSTRY.

(F) THE COMMISSION SHALL, BY REGULATION OR ORDER, ADOPT PROCEDURES TO IMPLEMENT THIS SECTION, INCLUDING THE ALLOCATION OF ANY UNUSED OPPORTUNITY FOR CUSTOMER CHOICE AMONG CUSTOMER CLASSES.

(G) IF A MUNICIPAL UTILITY SERVES CUSTOMERS OUTSIDE ITS DISTRIBUTION TERRITORY, ANY ELECTRICITY SUPPLIER LICENSED UNDER § 7-507 OF THIS SUBTITLE MAY SERVE THE CUSTOMERS WITHIN THE DISTRIBUTION

TERRITORY OF THE MUNICIPAL UTILITY.

(H) A COUNTY OR MUNICIPAL CORPORATION MAY NOT ACT AS AN AGGREGATOR UNLESS THE COMMISSION DETERMINES THERE IS NOT SUFFICIENT COMPETITION WITHIN THE BOUNDARIES OF THE COUNTY OR MUNICIPAL CORPORATION.

7-511.

(A) EXCEPT FOR ELECTRIC COOPERATIVES AND MUNICIPAL UTILITIES:

(1) COMPETITIVE BILLING SHALL BEGIN ON JULY 1, 2000;

(2) COMPETITIVE METERING FOR LARGE CUSTOMERS SHALL BEGIN ON JANUARY 1, 2002; AND

(3) COMPETITIVE METERING FOR ALL OTHER CUSTOMERS SHALL BEGIN ON APRIL 1, 2002, OR EARLIER IF REQUESTED BY THE ELECTRIC COMPANY.

(B) (1) AS A CONDITION OF LICENSING TO ACT AS A BILLING AGENT IN THE STATE, THE COMMISSION SHALL REQUIRE A LICENSEE TO:

(I) MAINTAIN ASSETS IN THE STATE SUFFICIENT TO COVER AT LEAST 3 MONTHS' BILLING REVENUES, INCLUDING ALL STATE AND LOCAL TAXES AND FEES, UNIVERSAL SERVICE CHARGES, COMPETITIVE TRANSITION CHARGES, AND OTHER CHARGES REQUIRED BY STATE OR LOCAL LAW OR REGULATION; OR

(II) POST A BOND WITH THE COMMISSION IN AN AMOUNT SUFFICIENT TO COVER AT LEAST 3 MONTHS' BILLING REVENUES, INCLUDING ALL STATE AND LOCAL TAXES AND FEES, UNIVERSAL SERVICE CHARGES, COMPETITIVE TRANSITION CHARGES, AND OTHER CHARGES REQUIRED BY STATE OR LOCAL LAW OR REGULATION.

(2) THE STATE, ON ITS OWN MOTION OR WITHIN 2 WEEKS AFTER A

REQUEST BY A LOCAL GOVERNMENT, MAY FORECLOSE ON THE BOND OR INITIATE ATTACHMENT PROCEEDINGS AT ANY TIME THAT A LICENSEE FAILS TO MEET THE DUE DATE FOR REMISSION OF TAXES OR OTHER STATE OR LOCAL GOVERNMENT CHARGES UNDER THIS SUBSECTION.

(3) IN ADDITION TO THE COMMISSION'S AUTHORITY TO SUSPEND OR REVOKE A LICENSE UNDER THIS SUBTITLE, THE COMMISSION SHALL SUSPEND OR REVOKE THE LICENSE OF A BILLING AGENT ON APPLICATION OF A LOCAL GOVERNMENT FOR NONPAYMENT OF LOCAL TAXES OR FEES.

(C) THE COMMISSION SHALL ADOPT REGULATIONS OR ISSUE ORDERS TO IMPLEMENT THIS SECTION.

7-512.

(A) THIS SECTION AND § 7-513 OF THIS SUBTITLE APPLY TO AN ENTITY THAT WAS REGULATED AS AN ELECTRIC COMPANY ON JUNE 30, 1999, WHETHER OR NOT THE ENTITY OR ANY OF ITS BUSINESSES, SERVICES, OR ASSETS CONTINUES TO BE REGULATED UNDER THIS ARTICLE AFTER THAT DATE.

(B) AN ELECTRIC COMPANY MAY RECOVER COSTS UNDER THIS SECTION TO THE EXTENT THAT THE COMMISSION FINDS COSTS TO BE JUST AND REASONABLE.

(C) (1) AN ELECTRIC COMPANY SHALL BE PROVIDED A FAIR OPPORTUNITY TO RECOVER FULLY ALL COSTS OF THE FOLLOWING THAT HAVE BEEN OR WILL BE INCURRED UNDER PROGRAMS OR OTHER PLANS ESTABLISHED BY LAW OR ORDERED BY THE COMMISSION:

(I) DEMAND SIDE MANAGEMENT AND OTHER ENERGY CONSERVATION PROGRAMS AND PLANS;

(II) UNIVERSAL SERVICE PROGRAMS AND OTHER PUBLIC

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PURPOSE PROGRAMS; AND

(III) CONSUMER EDUCATION PROGRAMS UNDER § 7-505(B)(1) OF THIS SUBTITLE.

(2) THE COSTS SUBJECT TO THIS SUBSECTION SHALL BE FUNDED IN THE ELECTRIC COMPANY'S DISTRIBUTION TERRITORY, EXCEPT THAT THE UNIVERSAL SERVICE PROGRAM IN § 7-516 OF THIS SUBTITLE SHALL BE FUNDED ON A STATEWIDE BASIS, BY A SURCHARGE OR OTHER COST RECOVERY MECHANISM THAT:

(I) FULLY RECOVERS FROM CUSTOMERS IN THE TERRITORY THE COSTS OF THE PLANS AND PROGRAMS IN THE TERRITORY OR STATE, AS APPROPRIATE; AND

(II) EXCEPT FOR PARAGRAPH (3) OF THIS SUBSECTION, WITH RESPECT TO ANY OF THESE COSTS NOT INCLUDED IN RATES ON JANUARY 1, 2000, IS NOT SUBJECT TO ANY OTHERWISE APPLICABLE RATE FREEZE OR CAP.

(3) THE RECOVERY OF COSTS BY AN ELECTRIC COMPANY FOR THE UNIVERSAL SERVICE PROGRAM UNDER § 7-516 OF THIS SUBTITLE IS SUBJECT TO ANY APPLICABLE CAP REGARDLESS OF WHEN THE COSTS ARE INCLUDED IN RATES.

7-513.

(A) (1) IN ACCORDANCE WITH THIS SUBSECTION, AN ELECTRIC COMPANY SHALL BE PROVIDED A FAIR OPPORTUNITY TO RECOVER ALL OF ITS PRUDENTLY INCURRED AND VERIFIABLE NET TRANSITION COSTS, SUBJECT TO FULL MITIGATION, FOLLOWING THE COMMISSION'S DETERMINATION UNDER SUBSECTION (B) OF THIS SECTION.

(2) A COMPETITIVE TRANSITION CHARGE, OR OTHER APPROPRIATE MECHANISM THAT THE COMMISSION DETERMINES, MAY BE INCLUDED AS PART OF THE CHARGE PAID BY EACH CUSTOMER WHO ACCESSES THE TRANSMISSION OR

DISTRIBUTION SYSTEM OF THE ELECTRIC COMPANY IN WHOSE DISTRIBUTION TERRITORY THE CUSTOMER IS LOCATED. THE COSTS AUTHORIZED BY THE COMMISSION TO BE RECOVERED SHALL BE ALLOCATED TO CUSTOMER CLASSES IN A MANNER THAT, AS NEARLY AS REASONABLY POSSIBLE, DOES NOT EXCEED THE COST OF PROVIDING THE SERVICE TO THOSE CLASSES OF CUSTOMERS, AVOIDING WHERE REASONABLY POSSIBLE ANY INTERCLASS OR INTRAClass CROSS SUBSIDY.

(3) THE COMPETITIVE TRANSITION CHARGE MAY BE INCLUDED ON BILLS TO CUSTOMERS FOR A PERIOD DETERMINED BY THE COMMISSION. THE COMMISSION MAY ESTABLISH RECOVERY PERIODS OF DIFFERENT LENGTHS FOR EACH ELECTRIC COMPANY AND FOR DIFFERENT CATEGORIES OF TRANSITION COSTS.

(4) A COMPETITIVE TRANSITION CHARGE, OR OTHER APPROPRIATE MECHANISM DETERMINED BY THE COMMISSION, MAY NOT BE PAID FOR ANY ON-SITE GENERATED ELECTRICITY TO THE EXTENT OF:

(I) THE EXISTING FACILITIES' INSTALLED GENERATING CAPACITY AS OF JANUARY 1, 1999;

(II) THE GENERATING CAPACITY OF AN EXISTING FACILITY TO BE INSTALLED UNDER A LEGALLY BINDING CONTRACT:

1. EXECUTED ON OR BEFORE JANUARY 1, 1999; OR
2. EXECUTED ON OR BEFORE SEPTEMBER 29, 1999, IF THE COMMISSION, ON A CASE BY CASE REVIEW OF THE EVIDENCE, DETERMINES THAT NEGOTIATIONS IN GOOD FAITH CONCERNING THE CONTRACT WERE ONGOING AS OF JANUARY 1, 1999; OR

(III) THE FIRST 500 KILOWATT-HOURS PER MONTH OF ANY ON-SITE GENERATED ELECTRICITY FACILITY:

1. TO THE EXTENT OF THE FIRST 80 MEGAWATTS, ON A STATEWIDE BASIS, OF THE AGGREGATE GENERATING CAPACITY OF ON-SITE GENERATING FACILITIES; OR

2. INSTALLED AFTER JANUARY 1, 2000 FROM FUEL CELLS, PHOTOVOLTAICS, WIND MACHINES, OR MICROTURBINES WHICH HAVE ENERGY CONVERSION EFFICIENCIES GREATER THAN 50%.

(B) THE COMMISSION SHALL DETERMINE THE TRANSITION COSTS AND THE AMOUNTS OF THE TRANSITION COSTS THAT AN ELECTRIC COMPANY SHALL BE PROVIDED AN OPPORTUNITY TO RECOVER UNDER ITS RESTRUCTURING PLAN THROUGH THE COMPETITIVE TRANSITION CHARGE OR OTHER APPROPRIATE MECHANISM.

(C) (1) AFTER JULY 1, 1999, AN ELECTRIC COMPANY MAY APPLY TO THE COMMISSION FOR A QUALIFIED RATE ORDER FOR SOME OR ALL OF ITS TRANSITION COSTS.

(2) IF THE COMMISSION ISSUES A QUALIFIED RATE ORDER AND THE TRANSITION BONDS APPROVED BY THAT ORDER ARE SUCCESSFULLY ISSUED:

(I) THE ELECTRIC COMPANY SHALL IMPOSE AND COLLECT, THROUGH ITS CUSTOMER BILLS, THE INTANGIBLE TRANSITION CHARGES APPROVED BY THE QUALIFIED RATE ORDER; AND

(II) AT THE SAME TIME, THE ELECTRIC COMPANY'S COMPETITIVE TRANSITION CHARGE SHALL BE REDUCED BY AN AMOUNT EQUAL TO THAT PORTION OF THE COMPETITIVE TRANSITION CHARGE RELATED TO THE TRANSITION COSTS FOR WHICH TRANSITION BONDS HAVE BEEN SUCCESSFULLY ISSUED, TOGETHER WITH ANY COSTS OF CAPITAL RELATED TO THE TRANSITION COSTS FOR WHICH RECOVERY WAS PROVIDED IN THE COMPETITIVE TRANSITION CHARGE, AS PROVIDED IN THE QUALIFIED RATE ORDER.

(D) (1) THE COMMISSION SHALL ESTABLISH PROCEDURES FOR THE

ANNUAL REVIEW OF THE COMPETITIVE TRANSITION CHARGE FOR EACH ELECTRIC COMPANY TO RECONCILE THE ANNUAL REVENUES RECEIVED FROM THE CHARGE WITH THE ANNUAL AMORTIZATION OF TRANSITION COSTS APPROVED BY THE COMMISSION UNDER THIS SECTION TO TAKE ACCOUNT OF ACTUAL KILOWATT-HOUR SALES IN THE PRIOR YEAR COMPARED WITH PREVIOUSLY ESTIMATED KILOWATT-HOUR SALES. THE COMMISSION SHALL ADJUST THE COMPETITIVE TRANSITION CHARGE BASED ON ANY UNDER RECOVERY OR OVER RECOVERY WITH RESPECT TO THE AUTHORIZED AMORTIZATION AMOUNT.

(2) NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED AS PREVENTING THE COMMISSION FROM APPROVING FOR AN INVESTOR OWNED ELECTRIC COMPANY:

(I) AN ADJUSTMENT MECHANISM PROPOSED BY SUCH INVESTOR OWNED ELECTRIC COMPANY IN ITS INITIAL RESTRUCTURING PROPOSAL FILED PRIOR TO JANUARY 1, 1999 THAT TAKES INTO ACCOUNT DIFFERENCES OTHER THAN DIFFERENCES IN KILOWATT-HOUR SALES, TAKING INTO CONSIDERATION ANY REQUIREMENTS RELATED TO ANY TRANSITION BONDS;

(II) AN ADJUSTMENT THAT TAKES INTO ACCOUNT GENERATION ASSET SALES BY AN ELECTRIC COMPANY OR AN AFFILIATE TO A NONAFFILIATE THAT ARE CONSUMMATED ON OR BEFORE JUNE 30, 2005; OR

(III) ANY OTHER MECHANISM AS PART OF A SETTLEMENT.

(E) (1) IN DETERMINING THE APPROPRIATE TRANSITION COSTS OR BENEFITS FOR EACH ELECTRIC COMPANY'S GENERATION-RELATED ASSETS, THE COMMISSION SHALL CONDUCT AN EVIDENTIARY HEARING TO ESTABLISH THE VALUE OF THOSE GENERATION ASSETS.

(2) THE COMMISSION MAY CONSIDER IN THE DETERMINATION OF THE VALUATION OF EACH ASSET EVIDENCE OF BOOK VALUE, FAIR MARKET VALUE, SALES OF COMPARABLE ASSETS, APPRAISALS, THE REVENUE THE COMPANY

(Over)

WOULD RECEIVE UNDER RATE-OF-RETURN REGULATION, THE REVENUE THE COMPANY WOULD RECEIVE IN A RESTRUCTURED ELECTRICITY SUPPLY MARKET, OTHER APPROPRIATE EVIDENCE OF VALUE, AND OTHER ISSUES CONSIDERED BY THE COMMISSION.

(3) THE COMMISSION SHALL DETERMINE AN EQUITABLE ALLOCATION OF COSTS OR BENEFITS BETWEEN SHAREHOLDERS AND RATEPAYERS. IN DETERMINING THE ALLOCATION OF TRANSITION COSTS OR BENEFITS, THE COMMISSION SHALL CONSIDER THE FOLLOWING FACTORS:

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

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

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

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

7-514.

(A) ON COMPLAINT OR ON ITS OWN MOTION, FOR GOOD CAUSE SHOWN, THE COMMISSION MAY CONDUCT AN INVESTIGATION OF THE RETAIL ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES MARKETS AND DETERMINE WHETHER THE FUNCTION OF ONE OF THESE MARKETS IS BEING ADVERSELY AFFECTED BY MARKET POWER. THE COMMISSION SHALL MONITOR THE RETAIL ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES MARKETS TO ENSURE THAT THE MARKETS ARE NOT BEING ADVERSELY AFFECTED BY MARKET POWER.

(B) IF, AS A RESULT OF AN INVESTIGATION CONDUCTED UNDER THIS SECTION, THE COMMISSION DETERMINES THAT MARKET POWER IN THE RELEVANT

MARKET UNDER THE COMMISSION'S JURISDICTION IS PREVENTING THE ELECTRIC CUSTOMERS IN THE STATE FROM OBTAINING THE BENEFITS OF PROPERLY FUNCTIONING RETAIL ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES MARKETS, THE COMMISSION MAY TAKE REMEDIAL ACTIONS WITHIN ITS AUTHORITY TO ADDRESS THE IMPACT OF THE MARKET POWER ACTIVITIES.

7-515.

AN ELECTRICITY SUPPLIER THAT ALSO PROVIDES DISTRIBUTION SERVICE, OR THAT HAS AN AFFILIATE THAT PROVIDES DISTRIBUTION SERVICE, IN PENNSYLVANIA, DELAWARE, WEST VIRGINIA, AND VIRGINIA OR IN THE DISTRICT OF COLUMBIA MAY NOT PROVIDE RETAIL ELECTRICITY SUPPLY SERVICE, DIRECTLY, INDIRECTLY, OR THROUGH AN AGGREGATOR, MARKETER, OR BROKER, IN THE DISTRIBUTION TERRITORY OF AN UNAFFILIATED ELECTRIC COMPANY UNLESS THERE IS ELECTRICITY SUPPLY COMPETITION IN AT LEAST A PORTION OF THE DISTRIBUTION SERVICE AREA OF THE ELECTRICITY SUPPLIER OR AFFILIATE.

7-516.

(A) THE COMMISSION SHALL ESTABLISH A UNIVERSAL SERVICE PROGRAM TO ASSIST ELECTRIC CUSTOMERS WITH AN ANNUAL INCOME LEVEL AT OR BELOW 150% OF THE FEDERAL POVERTY LEVEL, WITH INPUT FROM A PANEL OR ROUNDTABLE OF INTERESTED PARTIES. THE DEPARTMENT OF HUMAN RESOURCES SHALL BE RESPONSIBLE FOR ADMINISTERING THE UNIVERSAL SERVICE PROGRAM THROUGH THE MARYLAND ENERGY ASSISTANCE PROGRAM. THE COMMISSION SHALL HAVE OVERSIGHT RESPONSIBILITY FOR THE UNIVERSAL SERVICE PROGRAM.

(B) ALL CUSTOMERS WILL CONTRIBUTE TO THE FUNDING OF THIS PROGRAM THROUGH A SYSTEMS BENEFIT SURCHARGE COLLECTED BY EACH ELECTRIC COMPANY FROM WITHIN ITS DISTRIBUTION TERRITORY. ON A STATEWIDE BASIS, THE SURCHARGE MAY NOT EXCEED \$24 MILLION IN ANY YEAR. THE COMMISSION SHALL ALLOCATE FUNDING FOR THIS PROGRAM IN THE FOLLOWING MANNER:

(Over)

(1) 80% OF THE FUNDING SHALL BE PAID BY THE INDUSTRIAL AND COMMERCIAL CLASSES; AND

(2) 20% OF THE FUNDING SHALL BE PAID BY THE RESIDENTIAL CLASS.

(C) THE UNIVERSAL SERVICE PROGRAM SHALL PROVIDE FINANCIAL SUPPORT TO ELIGIBLE CUSTOMERS FOR:

(1) BILL PAYMENT;

(2) LOW-INCOME WEATHERIZATION AND LOW INCOME ENERGY EFFICIENCY PROGRAMS; AND

(3) ARREARAGES IN EXISTENCE ON JULY 1, 1999.

(D) ON JANUARY 1, 2000, THE COMMISSION SHALL ISSUE A RECOMMENDATION TO THE GENERAL ASSEMBLY ON THE UNIVERSAL SERVICE PROGRAM INCLUDING THE APPROPRIATE AMOUNT TO BE COLLECTED FROM CUSTOMERS.

(E) THE ELECTRIC COMPANY SHALL RECOVER UNIVERSAL SERVICE PROGRAM COSTS IN ACCORDANCE WITH § 7-512 OF THIS SUBTITLE.

7-517.

(A) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO AFFECT THE AUTHORITY OF THE DIVISION OF CONSUMER PROTECTION IN THE OFFICE OF THE ATTORNEY GENERAL TO ENFORCE CIVIL AND CRIMINAL VIOLATIONS OF TITLES 13 AND 14 OF THE COMMERCIAL LAW ARTICLE OR ANY OTHER APPLICABLE STATE LAW OR REGULATION IN CONNECTION WITH THE ACTIVITIES OF ELECTRICITY SUPPLIERS.

(B) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO AFFECT THE

OBLIGATIONS OF AN ELECTRIC COMPANY OR AN ELECTRICITY SUPPLIER TO COMPLY WITH ADMINISTRATIVE RULES AND REGULATIONS REGARDING ANY GRANTS, PAYMENTS OR CREDITS FOR ELIGIBLE CUSTOMERS, AND OTHER ADMINISTRATIVE AND REPORTING DETAILS REQUIRED TO IMPLEMENT THE UNIVERSAL SERVICE PROGRAMS UNDER § 7-517 OF THIS SUBTITLE.

7-518.

THIS SUBTITLE MAY BE REFERRED TO AS "THE ELECTRIC CUSTOMER CHOICE AND COMPETITION ACT OF 1999".

7-519. RESERVED.

7-520. RESERVED.

Article - Natural Resources

3-308.

THE SECRETARY MAY USE THE ENVIRONMENTAL TRUST FUND, INCLUDING ANY ADDITIONAL AMOUNTS APPROPRIATED BY THE GENERAL ASSEMBLY, TO FUND COST-EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION ACTIVITIES AND THE IN-STATE OPERATION AND DEVELOPMENT OF RENEWABLE ENERGY RESOURCES, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

Article - Commercial Law

9-104.

This title does not apply

(m) To a transfer of an interest in a letter of credit other than the rights to proceeds of a written letter of credit; OR

(Over)

(N) TO INTANGIBLE TRANSITION PROPERTY AS DEFINED IN § 7-501 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

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

Article - Public Utility Companies

7-203.

(a) (1) The Commission shall:

(i) impose an environmental surcharge per kilowatt hour of electricity [generated] DISTRIBUTED TO RETAIL CUSTOMERS within the State; and

(ii) authorize each electric company to add the full amount of the surcharge to its customers' bills.

(2) To the extent that an electric company fails to collect the surcharge from its customers, the amount uncollected shall be deemed a cost of power [generation] DISTRIBUTION and allowed and computed as such together with other allowable expenses for purposes of rate-making.

(b) (1) The Comptroller shall collect the revenue from the surcharge imposed under subsection (a) of this section and place the revenue into a special fund, the Environmental Trust Fund.

(2) The Comptroller shall maintain the method of collection of the surcharge from each electric company, and the money collected shall accrue to the Fund.

(c) (1) Each fiscal year, the Secretary of Natural Resources shall coordinate the preparation of the annual budget required to carry out the provisions of the Power Plant Research Program under Title 3, Subtitle 3 of the Natural Resources Article.

(2) Each fiscal year, on approval of the annual budget by the General Assembly for the Power Plant Research Program, the Commission shall establish the amount of the environmental surcharge per kilowatt hour of electric energy [generated] DISTRIBUTED in the State that is to be imposed on each electric company in accordance with subsection (a) of this section.

(d) (1) Notwithstanding any other provision of this subtitle, the amount of the surcharge for each account OF EACH RETAIL CUSTOMER may not exceed the lesser of 0.15 mill per kilowatt hour or \$1,000 per month.

(2) The Department of Natural Resources shall credit against the amount the Commission requires each electric company to pay into the Environmental Trust Fund 1.5% of the total surcharge amount attributed to the electric company on the basis of the amount of the electricity [generated] DISTRIBUTED in the State.

(e) The surcharge imposed under this subtitle shall terminate on June 30, [2000] 2005.

Article - Natural Resources

3-302.

(a) There is an Environmental Trust Fund. For the purpose of this subtitle, there is established as an added cost of [generation] ELECTRICITY DISTRIBUTED TO RETAIL ELECTRIC CUSTOMERS WITHIN THE STATE, an environmental surcharge per kilowatt hour of electric energy [generated] DISTRIBUTED in the State to be paid by any electric company as defined in § 1-101 of the Public Utility Companies Article. [This surcharge initially shall be assessed at 0.1 mill per kilowatt hour as of January 1, 1972.] The Public Service Commission shall impose the surcharge per kilowatt hour of electric energy [generated] DISTRIBUTED TO RETAIL ELECTRIC CUSTOMERS within the State and shall authorize the electric companies to add the full amount of the surcharge to RETAIL ELECTRIC customers' bills. To the extent that the surcharge is not collected from RETAIL ELECTRIC customers, the surcharge shall be deemed a cost of [generation] DISTRIBUTION and shall be allowed and computed as such, together with other allowable expenses, for rate-making purposes. Revenues from the surcharge shall be collected by the

(Over)

Comptroller and placed in the Fund.

(b) (1) The Secretary, in consultation with the Director of the Maryland Energy Administration, annually shall coordinate the preparation of a budget required to carry out the provisions of this subtitle. Upon approval of the budget by the General Assembly, the Public Service Commission shall establish the amount of the surcharge per kilowatt hour for the fiscal year beginning July 1, 1972, and for each subsequent fiscal year.

(2) Notwithstanding any other provisions of this subtitle, the amount of the surcharge for each account FOR EACH RETAIL CUSTOMER may not exceed the lesser of 0.15 mil per kilowatt hour or \$1,000 per month and the surcharge may not continue beyond Fiscal Year [2000] 2005.

(3) The Comptroller shall maintain the method of collection of the surcharge from the companies and the collections shall accrue to the Fund. The Department shall credit against the amount required to be paid into the Environmental Trust Fund by each electric company an amount equal to 1 1/2% of the total surcharge attributed to each company on the basis of the electricity [generated] DISTRIBUTED within Maryland.

(c) The Secretary shall administer the Fund. The Fund is subject to the provisions for financial management and budgeting established by the Department of Budget and Management. The moneys in the Fund shall be used to carry out the provisions of this subtitle as provided for in the budget, except that 10 percent of all moneys accruing to the Fund from July 1, 1978 through June 30, 1983 shall be used to supplement funds necessary to carry out the duties of the People's Counsel of the Public Service Commission. The People's Counsel shall submit an annual budget of necessary supplemental funds to the Department to be incorporated in the Department's budget. For the purposes of this subtitle, the Secretary, in consultation with the Director of the Maryland Energy Administration, may execute appropriate contracts with any State or federal agency, research organization, industry, or academic institution to conduct the necessary research, construct or acquire, or both, real property including physical predictive models, laboratories, buildings, land, and appurtenances, or support the technological development of extraordinary systems related to power plants designed to minimize environmental impact. [He] THE SECRETARY may utilize available expertise in any other State unit in the development, execution, and management of contracts and agreements on projects relating to their areas of prime responsibility.

(d) (1) The Maryland Energy Administration shall receive administrative and fiscal support from the Fund for studies relating to the conservation or production of electric energy.

(2) Fiscal support to the Maryland Energy Administration from the Fund may not exceed \$250,000 in any fiscal year.

(e) The Legislative Auditor shall conduct post audits of a fiscal and compliance nature of the Fund and of the appropriations and expenditures made for the purposes of this subtitle. The cost of the fiscal portion of the post audit examinations shall be an operating cost of the Fund.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on July 1, 2000, provided that, if the Public Service Commission delays implementation of customer choice in accordance with the provisions of § 7-510(b) of the Public Utilities Article, as enacted by this Act, the surcharge funding the Environmental Trust Fund under § 7-203 of the Public Utility Companies Article shall continue to be collected as a per-kilowatt-hour surcharge on electricity generated within the State until customer choice is implemented.

SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 4-403 of the Public Utility Companies Article of the Annotated Code of Maryland be repealed. Any net accumulated over recovery or under recovery of actual fuel costs by each electric company as of the initial implementation date under Title 7, Subtitle 5 of the Public Utility Companies Article, as enacted by this Act, shall be credited or debited, as appropriate, to the electric company's rates and shall be refunded or collected, as appropriate, over a period not to exceed 12 months.

SECTION 5. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 6. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect on the later of July 1, 2000, and the initial implementation date that the Public Service Commission determines for investor-owned utilities under § 7-510(b)(1) of the Public Utility Companies Article,

as enacted by this Act.

SECTION 7. AND BE IT FURTHER ENACTED, That on or before February 1, 2000, the Commission, in consultation with the Maryland Energy Administration, shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly on the feasibility of requiring a renewables portfolio standard and the estimated costs and benefits of establishing this requirement.

SECTION 8. AND BE IT FURTHER ENACTED, That the Commission shall report to the General Assembly by January 1, 2000, regarding: (1) the status of implementation of the regulations or orders required under this Act; (2) the projected population and needs served by the Universal Service Program under this Act; (3) the final report of the Commission's roundtables; and (4) any recommendations as to legislation which may be necessary to ensure a smooth transition for customers into a competitive retail electricity market.

SECTION 9. AND BE IT FURTHER ENACTED, That Sections 1, 5, and 6 of this Act shall take effect July 1, 1999.”.

AMENDMENT NO. 2

On pages 1 through 45, strike in their entirety the lines beginning with line 3 on page 1 through line 21 on page 45, inclusive.