

HOUSE BILL 366

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1999 Regular Session  
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By: **Delegate Hixson (Chairman, Ways and Means Committee)**

Introduced and read first time: February 8, 1999

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Electric and Gas Utility Tax Reform**

3 FOR the purpose of altering the public service company franchise tax for a public  
4 service company engaged in an electric or gas business in the State; altering the  
5 definition of gross receipts subject to the tax for a public service company  
6 engaged in an electric or gas business in the State; altering the definition of a  
7 public service company for purposes of the public service company franchise tax;  
8 imposing a tax on certain public service companies based on kilowatt hours of  
9 electricity or dekatherms of natural gas delivered; setting the rate of the tax;  
10 allowing a public service company to surcharge its customers for certain tax  
11 imposed; providing a credit against the public service company franchise tax in  
12 a certain amount for certain kilowatt hours of electricity delivered to certain  
13 customers for certain uses in excess of certain amounts; providing a credit  
14 against the tax for certain tax imposed for dekatherms of natural gas delivered  
15 to certain customers for certain uses or delivered to certain customers who  
16 receive the natural gas on a certain basis; providing an addition modification  
17 under the corporate income tax in the amount of certain credits; repealing a  
18 certain subtraction modification under the income tax for gross receipts derived  
19 by a public service company; providing certain modifications under the income  
20 tax for the purposes of determining Maryland modified income of a public  
21 service company engaged in an electric or gas business in the State; providing a  
22 credit against the corporate income tax for certain property taxes paid on  
23 certain operating real property used to generate electricity for sale; providing a  
24 credit against the corporate income tax for certain wages paid by certain  
25 multijurisdictional electric companies at certain corporate or regional  
26 headquarters in the State; imposing a special use tax on certain electricity used  
27 in the State but not delivered by a public service company, to be administered by  
28 the Comptroller under the sales and use tax; clarifying the definition of  
29 "production activity" under the sales and use tax in regard to the generation of  
30 electricity; altering the definition of taxable price under the sales and use tax to  
31 include a separately stated charge for a taxable delivery service; making the  
32 delivery of electricity or natural gas a taxable service under the sales and use  
33 tax if the sale of the electricity or natural gas is taxable; clarifying a certain  
34 exemption under the sales and use tax for sales of certain energy for use in  
35 residential property; defining a public utility for purposes of the property tax

1 law; altering the definition of operating personal property for property tax  
2 purposes for certain public utilities; providing a partial exemption from property  
3 tax for machinery and equipment used to generate electricity for sale; phasing in  
4 the exemption over a certain period; requiring the Department of Assessments  
5 and Taxation to consider and evaluate certain criteria in determining whether to  
6 classify a company as a public utility for property tax purposes; authorizing the  
7 Department to classify a company as a public utility under certain  
8 circumstances notwithstanding the company's failure to meet all the criteria;  
9 requiring the State to make certain annual grants to certain counties; requiring  
10 the State to make a certain annual grant to a certain county for certain fiscal  
11 years under certain circumstances; repealing the public service company  
12 franchise tax as to oil pipeline companies and telegraph companies; defining  
13 certain terms; requiring the Public Service Commission to determine and  
14 require certain adjustments in electric and gas utility rates; prohibiting an  
15 electric or gas public service company from surcharging a certain tax to its  
16 customers until a certain reduction in rates is effective; making this Act  
17 contingent on the taking effect of another Act; providing for the effective dates  
18 and application of this Act; and generally relating to the taxation of public  
19 service companies engaged in an electric or gas business in the State.

20 BY repealing and reenacting, with amendments,  
21 Article - Tax - General  
22 Section 1-101(s), 8-401 through 8-404, 8-409, 11-101(d)(1)(ii), (j)(3)(i)1., and  
23 (k)(9) and (10), and 11-207(a)(2)  
24 Annotated Code of Maryland  
25 (1997 Replacement Volume and 1998 Supplement)

26 BY adding to  
27 Article - Tax - General  
28 Section 8-402.1, 8-417, 10-306(d) and (e), 10-309, 10-712, 10-713,  
29 11-101(k)(11); and 11-1A-01 through 11-1A-05 to be under the new  
30 subtitle "Subtitle 1A. Special Use Tax on Certain Electricity"  
31 Annotated Code of Maryland  
32 (1997 Replacement Volume and 1998 Supplement)

33 BY repealing and reenacting, without amendments,  
34 Article - Tax - General  
35 Section 10-306(a)  
36 Annotated Code of Maryland  
37 (1997 Replacement Volume and 1998 Supplement)

38 BY repealing  
39 Article - Tax - General  
40 Section 10-307(e)  
41 Annotated Code of Maryland  
42 (1997 Replacement Volume and 1998 Supplement)

1 BY adding to  
2 Article - Tax - Property  
3 Section 1-101(aa-1), 7-237, and 8-109(h)  
4 Annotated Code of Maryland  
5 (1994 Replacement Volume and 1998 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Article - Tax - Property  
8 Section 1-101(u)(5)(ii)  
9 Annotated Code of Maryland  
10 (1994 Replacement Volume and 1998 Supplement)

11 BY adding to  
12 Article 24 - Political Subdivisions - Miscellaneous Provisions  
13 Section 9-1102 and 9-1103  
14 Annotated Code of Maryland  
15 (1998 Replacement Volume and 1998 Supplement)

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

18 **Article - Tax - General**

19 1-101.

20 (s) (1) "Sales and use tax" means the tax imposed under Title 11 of this  
21 article.

22 (2) "SALES AND USE TAX" INCLUDES THE TAX IMPOSED ON THE USE OF  
23 CERTAIN ELECTRICITY UNDER § 11-1A-01 OF THIS ARTICLE.

24 8-401.

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

26 (B) "DELIVERED FOR FINAL CONSUMPTION" MEANS DELIVERED BY A PUBLIC  
27 SERVICE COMPANY IN ITS SERVICE AREA AS MEASURED AT THE CUSTOMER METER  
28 OR OTHER POINT OF FINAL DELIVERY.

29 [(b)] (C) (1) "Gross receipts" means total operating revenue.

30 (2) "Gross receipts" includes:

31 (i) gross or total earnings and total receipts;

32 (ii) for a telephone company, the full amount of approved and  
33 applicable federal and State tariff charges for telephone lifeline service without the  
34 discount provided by § 8-201(c) of the Public Utility Companies Article; and

1 (iii) for a telecommunications company providing interstate long  
2 distance telecommunications service, the gross charges from the sale of long distance  
3 telecommunications service that originates or terminates in the State and for which a  
4 charge is made to a service address located in the State, regardless of where the  
5 amount is billed or paid.

6 (3) "Gross receipts" does not include:

7 (i) any revenue that a public service company derives from an  
8 activity other than an electric, gas, [oil pipeline, telegraph,] or telephone business;

9 (ii) net uncollectible revenue;

10 (iii) gross charges from the sale by a public service company to  
11 another public service company subject to the tax imposed by this subtitle of:

12 1. a service or product for resale; or

13 2. natural gas or natural gas delivery service that is used by  
14 the other public service company in the generation of electricity; or

15 (iv) gross charges from the sale by a public service company of  
16 internet access service by which a connection is provided between a computer and the  
17 internet.

18 (4) FOR A PUBLIC SERVICE COMPANY ENGAGED IN THE TRANSMISSION,  
19 DISTRIBUTION, OR DELIVERY OF ELECTRICITY OR GAS IN THE STATE:

20 (I) "GROSS RECEIPTS" INCLUDES:

21 1. GROSS CHARGES FOR THE TRANSMISSION, DISTRIBUTION,  
22 OR DELIVERY OF ELECTRICITY OR NATURAL GAS OR FOR DISTRIBUTION OR  
23 DELIVERY-RELATED SERVICES; AND

24 2. COMPETITIVE TRANSITION CHARGES, INTANGIBLE  
25 TRANSITION CHARGES, AND ANY OTHER COST-RECOVERY MECHANISM AUTHORIZED  
26 FOR RECOVERY OF TRANSITION COSTS OR THE COSTS OF DEMAND SIDE  
27 MANAGEMENT OR OTHER ENERGY CONSERVATION PROGRAMS, UNIVERSAL SERVICE  
28 OR OTHER PUBLIC PURPOSE PROGRAMS, OR CONSUMER EDUCATION PROGRAMS;  
29 AND

30 (II) "GROSS RECEIPTS" DOES NOT INCLUDE GROSS CHARGES FROM  
31 THE SALE OF ELECTRICITY OR NATURAL GAS.

32 [(b-1)] (D) "Long distance telecommunications service" means  
33 telecommunications service for a telecommunication that does not originate and  
34 terminate in the same local calling area.

35 (E) "PRODUCTION ACTIVITY" HAS THE MEANING STATED IN § 11-101 OF THIS  
36 ARTICLE.

1 [(c) (F) [(1) "Public service company" means a person:

2 (1) engaged in [an electric, gas, oil pipeline, telegraph, or] A telephone  
3 business in the State; OR

4 (2) ENGAGED IN THE TRANSMISSION, DISTRIBUTION, OR DELIVERY OF  
5 ELECTRICITY OR NATURAL GAS IN THE STATE.

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

7 (i) a county;

8 (ii) a municipal corporation; or

9 (iii) a nonprofit electric cooperative.]

10 8-402.

11 (A) A franchise tax, measured by gross receipts, is imposed, for each calendar  
12 year, on each public service company [doing]:

13 (1) ENGAGED IN A TELEPHONE business in the State; OR

14 (2) ENGAGED IN THE TRANSMISSION, DISTRIBUTION, OR DELIVERY OF  
15 ELECTRICITY OR NATURAL GAS IN THE STATE.

16 (B) THE TAX IMPOSED UNDER SUBSECTION (A) OF THIS SECTION DOES NOT  
17 APPLY TO A PUBLIC SERVICE COMPANY THAT IS:

18 (1) A COUNTY;

19 (2) A MUNICIPAL CORPORATION; OR

20 (3) A NONPROFIT ELECTRIC COOPERATIVE.

21 8-402.1.

22 (A) (1) IN ADDITION TO ANY TAX IMPOSED UNDER § 8-402 OF THIS  
23 SUBTITLE, A FRANCHISE TAX IS IMPOSED FOR EACH CALENDAR YEAR ON EACH  
24 PUBLIC SERVICE COMPANY ENGAGED IN THE TRANSMISSION, DISTRIBUTION, OR  
25 DELIVERY OF ELECTRICITY OR NATURAL GAS IN THE STATE.

26 (2) THE TAX IMPOSED UNDER THIS SECTION IS MEASURED BY  
27 KILOWATT HOURS OF ELECTRICITY OR DEKATHERMS OF NATURAL GAS DELIVERED  
28 BY THE PUBLIC SERVICE COMPANY FOR FINAL CONSUMPTION IN THE STATE.

29 (B) THE TAX IMPOSED UNDER SUBSECTION (A) OF THIS SECTION DOES NOT  
30 APPLY TO DEKATHERMS OF NATURAL GAS DELIVERED FOR FINAL CONSUMPTION BY  
31 A PUBLIC SERVICE COMPANY THAT IS:

32 (1) A COUNTY; OR

1 (2) A MUNICIPAL CORPORATION.

2 8-403.

3 (A) The [public service company franchise tax] rate OF THE FRANCHISE TAX  
4 IMPOSED UNDER § 8-402 OF THIS SUBTITLE is 2% of gross receipts derived from  
5 business in the State.

6 (B) THE RATE OF THE TAX IMPOSED UNDER § 8-402.1 OF THIS SUBTITLE IS:

7 (1) 0.065 CENTS FOR EACH KILOWATT HOUR OF ELECTRICITY  
8 DELIVERED BY THE PUBLIC SERVICE COMPANY FOR FINAL CONSUMPTION IN THE  
9 STATE; AND

10 (2) 4.02 CENTS FOR EACH DEKATHERM OF NATURAL GAS DELIVERED BY  
11 THE PUBLIC SERVICE COMPANY FOR FINAL CONSUMPTION IN THE STATE.

12 8-404.

13 (a) Each public service company that, in a calendar year, has gross receipts  
14 derived from business in the State OR DELIVERS ELECTRICITY OR NATURAL GAS FOR  
15 FINAL CONSUMPTION IN THE STATE shall complete, under oath, and file with the  
16 Department a public service company franchise tax return, on or before March 15th of  
17 the next year.

18 (b) (1) Each public service company that reasonably expects its public  
19 service company franchise tax for a year to exceed \$1,000 shall complete, under oath,  
20 and file with the Department a declaration of estimated tax, on or before April 15 of  
21 that year.

22 (2) A public service company required under paragraph (1) of this  
23 subsection to file a declaration of estimated tax for a taxable year shall complete and  
24 file with the Department a quarterly estimated tax return on or before June 15,  
25 September 15, and December 15 of that year.

26 (c) A public service company shall file with the return an attachment that  
27 states any information that the Department requires to determine gross receipts  
28 derived from business in the State OR KILOWATT HOURS OR DEKATHERMS OF  
29 NATURAL GAS DELIVERED FOR FINAL CONSUMPTION IN THE STATE.

30 8-409.

31 (A) The public service company franchise tax with respect to gross receipts  
32 from telecommunications service shall be added to and disclosed as an element of the  
33 public service company's charge to the customer for the service.

34 (B) A PUBLIC SERVICE COMPANY MAY SURCHARGE ITS CUSTOMERS FOR THE  
35 PUBLIC SERVICE COMPANY FRANCHISE TAX IMPOSED UNDER § 8-402.1 OF THIS  
36 SUBTITLE.

1 8-417.

2 (A) A PUBLIC SERVICE COMPANY MAY CLAIM A CREDIT AGAINST THE PUBLIC  
3 SERVICE COMPANY FRANCHISE TAX IN AN AMOUNT EQUAL TO:

4 (1) .0069 CENTS FOR EACH KILOWATT HOUR OF ELECTRICITY IN EXCESS  
5 OF 500 MILLION UP TO 1,500 MILLION KILOWATT HOURS DURING A CALENDAR YEAR  
6 DELIVERED FOR FINAL CONSUMPTION TO A SINGLE INDUSTRIAL CUSTOMER FOR  
7 USE IN A PRODUCTION ACTIVITY AT THE SAME LOCATION IN THE STATE; AND

8 (2) .0486 CENTS FOR EACH KILOWATT HOUR OF ELECTRICITY IN EXCESS  
9 OF 1,500 MILLION KILOWATT HOURS DURING A CALENDAR YEAR DELIVERED FOR  
10 FINAL CONSUMPTION TO A SINGLE INDUSTRIAL CUSTOMER FOR USE IN A  
11 PRODUCTION ACTIVITY AT THE SAME LOCATION IN THE STATE.

12 (B) A PUBLIC SERVICE COMPANY MAY CLAIM A CREDIT AGAINST THE PUBLIC  
13 SERVICE COMPANY FRANCHISE TAX IN AN AMOUNT EQUAL TO THE TAX IMPOSED  
14 FOR EACH DEKATHERM OF NATURAL GAS DELIVERED FOR FINAL CONSUMPTION IN  
15 THE STATE TO:

16 (1) AN INDUSTRIAL CUSTOMER FOR USE IN A PRODUCTION ACTIVITY IN  
17 THE STATE; OR

18 (2) A CUSTOMER WHO RECEIVES THE NATURAL GAS ON AN  
19 INTERRUPTIBLE BASIS.

20 (C) THE PUBLIC SERVICE COMMISSION SHALL REQUIRE THAT THE CREDITS  
21 ALLOWED UNDER THIS SECTION ARE PASSED THROUGH TO THE CUSTOMERS TO  
22 WHOM THE ELECTRICITY OR NATURAL GAS ON WHICH THE CREDITS ARE BASED IS  
23 DELIVERED.

24 10-306.

25 (a) In addition to the modification under § 10-305 of this subtitle, the  
26 amounts under this section are added to the federal taxable income of a corporation to  
27 determine Maryland modified income.

28 (D) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE  
29 AMOUNT OF THE CREDIT ALLOWED UNDER § 10-712 OF THIS TITLE FOR PROPERTY  
30 TAXES PAID BY A PUBLIC UTILITY ON OPERATING REAL PROPERTY THAT IS USED TO  
31 GENERATE ELECTRICITY FOR SALE.

32 (E) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE  
33 AMOUNT OF THE CREDIT ALLOWED UNDER § 10-713 OF THIS TITLE FOR WAGES PAID  
34 TO EMPLOYEES AT A QUALIFIED CORPORATE HEADQUARTERS OF A PUBLIC SERVICE  
35 COMPANY.

1 10-307.

2 [(e) The subtraction under subsection (a) of this section includes gross receipts,  
3 less related expenses, that:

4 (1) are subject to the public service company franchise tax; and

5 (2) are not derived from telephone business.]

6 10-309.

7 (A) IN ADDITION TO THE MODIFICATIONS UNDER §§ 10-307 AND 10-308 OF  
8 THIS SUBTITLE, THE AMOUNTS UNDER THIS SECTION ARE SUBTRACTED FROM  
9 FEDERAL TAXABLE INCOME TO DETERMINE MARYLAND MODIFIED INCOME OF A  
10 PUBLIC SERVICE COMPANY ENGAGED IN AN ELECTRIC OR GAS BUSINESS IF THE  
11 PUBLIC SERVICE COMPANY WAS SUBJECT TO THE PUBLIC SERVICE COMPANY  
12 FRANCHISE TAX ON DECEMBER 31, 1999.

13 (B) THE GAIN OR LOSS REALIZED BY A PUBLIC SERVICE COMPANY ON THE  
14 SALE, RETIREMENT, OR OTHER TAXABLE DISPOSITION OR TRANSFER OF ASSETS  
15 USED IN ITS ELECTRIC OR GAS BUSINESS SHALL BE ADJUSTED IN AN AMOUNT  
16 EQUAL TO THE DIFFERENCE BETWEEN THE ADJUSTED BASIS OF THE ASSETS AS  
17 RECORDED ON THE BOOKS OF THE PUBLIC SERVICE COMPANY AND THE ADJUSTED  
18 BASIS OF THE ASSETS FOR FEDERAL INCOME TAX PURPOSES CALCULATED AS OF  
19 JANUARY 1, 2000.

20 (C) IF THE ADJUSTMENT DETERMINED UNDER SUBSECTION (B) OF THIS  
21 SECTION RESULTS IN A SUBTRACTION THAT EXCEEDS MARYLAND MODIFIED  
22 INCOME COMPUTED WITHOUT REGARD TO THE SUBTRACTION UNDER THIS SECTION,  
23 THE AMOUNT OF THE EXCESS MAY BE CARRIED FORWARD TO SUCCEEDING TAXABLE  
24 YEARS AND USED TO REDUCE MARYLAND MODIFIED INCOME IN EACH SUCCEEDING  
25 TAXABLE YEAR UNTIL THE EXCESS IS FULLY USED.

26 (D) THE MODIFICATIONS UNDER THIS SECTION SHALL CONTINUE TO APPLY  
27 TO ASSETS TRANSFERRED UNDER A REORGANIZATION WITHIN THE MEANING OF §  
28 368(A) OF THE INTERNAL REVENUE CODE OR ON THE ORGANIZATION OF A  
29 CORPORATION PRINCIPALLY IN CONSIDERATION FOR THE ISSUANCE OF ITS STOCK.

30 10-712.

31 (A) A PUBLIC UTILITY MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX  
32 IN AN AMOUNT EQUAL TO 60% OF THE TOTAL STATE, COUNTY, AND MUNICIPAL  
33 CORPORATION PROPERTY TAXES PAID BY THE PUBLIC UTILITY ON ITS OPERATING  
34 REAL PROPERTY IN THE STATE, OTHER THAN OPERATING LAND, THAT IS USED TO  
35 GENERATE ELECTRICITY FOR SALE.

36 (B) (1) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS  
37 SECTION MAY NOT EXCEED THE STATE INCOME TAX FOR THAT TAXABLE YEAR,  
38 CALCULATED BEFORE APPLICATION OF THE CREDITS ALLOWED UNDER THIS



1 SECTION AND §§ 10-701 AND 10-701.1 OF THIS SUBTITLE BUT AFTER APPLICATION OF  
2 ANY OTHER CREDITS ALLOWED UNDER THIS SUBTITLE.

3 (2) THE UNUSED AMOUNT OF THE CREDIT FOR ANY TAXABLE YEAR MAY  
4 NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

5 10-713.

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
7 INDICATED.

8 (2) (I) "MULTIJURISDICTIONAL ELECTRIC COMPANY" MEANS A  
9 PUBLIC SERVICE COMPANY THAT HAS:

10 1. GROSS REVENUE FOR THE TAXABLE YEAR IN EXCESS OF  
11 \$50,000,000 FROM THE SALE, TRANSMISSION OR DISTRIBUTION OF ELECTRICITY IN  
12 THE STATE; AND

13 2. GROSS REVENUE FOR THE TAXABLE YEAR FROM THE  
14 TRANSMISSION AND DISTRIBUTION OF ELECTRICITY OUTSIDE THE STATE EQUAL TO  
15 AT LEAST 25% OF ITS TOTAL GROSS REVENUE FOR THE TAXABLE YEAR FROM THE  
16 TRANSMISSION AND DISTRIBUTION OF ELECTRICITY.

17 (II) "MULTIJURISDICTIONAL ELECTRIC COMPANY" INCLUDES A  
18 RELATED MUTUAL SERVICE COMPANY, AS DEFINED UNDER THE PUBLIC UTILITY  
19 HOLDING COMPANY ACT OF 1935 (15 U.S.C. § 79, ET SEQ.), OF A PUBLIC SERVICE  
20 COMPANY DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

21 (3) "QUALIFIED CORPORATE HEADQUARTERS" MEANS:

22 (I) A CORPORATION'S PRINCIPAL PLACE OF BUSINESS, WHERE A  
23 MAJORITY OF THE OFFICERS OF THE CORPORATION ORDINARILY AND REGULARLY  
24 PERFORM THEIR CORPORATE DUTIES AND FUNCTIONS; OR

25 (II) A CORPORATION'S REGIONAL HEADQUARTERS LOCATED IN A  
26 MARYLAND COUNTY ON THE DELMARVA PENINSULA.

27 (B) FOR A TAXABLE YEAR BEGINNING BEFORE JANUARY 1, 2005, A  
28 MULTIJURISDICTIONAL ELECTRIC COMPANY MAY CLAIM A CREDIT AGAINST THE  
29 STATE INCOME TAX IN AN AMOUNT EQUAL TO 25% OF THE WAGES PAID DURING THE  
30 TAXABLE YEAR TO EMPLOYEES OF THE MULTIJURISDICTIONAL ELECTRIC COMPANY  
31 THAT ARE EMPLOYED AND REGULARLY WORK AT THE QUALIFIED CORPORATE  
32 HEADQUARTERS OF THE MULTIJURISDICTIONAL ELECTRIC COMPANY.

33 (C) (1) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS  
34 SECTION MAY NOT EXCEED THE LESSER OF:

35 (I) THE STATE INCOME TAX BEFORE APPLICATION OF THE  
36 CREDITS ALLOWED UNDER THIS SECTION AND §§ 10-701 AND 10-701.1 OF THIS

1 SUBTITLE BUT AFTER APPLICATION OF ALL OTHER CREDITS ALLOWED UNDER THIS  
2 SUBTITLE; AND

3 (II) 1. \$2,000,000 IF THE QUALIFIED CORPORATE  
4 HEADQUARTERS IS THE CORPORATION'S PRINCIPAL PLACE OF BUSINESS; AND

5 2. \$500,000 IF THE QUALIFIED CORPORATE HEADQUARTERS  
6 IS NOT THE CORPORATION'S PRINCIPAL PLACE OF BUSINESS.

7 (2) THE UNUSED AMOUNT OF THE CREDIT FOR ANY TAXABLE YEAR MAY  
8 NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

9 11-101.

10 (d) (1) "Production activity" means:

11 (ii) generating electricity FOR SALE OR FOR USE IN ANOTHER  
12 PRODUCTION ACTIVITY;

13 (j) (3) "Taxable price" does not include:

14 (i) a charge that is made in connection with a sale and is stated as a  
15 separate item of the consideration for:

16 1. a delivery, freight, or other transportation service for  
17 delivery directly to the buyer by the vendor or by another person acting for the  
18 vendor, UNLESS THE TRANSPORTATION SERVICE IS A TAXABLE SERVICE;

19 (k) "Taxable service" means:

20 (9) credit reporting; [or]

21 (10) a security service, including:

22 (i) a detective, guard, or armored car service; and

23 (ii) a security systems service[.]; OR

24 (11) A TRANSPORTATION SERVICE FOR TRANSMISSION, DISTRIBUTION,  
25 OR DELIVERY OF ELECTRICITY OR NATURAL GAS, IF THE SALE OR USE OF THE  
26 ELECTRICITY OR NATURAL GAS IS SUBJECT TO THE SALES AND USE TAX.

27 SUBTITLE 1A. SPECIAL USE TAX ON CERTAIN ELECTRICITY.

28 11-1A-01.

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

31 (B) "ON-SITE GENERATED ELECTRICITY" MEANS ELECTRICITY THAT IS  
32 GENERATED AT A FACILITY THAT IS OWNED AND OPERATED BY AN ELECTRIC

1 CONSUMER THAT, TOGETHER WITH ANY TENANTS OF THE OWNER, CONSUMES AT  
2 LEAST 80% OF THE ELECTRICITY GENERATED BY THE FACILITY EACH YEAR.

3 (C) "PUBLIC SERVICE COMPANY" HAS THE MEANING STATED IN § 8-401 OF  
4 THIS ARTICLE.

5 (D) "SPECIAL USE TAX ON ELECTRICITY" MEANS THE TAX IMPOSED UNDER  
6 THIS SUBTITLE.

7 11-1A-02.

8 (A) IN ADDITION TO ANY TAX IMPOSED UNDER § 11-102 OF THIS TITLE,  
9 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A TAX IS IMPOSED ON  
10 THE USE, IN THE STATE, OF ELECTRICITY THAT IS NOT DELIVERED BY A PUBLIC  
11 SERVICE COMPANY.

12 (B) THE SPECIAL USE TAX ON ELECTRICITY DOES NOT APPLY TO THE USE OF:

13 (1) ELECTRICITY THAT IS:

14 (I) USED FOR RESIDENTIAL PURPOSES; OR

15 (II) USED EXCLUSIVELY FOR EMERGENCY BACK-UP GENERATION;

16 OR

17 (2) ON-SITE GENERATED ELECTRICITY.

18 11-1A-03.

19 THE RATE OF THE SPECIAL USE TAX ON ELECTRICITY IS 0.065 CENTS FOR EACH  
20 KILOWATT HOUR OF ELECTRICITY THAT IS SUBJECT TO THE TAX.

21 11-1A-04.

22 THE EXEMPTIONS PROVIDED UNDER SUBTITLE 2 OF THIS TITLE DO NOT APPLY  
23 TO THE SPECIAL USE TAX ON ELECTRICITY.

24 11-1A-05.

25 IN ADDITION TO ANY INFORMATION REQUIRED UNDER SUBTITLE 5 OF THIS  
26 TITLE:

27 (1) THE RETURN OF A VENDOR WHO MAKES A SALE FOR USE OF  
28 ELECTRICITY THAT IS SUBJECT TO THE SPECIAL USE TAX ON ELECTRICITY SHALL  
29 STATE FOR THE PERIOD THAT THE RETURN COVERS:

30 (I) THE KILOWATT HOURS OF ELECTRICITY THE USE OF WHICH  
31 BECAME SUBJECT TO THE SPECIAL USE TAX ON ELECTRICITY; AND

32 (II) THE SPECIAL USE TAX ON ELECTRICITY THAT IS DUE; AND

1 (2) THE RETURN OF A PERSON WHO USES ELECTRICITY THAT IS  
 2 SUBJECT TO THE SPECIAL USE TAX ON ELECTRICITY AND FAILS TO PAY THE TAX TO  
 3 THE VENDOR SHALL STATE FOR THE PERIOD THAT THE RETURN COVERS:

4 (I) THE KILOWATT HOURS OF ELECTRICITY THAT IS SUBJECT TO  
 5 THE SPECIAL USE TAX ON ELECTRICITY; AND

6 (II) THE SPECIAL USE TAX ON ELECTRICITY THAT IS DUE.

7 11-207.

8 (a) The sales and use tax does not apply to:

9 (2) a sale of electricity, steam, or artificial or natural gas:

10 (I) made under a residential or domestic rate schedule on file with  
 11 the Public Service Commission;

12 (II) FOR USE IN RESIDENTIAL PROPERTY THAT CONTAINS NOT  
 13 MORE THAN 4 UNITS, COOPERATIVE HOUSING, CONDOMINIUMS, OR OTHER SIMILAR  
 14 RESIDENTIAL LIVING ARRANGEMENTS; OR

15 (III) FOR USE IN RESIDENTIAL PROPERTY THAT CONTAINS MORE  
 16 THAN 4 UNITS IF THE SALE IS MADE DIRECTLY TO THE OCCUPANT OF THE PROPERTY  
 17 OR DWELLING;

18 **Article - Tax - Property**

19 1-101.

20 (u) (5) (ii) For a public utility [that is a telecommunications provider],  
 21 "operating personal property" includes [the] cables, lines, poles, and towers [used to  
 22 provide telecommunications services].

23 (AA-1) (1) "PUBLIC UTILITY" MEANS A COMPANY CLASSIFIED BY THE  
 24 DEPARTMENT AS A PUBLIC UTILITY UNDER § 8-109 OF THIS ARTICLE.

25 (2) "PUBLIC UTILITY" INCLUDES:

26 (I) AN ELECTRIC COMPANY;

27 (II) A GAS COMPANY;

28 (III) A PIPELINE COMPANY;

29 (IV) A SEWAGE DISPOSAL COMPANY;

30 (V) A STEAM HEATING COMPANY;

31 (VI) A TELEPHONE COMPANY; AND

- 1 (VII) A WATER COMPANY.
- 2 (3) "PUBLIC UTILITY" DOES NOT INCLUDE:
- 3 (I) A CABLE TELEVISION COMPANY;
- 4 (II) A CELLULAR TELEPHONE COMPANY;
- 5 (III) A COGENERATOR;
- 6 (IV) AN EXEMPT WHOLESALE GENERATOR;
- 7 (V) AN INDEPENDENT POWER PRODUCER;
- 8 (VI) A SMALL POWER PRODUCER; OR
- 9 (VII) A UTILITY OWNED BY A COUNTY OR MUNICIPAL CORPORATION.
- 10 7-237.

11 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, PERSONAL  
12 PROPERTY THAT IS MACHINERY OR EQUIPMENT USED TO GENERATE ELECTRICITY  
13 FOR SALE IS EXEMPT FROM PROPERTY TAX.

14 (B) PERSONAL PROPERTY THAT IS MACHINERY OR EQUIPMENT USED TO  
15 GENERATE ELECTRICITY FOR SALE IS SUBJECT TO COUNTY OR MUNICIPAL  
16 CORPORATION PROPERTY TAX ON:

- 17 (1) 88% OF ITS ASSESSMENT FOR THE TAXABLE YEAR BEGINNING JULY  
18 1, 2000;
- 19 (2) 76% OF ITS ASSESSMENT FOR THE TAXABLE YEAR BEGINNING JULY  
20 1, 2001;
- 21 (3) 64% OF ITS ASSESSMENT FOR THE TAXABLE YEAR BEGINNING JULY  
22 1, 2002;
- 23 (4) 52% OF ITS ASSESSMENT FOR THE TAXABLE YEAR BEGINNING JULY  
24 1, 2003; AND
- 25 (5) 40% OF ITS ASSESSMENT FOR THE TAXABLE YEAR BEGINNING JULY  
26 1, 2004 AND EACH SUBSEQUENT TAXABLE YEAR.

27 8-109.

28 (H) (1) IN DETERMINING WHETHER TO CLASSIFY A COMPANY AS A PUBLIC  
29 UTILITY, THE DEPARTMENT SHALL CONSIDER AND EVALUATE WHETHER THE  
30 COMPANY:

31 (I) IS SUBJECT TO THE AUTHORITY OF A REGULATORY BODY OF  
32 THE STATE OR THE FEDERAL GOVERNMENT, SUCH AS THE MARYLAND PUBLIC

1 SERVICE COMMISSION, THE FEDERAL COMMUNICATIONS COMMISSION, OR THE  
2 FEDERAL ENERGY REGULATORY COMMISSION;

3 (II) USES A SIGNIFICANT PORTION OF THE REAL AND PERSONAL  
4 PROPERTY USED IN ITS BUSINESS OPERATIONS AS AN INTEGRATED WHOLE OR UNIT;

5 (III) PROVIDES A BASIC SERVICE TO THE PUBLIC; AND

6 (IV) OWNS OR USES ASSETS THAT ARE MOST APPROPRIATELY  
7 APPRAISED USING THE UNIT VALUATION METHOD.

8 (2) NOTWITHSTANDING A COMPANY'S FAILURE TO MEET ALL OF THE  
9 CRITERIA UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT MAY  
10 CLASSIFY THE COMPANY AS A PUBLIC UTILITY IF THE DEPARTMENT DETERMINES  
11 THAT THE COMPANY PREDOMINANTLY MEETS THE CRITERIA.

12 **Article 24 - Political Subdivisions - Miscellaneous Provisions**

13 9-1102.

14 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, FOR EACH  
15 FISCAL YEAR, THE STATE SHALL PAY THE FOLLOWING AMOUNTS TO THE  
16 FOLLOWING COUNTIES:

17 ANNE ARUNDEL	\$7,468,000
18 BALTIMORE CITY	433,000
19 BALTIMORE	1,714,000
20 CALVERT	5,822,000
21 CHARLES	2,409,000
22 DORCHESTER	179,000
23 HARFORD	822,000
24 MONTGOMERY	2,641,000
25 PRINCE GEORGE'S	7,396,000
26 WASHINGTON	341,000

27 (B) FOR FISCAL YEARS THAT BEGIN ON OR AFTER JULY 1, 2000 BUT BEFORE  
28 JULY 1, 2004, OF THE AMOUNTS SPECIFIED IN SUBSECTION (A) OF THIS SECTION, THE  
29 STATE SHALL PAY:

30 (1) FOR THE FISCAL YEAR THAT BEGINS ON JULY 1, 2000, 20%;

31 (2) FOR THE FISCAL YEAR THAT BEGINS ON JULY 1, 2001, 40%;

32 (3) FOR THE FISCAL YEAR THAT BEGINS ON JULY 1, 2002, 60%; AND

33 (4) FOR THE FISCAL YEAR THAT BEGINS ON JULY 1, 2003, 80%.

34 (C) THE COMPTROLLER SHALL PAY THE AMOUNTS PROVIDED UNDER THIS  
35 SECTION TO THE COUNTIES IN EQUAL AMOUNTS FOR EACH QUARTER AT THE END  
36 OF EACH QUARTER OF THE FISCAL YEAR FOR WHICH THE PAYMENTS ARE MADE.

1 (D) 35% OF THE PAYMENT RECEIVED BY WASHINGTON COUNTY UNDER THIS  
2 SECTION SHALL BE PAID TO THE TOWN OF WILLIAMSPORT.

3 9-1103.

4 (A) IN ADDITION TO ANY GRANT PROVIDED UNDER § 9-1102 OF THIS  
5 SUBTITLE, IF ON OR BEFORE JANUARY 1, 2010, THE FEDERAL NUCLEAR REGULATORY  
6 COMMISSION LICENSE FOR THE CALVERT CLIFFS NUCLEAR POWER PLANT EXPIRES  
7 AND IS NOT EXTENDED OR RENEWED, FOR EACH OF THE 5 PROPERTY TAX YEARS  
8 FOLLOWING THE EXPIRATION AND NONRENEWAL, THE STATE SHALL PAY AS A  
9 GRANT TO CALVERT COUNTY AN AMOUNT EQUAL TO THE APPLICABLE PERCENTAGE,  
10 DETERMINED UNDER SUBSECTION (B) OF THIS SECTION, OF THE DIFFERENCE  
11 BETWEEN:

12 (1) THE PRODUCT OF MULTIPLYING \$14,554,000 TIMES THE PERCENTAGE  
13 SPECIFIED FOR THE TAXABLE YEAR UNDER § 7-237(B) OF THE TAX - PROPERTY  
14 ARTICLE; AND

15 (2) THE SUM OF:

16 (I) \$2,000,000; AND

17 (II) THE COUNTY'S PROPERTY TAX REVENUE FOR THE TAXABLE  
18 YEAR DERIVED FROM PERSONAL PROPERTY THAT IS MACHINERY OR EQUIPMENT  
19 USED TO GENERATE ELECTRICITY FOR SALE.

20 (B) FOR EACH PROPERTY TAX YEAR FOLLOWING THE EXPIRATION AND  
21 NONRENEWAL OF THE FEDERAL NUCLEAR REGULATORY COMMISSION LICENSE FOR  
22 THE CALVERT CLIFFS NUCLEAR POWER PLANT, THE APPLICABLE PERCENTAGE FOR  
23 PURPOSES OF DETERMINING THE GRANTS UNDER THIS SECTION IS:

24 (1) 100% FOR THE FIRST TAXABLE YEAR;

25 (2) 80% FOR THE SECOND TAXABLE YEAR;

26 (3) 60% FOR THE THIRD TAXABLE YEAR;

27 (4) 40% FOR THE FOURTH TAXABLE YEAR;

28 (5) 20% FOR THE FIFTH TAXABLE YEAR; AND

29 (6) 0% FOR EACH SUBSEQUENT TAXABLE YEAR.

30 (C) FOR EACH TAXABLE YEAR FOR WHICH A GRANT IS TO BE PROVIDED  
31 UNDER THIS SECTION, THE DEPARTMENT OF ASSESSMENTS AND TAXATION SHALL  
32 DETERMINE AND CERTIFY TO THE COMPTROLLER CALVERT COUNTY'S PROPERTY  
33 TAX REVENUE FOR THE TAXABLE YEAR DERIVED FROM PERSONAL PROPERTY THAT  
34 IS MACHINERY OR EQUIPMENT USED TO GENERATE ELECTRICITY FOR SALE.

35 (D) THE COMPTROLLER SHALL PAY THE AMOUNTS PROVIDED UNDER THIS  
36 SECTION TO CALVERT COUNTY IN EQUAL AMOUNTS FOR EACH QUARTER AT THE

1 END OF EACH QUARTER OF THE TAXABLE YEAR FOR WHICH THE PAYMENTS ARE  
2 MADE.

3 SECTION 2. AND BE IT FURTHER ENACTED, That:

4 (a) The Public Service Commission shall determine and require an  
5 adjustment in electric and gas utility rates to be effective January 1, 2000, to reflect  
6 any net tax savings or net tax increase to an electric or gas public service company  
7 under this Act to the extent those taxes are attributable to regulated utility  
8 operations and are properly included in cost of service for rate making purposes.

9 (b) If an electric or gas public service company elects to surcharge its  
10 customers for the public service company franchise tax imposed under § 8-402.1 of  
11 the Tax - General Article, as enacted under Section 1 of this Act, the Public Service  
12 Commission shall determine and require a reduction in electric or gas utility rates to  
13 be effective when the surcharge takes effect, to reflect the elimination of that portion  
14 of the public service company franchise tax that was formerly included in electric or  
15 gas utility rates.

16 (c) Notwithstanding § 8-409(b) of the Tax - General Article as enacted  
17 under Section 1 of this Act, an electric or gas public service company may not add the  
18 public service company franchise tax imposed under § 8-402.1 of the Tax - General  
19 Article, as enacted under Section 1 of this Act, to its charge to the customer for electric  
20 or gas service until the reduction required under subsection (b) of this section takes  
21 effect.

22 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 4 of  
23 this Act, Section 1 of this Act shall take effect January 1, 2000. The changes to the  
24 public service company franchise tax and the income tax under Section 1 of this Act  
25 shall be applicable to all taxable years beginning after December 31, 1999; provided,  
26 however, that the income tax credit allowed under §10-712 of the Tax - General  
27 Article shall be allowed only for property tax paid for a property tax year beginning on  
28 or after July 1, 2000.

29 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is contingent on  
30 the taking effect of the Electric Customer Choice and Competition Act of 1999,  
31 Chapter \_\_\_\_ (S.B.\_\_\_\_/H.B.\_\_\_\_)(9lr1907/9lr1908) of the Acts of the General  
32 Assembly of 1999, and if Chapter \_\_\_\_ does not become effective, this Act shall be null  
33 and void without the necessity of further action by the General Assembly.

34 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in  
35 Sections 3 and 4 of this Act, this Act shall take effect July 1, 1999.