

SENATE BILL 344

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1999 Regular Session  
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By: **Senator Hoffman (Chairman, Budget and Taxation Committee)**

Introduced and read first time: February 5, 1999

Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 1, 1999

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CHAPTER \_\_\_\_\_

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~~ therms of natural gas delivered; setting the rate of the  
10 tax; 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~~ therms of natural gas  
15 delivered to certain customers for certain uses ~~or delivered to certain customers~~  
16 ~~who receive the natural gas on a certain basis~~; providing an addition  
17 modification under the corporate income tax in the amount of certain credits;  
18 repealing a certain subtraction modification under the income tax for gross  
19 receipts derived by a public service company; providing certain modifications  
20 under the income tax for the purposes of determining Maryland modified income  
21 of a public service company engaged in an electric or gas business in the State;  
22 providing a credit against the corporate income tax for certain property taxes  
23 paid on certain operating real property used to generate electricity for sale;  
24 providing a credit against the corporate income tax for certain wages paid by  
25 certain 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; requiring the Comptroller to adopt

1 certain regulations; clarifying the definition of "production activity" under the  
 2 sales and use tax in regard to the generation of electricity; altering the  
 3 definition of taxable price under the sales and use tax to include a separately  
 4 stated charge for a taxable delivery service; making the delivery of electricity or  
 5 natural gas a taxable service under the sales and use tax if the sale of the  
 6 electricity or natural gas is taxable; clarifying a certain exemption under the  
 7 sales and use tax for sales of certain energy for use in residential property;  
 8 defining a public utility for purposes of the property tax law; altering the  
 9 definition of operating personal property for property tax purposes for certain  
 10 public utilities; establishing separate property tax subclasses in personal  
 11 property for machinery and equipment used to generate electricity; providing a  
 12 partial exemption from property tax for machinery and equipment used to  
 13 generate electricity for sale; phasing in the exemption over a certain period;  
 14 requiring the Department of Assessments and Taxation to consider and evaluate  
 15 certain criteria in determining whether to classify a company as a public utility  
 16 for property tax purposes; authorizing the Department to classify a company as  
 17 a public utility under certain circumstances notwithstanding the company's  
 18 failure to meet all the criteria; requiring the State to ~~make certain annual~~  
 19 ~~grants to reimburse~~ certain counties in certain amounts for certain fiscal years  
 20 for certain costs of a certain property tax exemption; requiring the State to make  
 21 a certain annual grant to a certain county for certain fiscal years under certain  
 22 circumstances; repealing the public service company franchise tax as to oil  
 23 pipeline companies and telegraph companies; defining certain terms; requiring  
 24 the Public Service Commission to determine and require certain adjustments in  
 25 electric and gas utility rates; prohibiting an electric or gas public service  
 26 company from surcharging a certain tax to its customers until a certain  
 27 reduction in rates is effective; altering certain provisions relating to interest and  
 28 penalties on certain underestimated tax for a certain taxable year for a public  
 29 service company engaged in an electric or gas business in the State; making this  
 30 Act contingent on the taking effect of another Act; requiring the Comptroller, the  
 31 Department of Assessments and Taxation, and the Public Service Commission,  
 32 in cooperation with certain persons, to conduct a study to be coordinated by the  
 33 Department of Legislative Services and to report to the General Assembly on or  
 34 before a certain date; providing for the effective dates and application of this Act;  
 35 and generally relating to the taxation of public service companies engaged in an  
 36 electric or gas business in the State.

37 BY repealing and reenacting, with amendments,  
 38 Article - Tax - General  
 39 Section 1-101(s), 8-401 through 8-404, 8-409, 11-101(d)(1)(ii), (j)(3)(i)1., and  
 40 (k)(9) and (10), and 11-207(a)(2)  
 41 Annotated Code of Maryland  
 42 (1997 Replacement Volume and 1998 Supplement)

43 BY adding to  
 44 Article - Tax - General  
 45 Section 8-402.1, 8-417, 10-306(d) and (e), 10-309, 10-712, 10-713,

1 11-101(k)(11); and 11-1A-01 through ~~11-1A-05~~ 11-1A-06 to be under the  
 2 new subtitle "Subtitle 1A. Special Use Tax on Certain Electricity"  
 3 Annotated Code of Maryland  
 4 (1997 Replacement Volume and 1998 Supplement)

5 BY repealing and reenacting, without amendments,  
 6 Article - Tax - General  
 7 Section 10-306(a)  
 8 Annotated Code of Maryland  
 9 (1997 Replacement Volume and 1998 Supplement)

10 BY repealing  
 11 Article - Tax - General  
 12 Section 10-307(e)  
 13 Annotated Code of Maryland  
 14 (1997 Replacement Volume and 1998 Supplement)

15 BY adding to  
 16 Article - Tax - Property  
 17 Section 1-101(aa-1), 7-237, and 8-109(h)  
 18 Annotated Code of Maryland  
 19 (1994 Replacement Volume and 1998 Supplement)

20 BY repealing and reenacting, with amendments,  
 21 Article - Tax - Property  
 22 Section 1-101(u)(5)(ii) and 8-101(c)  
 23 Annotated Code of Maryland  
 24 (1994 Replacement Volume and 1998 Supplement)

25 BY adding to  
 26 Article 24 - Political Subdivisions - Miscellaneous Provisions  
 27 Section 9-1102 and 9-1103  
 28 Annotated Code of Maryland  
 29 (1998 Replacement Volume and 1998 Supplement)

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

32 **Article - Tax - General**

33 1-101.

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

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

3 8-401.

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

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

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

9 (2) "Gross receipts" includes:

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

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

14 (iii) for a telecommunications company providing interstate long  
15 distance telecommunications service, the gross charges from the sale of long distance  
16 telecommunications service that originates or terminates in the State and for which a  
17 charge is made to a service address located in the State, regardless of where the  
18 amount is billed or paid.

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

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

23 (ii) net uncollectible revenue;

24 (4) FOR A PUBLIC SERVICE COMPANY ENGAGED IN A TELEPHONE  
25 BUSINESS IN THE STATE, GROSS RECEIPTS DOES NOT INCLUDE:

26 ~~(iii)~~ (I) gross charges from the sale by ~~a~~ THE public service  
27 company to another public service company subject to the tax imposed by this subtitle  
28 of:

29 ~~1-~~ a service or product for resale; or

30 ~~2-~~ ~~natural gas or natural gas delivery service that is used by~~  
31 ~~the other public service company in the generation of electricity; or~~

32 ~~(iv)~~ (II) gross charges from the sale by ~~a~~ THE public service  
33 company of internet access service by which a connection is provided between a  
34 computer and the internet.

1           ~~(4)~~    (5)     FOR A PUBLIC SERVICE COMPANY ENGAGED IN THE  
 2 TRANSMISSION, DISTRIBUTION, OR DELIVERY OF ELECTRICITY OR GAS IN THE  
 3 STATE:

4                   (I)     "GROSS RECEIPTS" INCLUDES:

5                           1.     EXCEPT AS PROVIDED IN ITEM (II)2 AND 3 OF THIS  
 6 PARAGRAPH, GROSS CHARGES FOR THE TRANSMISSION, DISTRIBUTION, OR  
 7 DELIVERY OF ELECTRICITY OR NATURAL GAS OR FOR DISTRIBUTION OR  
 8 DELIVERY-RELATED SERVICES; AND

9                           2.     COMPETITIVE TRANSITION CHARGES, INTANGIBLE  
 10 TRANSITION CHARGES, AND ANY OTHER SURCHARGE OR OTHER COST-RECOVERY  
 11 MECHANISM AUTHORIZED FOR RECOVERY OF TRANSITION COSTS OR THE COSTS OF  
 12 DEMAND SIDE MANAGEMENT OR OTHER ENERGY CONSERVATION PROGRAMS,  
 13 UNIVERSAL SERVICE OR OTHER PUBLIC PURPOSE PROGRAMS, OR CONSUMER  
 14 EDUCATION PROGRAMS; AND

15                   (II)    "GROSS RECEIPTS" DOES NOT INCLUDE:

16                           1.     GROSS CHARGES FROM THE SALE OF ELECTRICITY OR  
 17 NATURAL GAS;

18                           2.     GROSS CHARGES FROM THE TRANSMISSION,  
 19 DISTRIBUTION, OR DELIVERY OF ELECTRICITY OR NATURAL GAS TO ANOTHER  
 20 PUBLIC SERVICE COMPANY SUBJECT TO THE TAX IMPOSED UNDER § 8-402 OF THIS  
 21 SUBTITLE IF THE BUYER INTENDS TO RESELL THE ELECTRICITY OR NATURAL GAS;  
 22 OR

23                           3.     GROSS CHARGES FROM AN INTERSTATE TRANSMISSION  
 24 NETWORK OR FROM THE TRANSMISSION, DISTRIBUTION, OR DELIVERY OF  
 25 ELECTRICITY OR NATURAL GAS TO A CUSTOMER LOCATED IN ANOTHER STATE.

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

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

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

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

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

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

- 1 (i) a county;
- 2 (ii) a municipal corporation; or
- 3 (iii) a nonprofit electric cooperative.]

4 8-402.

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

- 7 (1) ENGAGED IN A TELEPHONE business in the State; OR
- 8 (2) ENGAGED IN THE TRANSMISSION, DISTRIBUTION, OR DELIVERY OF  
9 ELECTRICITY OR NATURAL GAS IN THE STATE.

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

- 12 (1) A COUNTY;
- 13 (2) A MUNICIPAL CORPORATION; OR
- 14 (3) A NONPROFIT ELECTRIC COOPERATIVE.

15 8-402.1.

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

20 (2) THE TAX IMPOSED UNDER THIS SECTION IS MEASURED BY  
21 KILOWATT HOURS OF ELECTRICITY OR ~~DEKATHERMS~~ THERMS OF NATURAL GAS  
22 DELIVERED BY THE PUBLIC SERVICE COMPANY FOR FINAL CONSUMPTION IN THE  
23 STATE.

24 (B) THE TAX IMPOSED UNDER SUBSECTION (A) OF THIS SECTION DOES NOT  
25 APPLY TO ~~DEKATHERMS~~ THERMS OF NATURAL GAS DELIVERED FOR FINAL  
26 CONSUMPTION BY A PUBLIC SERVICE COMPANY THAT IS:

- 27 (1) A COUNTY; OR
- 28 (2) A MUNICIPAL CORPORATION.

29 8-403.

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

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

2 (1) ~~0.065~~ 0.062 CENTS FOR EACH KILOWATT HOUR OF ELECTRICITY  
3 DELIVERED BY THE PUBLIC SERVICE COMPANY FOR FINAL CONSUMPTION IN THE  
4 STATE; AND

5 (2) ~~4.02~~ 0.402 CENTS FOR EACH ~~DEKATHERM~~ THERM OF NATURAL GAS  
6 DELIVERED BY THE PUBLIC SERVICE COMPANY FOR FINAL CONSUMPTION IN THE  
7 STATE.

8 8-404.

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

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

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

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

26 8-409.

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

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

33 8-417.

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

36 (1) ~~.0069~~ .002 CENTS FOR EACH KILOWATT HOUR OF ELECTRICITY IN  
37 EXCESS OF 500 MILLION UP TO 1,500 MILLION KILOWATT HOURS DURING A

1 CALENDAR YEAR DELIVERED FOR FINAL CONSUMPTION TO A SINGLE INDUSTRIAL  
 2 CUSTOMER FOR USE IN A PRODUCTION ACTIVITY AT THE SAME LOCATION IN THE  
 3 STATE; AND

4 (2) ~~.0486~~ 0.00455 CENTS FOR EACH KILOWATT HOUR OF ELECTRICITY IN  
 5 EXCESS OF 1,500 MILLION KILOWATT HOURS DURING A CALENDAR YEAR DELIVERED  
 6 FOR FINAL CONSUMPTION TO A SINGLE INDUSTRIAL CUSTOMER FOR USE IN A  
 7 PRODUCTION ACTIVITY AT THE SAME LOCATION IN THE STATE.

8 (B) A PUBLIC SERVICE COMPANY MAY CLAIM A CREDIT AGAINST THE PUBLIC  
 9 SERVICE COMPANY FRANCHISE TAX IN AN AMOUNT EQUAL TO THE TAX IMPOSED  
 10 FOR EACH ~~DEKATHERM~~ THERM OF NATURAL GAS DELIVERED FOR FINAL  
 11 CONSUMPTION IN THE STATE TO:

12 (+) AN INDUSTRIAL CUSTOMER FOR USE IN A PRODUCTION ACTIVITY IN  
 13 THE STATE; ~~OR~~

14 (2) ~~A CUSTOMER WHO RECEIVES THE NATURAL GAS ON AN~~  
 15 ~~INTERRUPTIBLE BASIS.~~

16 (C) THE PUBLIC SERVICE COMMISSION SHALL REQUIRE THAT THE CREDITS  
 17 ALLOWED UNDER THIS SECTION ARE PASSED THROUGH TO THE CUSTOMERS TO  
 18 WHOM THE ELECTRICITY OR NATURAL GAS ON WHICH THE CREDITS ARE BASED IS  
 19 DELIVERED.

20 10-306.

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

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

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

32 10-307.

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

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

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

1 10-309.

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

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

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

21 (D) THE MODIFICATIONS UNDER THIS SECTION SHALL CONTINUE TO APPLY  
22 TO ASSETS TRANSFERRED UNDER A REORGANIZATION WITHIN THE MEANING OF §  
23 368(A) OF THE INTERNAL REVENUE CODE OR ON THE ORGANIZATION OF A  
24 CORPORATION PRINCIPALLY IN CONSIDERATION FOR THE ISSUANCE OF ITS STOCK.

25 10-712.

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

31 (B) (1) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS  
32 SECTION MAY NOT EXCEED THE STATE INCOME TAX FOR THAT TAXABLE YEAR,  
33 CALCULATED BEFORE APPLICATION OF THE CREDITS ALLOWED UNDER THIS  
34 SECTION AND §§ 10-701 AND 10-701.1 OF THIS SUBTITLE BUT AFTER APPLICATION OF  
35 ANY OTHER CREDITS ALLOWED UNDER THIS SUBTITLE.

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

38 10-713.

39 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
40 INDICATED.

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

3 1. GROSS REVENUE FOR THE TAXABLE YEAR IN EXCESS OF  
4 \$50,000,000 FROM THE SALE, TRANSMISSION OR DISTRIBUTION OF ELECTRICITY IN  
5 THE STATE; AND

6 2. GROSS REVENUE FOR THE TAXABLE YEAR FROM THE  
7 TRANSMISSION AND DISTRIBUTION OF ELECTRICITY OUTSIDE THE STATE EQUAL TO  
8 AT LEAST 25% OF ITS TOTAL GROSS REVENUE FOR THE TAXABLE YEAR FROM THE  
9 TRANSMISSION AND DISTRIBUTION OF ELECTRICITY.

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

14 (3) "QUALIFIED CORPORATE HEADQUARTERS" MEANS:

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

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

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

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

28 (I) THE STATE INCOME TAX BEFORE APPLICATION OF THE  
29 CREDITS ALLOWED UNDER THIS SECTION AND §§ 10-701 AND 10-701.1 OF THIS  
30 SUBTITLE BUT AFTER APPLICATION OF ALL OTHER CREDITS ALLOWED UNDER THIS  
31 SUBTITLE; AND

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

34 2. \$500,000 IF THE QUALIFIED CORPORATE HEADQUARTERS  
35 IS NOT THE CORPORATION'S PRINCIPAL PLACE OF BUSINESS.

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

1 11-101.

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

3 (ii) generating electricity FOR SALE OR FOR USE IN ANOTHER  
4 PRODUCTION ACTIVITY;

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

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

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

11 (k) "Taxable service" means:

12 (9) credit reporting; [or]

13 (10) a security service, including:

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

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

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

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

20 11-1A-01.

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

23 (B) (1) "ON-SITE GENERATED ELECTRICITY" MEANS ELECTRICITY THAT IS  
24 GENERATED AT A FACILITY ~~THAT IS OWNED AND OPERATED BY:~~

25 (I) THE OWNER OF WHICH IS AN ELECTRIC CONSUMER THAT,  
26 TOGETHER WITH ANY TENANTS OF THE OWNER, CONSUMES AT LEAST 80% OF THE  
27 ELECTRICITY GENERATED BY THE FACILITY EACH YEAR; AND

28 (II) THAT IS OPERATED BY THE OWNER OR A DESIGNEE OF THE  
29 OWNER.

30 (2) "ON-SITE GENERATED ELECTRICITY" DOES NOT INCLUDE  
31 ELECTRICITY GENERATED AT A FACILITY THAT IS OWNED BY MORE THAN ONE  
32 PERSON OR GOVERNMENTAL ENTITY UNLESS THE OWNERSHIP OF THE FACILITY  
33 AND THE OWNERSHIP OF THE BUILDING OR MACHINERY AND EQUIPMENT THAT

1 CONSUMES THE ELECTRICITY IS SUBSTANTIALLY THE SAME, AS DETERMINED  
2 UNDER REGULATIONS THAT THE COMPTROLLER ADOPTS.

3 (C) "OWNER" MEANS THE PERSON OR GOVERNMENTAL ENTITY THAT HAS A  
4 CAPITAL INVESTMENT IN A FACILITY AND THAT FOR FEDERAL INCOME TAX  
5 PURPOSES IS ENTITLED TO DEDUCT DEPRECIATION ON THE FACILITY OR WOULD BE  
6 ENTITLED TO THE DEDUCTION IF SUBJECT TO THE FEDERAL INCOME TAX.

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

9 ~~(D)~~ (E) "SPECIAL USE TAX ON ELECTRICITY" MEANS THE TAX IMPOSED  
10 UNDER THIS SUBTITLE.

11 11-1A-02.

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

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

17 (1) ELECTRICITY THAT IS:

18 (I) USED FOR RESIDENTIAL PURPOSES; OR

19 (II) USED EXCLUSIVELY FOR EMERGENCY BACK-UP GENERATION;  
20 OR

21 (2) ON-SITE GENERATED ELECTRICITY.

22 11-1A-03.

23 THE RATE OF THE SPECIAL USE TAX ON ELECTRICITY IS ~~0.065~~ 0.062 CENTS FOR  
24 EACH KILOWATT HOUR OF ELECTRICITY THAT IS SUBJECT TO THE TAX.

25 11-1A-04.

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

28 11-1A-05.

29 IN ADDITION TO ANY INFORMATION REQUIRED UNDER SUBTITLE 5 OF THIS  
30 TITLE:

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

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

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

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

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

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

10 11-1A-06.

11 THE COMPTROLLER SHALL ADOPT REGULATIONS TO CARRY OUT THE  
12 PROVISIONS OF THIS SUBTITLE.

13 11-207.

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

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

16 (I) ~~made~~ THAT IS DELIVERED under a residential or domestic rate  
17 schedule on file with the Public Service Commission;

18 (II) ~~FOR USE IN RESIDENTIAL PROPERTY THAT CONTAINS NOT~~  
19 ~~MORE THAN 4 UNITS, COOPERATIVE HOUSING, CONDOMINIUMS, OR OTHER SIMILAR~~  
20 ~~RESIDENTIAL LIVING ARRANGEMENTS; OR~~

21 (III) ~~FOR USE IN RESIDENTIAL PROPERTY THAT CONTAINS MORE~~  
22 ~~THAN 4 UNITS IF THE SALE IS MADE DIRECTLY TO THE OCCUPANT OF THE PROPERTY~~  
23 ~~OR DWELLING;~~

24 **Article - Tax - Property**

25 1-101.

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

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

31 (2) "PUBLIC UTILITY" INCLUDES:

32 (I) AN ELECTRIC COMPANY;

- 1 (II) A GAS COMPANY;
- 2 (III) A PIPELINE COMPANY;
- 3 (IV) A SEWAGE DISPOSAL COMPANY;
- 4 (V) A STEAM HEATING COMPANY;
- 5 (VI) A TELEPHONE COMPANY; AND
- 6 (VII) A WATER COMPANY.
- 7 (3) "PUBLIC UTILITY" DOES NOT INCLUDE:
  - 8 (I) A CABLE TELEVISION COMPANY;
  - 9 (II) A CELLULAR TELEPHONE COMPANY;
  - 10 (III) A COGENERATOR;
  - 11 (IV) AN EXEMPT WHOLESALE GENERATOR;
  - 12 (V) AN INDEPENDENT POWER PRODUCER;
  - 13 (VI) A SMALL POWER PRODUCER; OR
  - 14 (VII) A UTILITY OWNED BY A COUNTY OR MUNICIPAL CORPORATION.
- 15 7-237.

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

19 (B) PERSONAL PROPERTY THAT IS MACHINERY OR EQUIPMENT USED TO  
 20 GENERATE ELECTRICITY FOR SALE IS SUBJECT TO COUNTY OR MUNICIPAL  
 21 CORPORATION PROPERTY TAX ON:

- 22 (1) ~~88% OF ITS ASSESSMENT FOR THE TAXABLE YEAR BEGINNING JULY~~  
 23 ~~1, 2000;~~
- 24 (2) ~~76% OF ITS ASSESSMENT FOR THE TAXABLE YEAR BEGINNING JULY~~  
 25 ~~1, 2001;~~
- 26 (3) ~~64% OF ITS ASSESSMENT FOR THE TAXABLE YEAR BEGINNING JULY~~  
 27 ~~1, 2002;~~
- 28 (4) ~~52% OF ITS ASSESSMENT FOR THE TAXABLE YEAR BEGINNING JULY~~  
 29 ~~1, 2003; AND~~

1           (5)     ~~40% OF ITS ASSESSMENT FOR THE TAXABLE YEAR BEGINNING JULY~~  
 2 ~~1, 2004 AND EACH SUBSEQUENT TAXABLE YEAR.~~

3           (1)     75% OF ITS VALUE FOR THE TAXABLE YEAR BEGINNING JULY 1, 2000;  
 4 AND

5           (2)     50% OF ITS VALUE FOR THE TAXABLE YEAR BEGINNING JULY 1, 2001  
 6 AND EACH SUBSEQUENT TAXABLE YEAR.

7 8-101.

8     (c)     Personal property is a class of property and is divided into the following  
 9 subclasses:

10           (1)     stock in business;

11           (2)     distilled spirits;

12           (3)     operating personal property of a railroad;

13           (4)     OPERATING PERSONAL PROPERTY OF A PUBLIC UTILITY THAT IS  
 14 MACHINERY OR EQUIPMENT USED TO GENERATE ELECTRICITY;

15           [(4)]   (5)     ALL OTHER operating personal property of a public utility;

16           (6)     MACHINERY AND EQUIPMENT USED TO GENERATE ELECTRICITY  
 17 OTHER THAN OPERATING PERSONAL PROPERTY OF A PUBLIC UTILITY; and

18           [(5)]   (7)     all other personal property that is directed by this article to be  
 19 assessed.

20 8-109.

21     (H)     (1)     IN DETERMINING WHETHER TO CLASSIFY A COMPANY AS A PUBLIC  
 22 UTILITY, THE DEPARTMENT SHALL CONSIDER AND EVALUATE WHETHER THE  
 23 COMPANY:

24           (I)     IS SUBJECT TO THE AUTHORITY OF A REGULATORY BODY OF  
 25 THE STATE OR THE FEDERAL GOVERNMENT, SUCH AS THE MARYLAND PUBLIC  
 26 SERVICE COMMISSION, THE FEDERAL COMMUNICATIONS COMMISSION, OR THE  
 27 FEDERAL ENERGY REGULATORY COMMISSION;

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

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

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

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

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

6 9-1102.

7 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, FOR EACH  
8 FISCAL YEAR, THE STATE SHALL PAY THE FOLLOWING AMOUNTS TO THE  
9 FOLLOWING COUNTIES TO REIMBURSE THE COUNTIES PARTIALLY FOR THE COSTS  
10 OF THE PROPERTY TAX EXEMPTION UNDER § 7-237 OF THE TAX - PROPERTY ARTICLE:

11	ANNE ARUNDEL	\$7,468,000
12	BALTIMORE CITY	433,000
13	BALTIMORE	1,714,000
14	CALVERT	5,822,000
15	CHARLES	2,409,000
16	DORCHESTER	179,000
17	HARFORD	822,000
18	MONTGOMERY	2,641,000
19	PRINCE GEORGE'S	7,396,000
20	WASHINGTON	341,000

21	ANNE ARUNDEL	\$ 7,820,202
22	BALTIMORE CITY	453,421
23	BALTIMORE	1,794,835
24	CALVERT	6,096,574
25	CHARLES	2,522,612
26	DORCHESTER	187,442
27	GARRETT	11,907
28	HARFORD	860,767
29	MONTGOMERY	2,765,553
30	PRINCE GEORGE'S	7,744,806
31	WASHINGTON	357,082

32 (B) FOR THE FISCAL YEAR THAT BEGINS ON JULY 1, 2000, THE STATE SHALL  
33 PAY 50% OF THE AMOUNTS SPECIFIED IN SUBSECTION (A) OF THIS SECTION.

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

- 37 ~~(1) FOR THE FISCAL YEAR THAT BEGINS ON JULY 1, 2000, 20%;~~
- 38 ~~(2) FOR THE FISCAL YEAR THAT BEGINS ON JULY 1, 2001, 40%;~~
- 39 ~~(3) FOR THE FISCAL YEAR THAT BEGINS ON JULY 1, 2002, 60%; AND~~
- 40 ~~(4) FOR THE FISCAL YEAR THAT BEGINS ON JULY 1, 2003, 80%.~~

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

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

6 9-1103.

7 (A) IN ADDITION TO ANY ~~GRANT~~ REIMBURSEMENT PROVIDED UNDER § 9-1102  
8 OF THIS SUBTITLE, IF ON OR BEFORE JANUARY 1, ~~2010~~ 2020, THE FEDERAL NUCLEAR  
9 REGULATORY COMMISSION LICENSE FOR THE CALVERT CLIFFS NUCLEAR POWER  
10 PLANT EXPIRES AND IS NOT EXTENDED OR RENEWED, FOR EACH OF THE 5  
11 PROPERTY TAX YEARS FOLLOWING THE EXPIRATION AND NONRENEWAL, THE STATE  
12 SHALL PAY AS A GRANT TO CALVERT COUNTY AN AMOUNT EQUAL TO THE  
13 APPLICABLE PERCENTAGE, DETERMINED UNDER SUBSECTION (B) OF THIS SECTION,  
14 OF THE DIFFERENCE BETWEEN:

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

18 (2) THE SUM OF:

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

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

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

27 (1) 100% FOR THE FIRST TAXABLE YEAR;

28 (2) 80% FOR THE SECOND TAXABLE YEAR;

29 (3) 60% FOR THE THIRD TAXABLE YEAR;

30 (4) 40% FOR THE FOURTH TAXABLE YEAR;

31 (5) 20% FOR THE FIFTH TAXABLE YEAR; AND

32 (6) 0% FOR EACH SUBSEQUENT TAXABLE YEAR.

33 (C) FOR EACH TAXABLE YEAR FOR WHICH A GRANT IS TO BE PROVIDED  
34 UNDER THIS SECTION, THE DEPARTMENT OF ASSESSMENTS AND TAXATION SHALL  
35 DETERMINE AND CERTIFY TO THE COMPTROLLER CALVERT COUNTY'S PROPERTY

1 TAX REVENUE FOR THE TAXABLE YEAR DERIVED FROM PERSONAL PROPERTY THAT  
2 IS MACHINERY OR EQUIPMENT USED TO GENERATE ELECTRICITY FOR SALE.

3 (D) THE COMPTROLLER SHALL PAY THE AMOUNTS PROVIDED UNDER THIS  
4 SECTION TO CALVERT COUNTY IN EQUAL AMOUNTS FOR EACH QUARTER AT THE  
5 END OF EACH QUARTER OF THE TAXABLE YEAR FOR WHICH THE PAYMENTS ARE  
6 MADE.

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

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

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

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

27 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 4 of  
28 this Act and except as otherwise provided in this Section, Section 1 of this Act shall  
29 take effect January 1, 2000. ~~The~~ The changes to the property tax under Section 1 of  
30 this Act shall be applicable to all taxable years beginning on or after July 1, 2000. The  
31 reimbursements to counties under Article 24, §§ 9-1102 and 9-1103 of the Code shall  
32 be applicable to all fiscal years beginning on or after July 1, 2000. Except as  
33 otherwise provided in this section, the changes to the public service company  
34 franchise tax and the income tax under Section 1 of this Act shall be applicable to all  
35 taxable years beginning after December 31, 1999; provided, however, that the income  
36 tax credit allowed under §10-712 of the Tax - General Article shall be allowed only for  
37 property tax paid for a property tax year beginning on or after July 1, 2000. If for  
38 federal income tax purposes the taxable year of a public service company engaged in  
39 an electric or gas business in the State is not the calendar year:

40 (1) The changes to the public service company franchise tax and the  
41 income tax under Section 1 of this Act do not apply to the public service company until

1 the beginning of the public service company's taxable year for federal income tax  
2 purposes during calendar year 2000;

3           (2) For the period from January 1, 2000, through the end of the public  
4 service company's taxable year for federal income tax purposes that ends during  
5 calendar year 2000, the public service company franchise tax as it existed before the  
6 changes under Section 1 of this Act shall be imposed on the public service company;  
7 and

8           (3) For the period from the beginning of the public service company's  
9 taxable year for federal income tax purposes that begins during calendar year 2000  
10 through December 31, 2000, the public service company franchise tax as enacted  
11 under Section 1 of this Act shall be imposed on the public service company.

12       SECTION 4. AND BE IT FURTHER ENACTED, That this Act is contingent on  
13 the taking effect of the Electric Customer Choice and Competition Act of 1999,  
14 Chapter \_\_\_\_\_ (S.B. \_\_\_\_\_/H.B. \_\_\_\_\_) (9lr1907/9lr1908) of the Acts of the General Chapter  
15 \_\_\_\_\_ (S.B. 300/H.B. 703) of the Acts of the General Assembly of 1999, and if Chapter  
16 \_\_\_\_\_ does not become effective, this Act shall be null and void without the necessity of  
17 further action by the General Assembly.

18       SECTION 5. AND BE IT FURTHER ENACTED, That, for a taxable year  
19 beginning after December 31, 1999 but before January 1, 2001, notwithstanding §§  
20 13-602 and 13-702 of the Tax - General Article:

21       (a) Except as provided in subsection (b) of this section, the Comptroller shall  
22 assess interest and penalty under §§ 13-602 and 13-702 of the Tax - General Article  
23 if a public service company engaged in an electric or gas business in the State pays  
24 estimated income tax for the taxable year in an amount less than 90% of the tax  
25 required to be shown on the public service company's income tax return for the  
26 taxable year.

27       (b) Subsection (a) of this section does not apply if the public service company  
28 pays estimated public service company franchise tax for the taxable year in an  
29 amount that when added to the estimated income tax paid by the public service  
30 company for the taxable year is at least equal to the public service company franchise  
31 tax paid by the public service company for the prior taxable year.

32       SECTION 6. AND BE IT FURTHER ENACTED, That, on or before September  
33 15, 2003, the Comptroller of the Treasury, the Department of Assessments and  
34 Taxation, and the Public Service Commission, in cooperation with the Maryland  
35 Association of Counties and electric and gas public service companies in the State,  
36 shall jointly conduct a study and report to the Senate Budget and Taxation  
37 Committee and the House Committee on Ways and Means on the effectiveness of this  
38 Act in achieving the General Assembly's goal of providing for an equitable and  
39 rational restructuring of State and local taxes on electric and gas utilities in light of  
40 competition and the restructuring of the electric and gas utility industries. The study  
41 shall be coordinated by the Department of Legislative Services. The report shall  
42 include:

1           (1)     The overall effect on State and local revenues of the tax changes  
2 made under this Act;

3           (2)     The overall impact of utility tax reform and retail electric competition  
4 and the restructuring of the electric utility industry on local government finances,  
5 including the actual effect of the property tax exemption under this Act on property  
6 tax revenues, effects on the property tax valuation of electric utility assets, including  
7 generation facilities as well as assets other than generation facilities, and electricity  
8 costs savings for local governments resulting from electric competition;

9           (3)     The extent to which the revenue effects resulting from utility tax  
10 reform and electric competition have been or will be offset or otherwise affected by:

11                   (i)     Increases or decreases in growth of other local revenues,  
12 including in particular local income, property, and energy taxes and the effect of  
13 competition and restructuring of the electric utility industry on the valuation of  
14 generation assets and other electric utility assets;

15                   (ii)    Local government actions affecting local revenues, including tax  
16 rate increases or decreases, the repeal or restructuring of existing taxes, or the  
17 enactment of new taxes, and including in particular any changes regarding local  
18 energy taxes; or

19                   (iii)   Actions of the General Assembly increasing or decreasing State  
20 aid to local governments, mandating new local funding for programs or providing  
21 funding for programs previously funded by local governments, or otherwise affecting  
22 the burden on local government finances;

23           (4)     The need for and adequacy of the State's partial reimbursements to  
24 the counties for the property tax exemptions, including the appropriate level and  
25 duration of the reimbursements for the future;

26           (5)     The actual corporate income tax revenues collected from the electric  
27 and gas public service companies and their affiliates, including the cost to the State of  
28 the income tax credits for real property tax paid on generating facilities, and  
29 additional corporate income tax revenues collected from suppliers of gas and  
30 electricity other than public service companies;

31           (6)     The effect of this Act on public service company franchise tax  
32 revenues, including, in regards to the overall level of taxation of electricity and gas  
33 consumption in the State as compared to other states and in regards to maintaining  
34 an appropriate level of State revenues from the public service company franchise tax:

35                   (i)     The appropriateness of the per kilowatt hour and per therm  
36 rates under the public service company franchise tax; and

37                   (ii)    The appropriateness and effect of including in the gross receipts  
38 tax base amounts representing transition costs recovery;

1           (7)     The appropriate treatment of self-generated electricity under the  
2 State and local tax structure, including the effect of self-generation on public service  
3 company franchise tax and local energy tax revenues and the effectiveness of the  
4 special use tax on electricity under this Act in preventing leakage from the public  
5 service company franchise tax from self-generated electricity; and

6           (8)     The effect of the 50% personal property tax exemption on the  
7 competitiveness of Maryland-based electric generation.

8     SECTION ~~5-~~ 7. AND BE IT FURTHER ENACTED, That, except as provided in  
9 Sections 3 and 4 of this Act, this Act shall take effect July 1, 1999.