

SENATE BILL 660

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Q7

1999 Regular Session
9r2294
CF 9r1460

By: **Senator Middleton**

Introduced and read first time: February 11, 1999

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Electric Utility Tax Reform - Maryland Electric Competition Credits**

3 FOR the purpose of altering the public service company franchise tax for a public
4 service company engaged in an electric 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 business in the State; altering the definition of a public
7 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 delivered; setting the rate of the tax; allowing a public service
10 company to surcharge its customers for certain tax imposed; providing a credit
11 against the public service company franchise tax in a certain amount for certain
12 kilowatt hours of electricity delivered to certain customers for certain uses in
13 excess of certain amounts; providing an addition modification under the
14 corporate income tax in the amount of certain credits; repealing a certain
15 subtraction modification under the income tax for gross receipts derived by a
16 public service company engaged in an electric business in the State; providing
17 certain modifications under the income tax for the purposes of determining
18 Maryland modified income of a public service company engaged in an electric
19 business in the State; providing certain credits against the corporate income tax
20 or public service company franchise tax for certain property taxes paid on
21 certain operating real property of a public utility; providing certain credits
22 against the corporate income tax for certain personal property used to generate
23 electricity for sale; providing certain additional credits for certain public service
24 companies; clarifying the definition of "production activity" under the sales and
25 use tax in regard to the generation of electricity; altering the definition of
26 taxable price under the sales and use tax to include a separately stated charge
27 for a taxable delivery service; making the delivery of electricity or natural gas a
28 taxable service under the sales and use tax if the sale of the electricity or
29 natural gas is taxable; clarifying a certain exemption under the sales and use
30 tax for sales of certain energy for use in residential property; defining a public
31 utility for purposes of the property tax law; altering the definition of operating
32 personal property for property tax purposes for certain public utilities; requiring
33 the Department of Assessments and Taxation to consider and evaluate certain
34 criteria in determining whether to classify a company as a public utility for
35 property tax purposes; authorizing the Department to classify a company as a

1 public utility under certain circumstances notwithstanding the company's
2 failure to meet all the criteria; repealing the public service company franchise
3 tax as to oil pipeline companies and telegraph companies; defining certain
4 terms; requiring the Public Service Commission to determine and require
5 certain adjustments in electric utility rates; prohibiting an electric public service
6 company from surcharging a certain tax to its customers until a certain
7 reduction in rates is effective; making this Act contingent on the taking effect of
8 another Act; providing for a delayed effective date; providing for the application
9 of this Act; and generally relating to the taxation of public service companies
10 engaged in an electric business in the State.

11 BY repealing and reenacting, with amendments,
12 Article - Tax - General
13 Section 8-401 through 8-404, 8-409, 10-307(e), 11-101(d)(1)(ii), (j)(3)(i)1., and
14 (k)(9) and (10), and 11-207(a)(2)
15 Annotated Code of Maryland
16 (1997 Replacement Volume and 1998 Supplement)

17 BY adding to
18 Article - Tax - General
19 Section 8-402.1, 8-417, 8-418, 10-306(d), 10-309, 10-712, 10-713, and
20 11-101(k)(11)
21 Annotated Code of Maryland
22 (1997 Replacement Volume and 1998 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article - Tax - General
25 Section 10-306(a)
26 Annotated Code of Maryland
27 (1997 Replacement Volume and 1998 Supplement)

28 BY adding to
29 Article - Tax - Property
30 Section 1-101(aa-1) and 8-109(h)
31 Annotated Code of Maryland
32 (1994 Replacement Volume and 1998 Supplement)

33 BY repealing and reenacting, with amendments,
34 Article - Tax - Property
35 Section 1-101(u)(5)(ii)
36 Annotated Code of Maryland
37 (1994 Replacement Volume and 1998 Supplement)

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

1 **Article - Tax - General**

2 8-401.

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

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

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

8 (2) "Gross receipts" includes:

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

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

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

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

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

21 (ii) net uncollectible revenue;

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

24 1. a service or product for resale; or

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

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

30 (4) FOR A PUBLIC SERVICE COMPANY ENGAGED IN THE TRANSMISSION
31 OR DISTRIBUTION OF ELECTRICITY IN THE STATE:

32 (I) "GROSS RECEIPTS" INCLUDES:

1 1. GROSS CHARGES FOR THE TRANSMISSION OR
2 DISTRIBUTION OF ELECTRICITY OR FOR DISTRIBUTION-RELATED SERVICES; AND

3 2. COMPETITIVE TRANSITION CHARGES, INTANGIBLE
4 TRANSITION CHARGES, AND ANY OTHER COST-RECOVERY MECHANISM AUTHORIZED
5 FOR RECOVERY OF TRANSITION COSTS OR THE COSTS OF DEMAND SIDE
6 MANAGEMENT OR OTHER ENERGY CONSERVATION PROGRAMS, UNIVERSAL SERVICE
7 OR OTHER PUBLIC PURPOSE PROGRAMS, OR CONSUMER EDUCATION PROGRAMS;
8 AND

9 (II) "GROSS RECEIPTS" DOES NOT INCLUDE GROSS CHARGES FROM
10 THE SALE OF ELECTRICITY.

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

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

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

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

19 (2) ENGAGED IN THE TRANSMISSION OR DISTRIBUTION OF ELECTRICITY
20 IN THE STATE.

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

22 (i) a county;

23 (ii) a municipal corporation; or

24 (iii) a nonprofit electric cooperative.]

25 8-402.

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

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

29 (2) ENGAGED IN THE TRANSMISSION OR DISTRIBUTION OF ELECTRICITY
30 IN THE STATE.

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

33 (1) A COUNTY;

1 (2) A MUNICIPAL CORPORATION; OR

2 (3) A NONPROFIT ELECTRIC COOPERATIVE.

3 8-402.1.

4 IN ADDITION TO ANY TAX IMPOSED UNDER § 8-402 OF THIS SUBTITLE, A
5 FRANCHISE TAX, MEASURED BY KILOWATT HOURS OF ELECTRICITY DELIVERED BY
6 THE PUBLIC SERVICE COMPANY FOR FINAL CONSUMPTION IN THE STATE, IS
7 IMPOSED FOR EACH CALENDAR YEAR ON EACH PUBLIC SERVICE COMPANY
8 ENGAGED IN THE TRANSMISSION OR DISTRIBUTION OF ELECTRICITY IN THE STATE.

9 8-403.

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

13 (B) THE RATE OF THE TAX IMPOSED UNDER § 8-402.1 OF THIS SUBTITLE IS
14 0.1370 CENTS FOR EACH KILOWATT HOUR OF ELECTRICITY DELIVERED BY THE
15 PUBLIC SERVICE COMPANY FOR FINAL CONSUMPTION IN THE STATE.

16 8-404.

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

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

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

30 (c) A public service company shall file with the return an attachment that
31 states any information that the Department requires to determine gross receipts
32 derived from business in the State OR KILOWATT HOURS OF ELECTRICITY
33 DELIVERED FOR FINAL CONSUMPTION IN THE STATE.

34 8-409.

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

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

4 8-417.

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

7 (1) .1146 CENTS FOR EACH KILOWATT HOUR OF ELECTRICITY IN EXCESS
8 OF 500 MILLION UP TO 1,500 MILLION KILOWATT HOURS DURING A CALENDAR YEAR
9 DELIVERED FOR FINAL CONSUMPTION TO A SINGLE INDUSTRIAL CUSTOMER FOR
10 USE IN A PRODUCTION ACTIVITY AT THE SAME LOCATION IN THE STATE; AND

11 (2) .1204 CENTS FOR EACH KILOWATT HOUR OF ELECTRICITY IN EXCESS
12 OF 1,500 MILLION KILOWATT HOURS DURING A CALENDAR YEAR DELIVERED FOR
13 FINAL CONSUMPTION TO A SINGLE INDUSTRIAL CUSTOMER FOR USE IN A
14 PRODUCTION ACTIVITY AT THE SAME LOCATION IN THE STATE.

15 (B) THE PUBLIC SERVICE COMMISSION SHALL REQUIRE THAT THE CREDITS
16 ALLOWED UNDER THIS SECTION ARE PASSED THROUGH TO THE CUSTOMERS TO
17 WHOM THE ELECTRICITY ON WHICH THE CREDITS ARE BASED IS DELIVERED.

18 8-418.

19 (A) A PUBLIC SERVICE COMPANY MAY CLAIM A CREDIT AGAINST THE PUBLIC
20 SERVICE COMPANY FRANCHISE TAX IN AN AMOUNT EQUAL TO THE AMOUNT OF
21 THAT COMPANY'S MARYLAND ELECTRIC COMPETITION CREDITS UNDER § 10-712 OF
22 THIS ARTICLE, LESS THE AMOUNT OF THE CREDITS CLAIMED AGAINST THE STATE
23 INCOME TAX UNDER § 10-712 OF THIS ARTICLE.

24 (B) THE PUBLIC SERVICE COMMISSION SHALL REQUIRE THAT ANY PUBLIC
25 SERVICE COMPANY RECEIVING A CREDIT UNDER § 10-712(A)(3) OR (4) OF THIS
26 ARTICLE PASS ON THE FULL AMOUNT OF THAT CREDIT THROUGH ELECTRIC
27 TRANSMISSION AND DISTRIBUTION RATES TO THE CUSTOMERS TO WHOM THE
28 ELECTRICITY ON WHICH THE CREDIT IS BASED IS DELIVERED.

29 10-306.

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

33 (D) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE
34 AMOUNT OF THE CREDITS ALLOWED UNDER § 8-418 OR § 10-712 OF THIS ARTICLE FOR
35 MARYLAND ELECTRIC COMPETITION CREDITS OR UNDER § 10-713 OF THIS TITLE FOR
36 PROPERTY TAX ON PERSONAL PROPERTY THAT IS MACHINERY OR EQUIPMENT USED
37 TO GENERATE ELECTRICITY FOR SALE.

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 AN ELECTRIC OR 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 BUSINESS IF THE PUBLIC
11 SERVICE COMPANY WAS SUBJECT TO THE PUBLIC SERVICE COMPANY FRANCHISE
12 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 BUSINESS SHALL BE ADJUSTED IN AN AMOUNT EQUAL TO
16 THE DIFFERENCE BETWEEN THE ADJUSTED BASIS OF THE ASSETS AS RECORDED ON
17 THE BOOKS OF THE PUBLIC SERVICE COMPANY AND THE ADJUSTED BASIS OF THE
18 ASSETS FOR FEDERAL INCOME TAX PURPOSES CALCULATED AS OF JANUARY 1, 2000.

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

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

29 10-712.

30 (A) IN THIS SECTION, "DESIGNATED SERVICE AREA" MEANS THE SERVICE
31 AREA FOR EACH ELECTRIC UTILITY AS DELINEATED BY THE PUBLIC SERVICE
32 COMMISSION IN ITS ORDER NO. 56203 EFFECTIVE JUNE 1, 1966, AS AMENDED BY ALL
33 SUBSEQUENTLY ISSUED ORDERS.

34 (B) FOR EACH TAXABLE YEAR, A PUBLIC UTILITY MAY CLAIM MARYLAND
35 ELECTRIC COMPETITION CREDITS AGAINST THE STATE INCOME TAX AS FOLLOWS:

36 (1) A CREDIT IN THE AMOUNT OF 60% OF THE TOTAL STATE, COUNTY,
37 AND MUNICIPAL CORPORATION PROPERTY TAXES PAID BY THE PUBLIC SERVICE

1 COMPANY ON ITS OPERATING REAL PROPERTY IN THE STATE, OTHER THAN
2 OPERATING LAND, THAT IS USED TO GENERATE ELECTRICITY FOR SALE;

3 (2) A CREDIT IN THE AMOUNT OF 60% OF THE TOTAL COUNTY AND
4 MUNICIPAL CORPORATION PROPERTY TAXES PAID BY THE PUBLIC SERVICE
5 COMPANY ON ITS OPERATING PERSONAL PROPERTY IN THE STATE THAT IS
6 MACHINERY OR EQUIPMENT USED TO GENERATE ELECTRICITY FOR SALE;

7 (3) FOR A PUBLIC SERVICE COMPANY PROVIDING ELECTRIC
8 DISTRIBUTION SERVICE FOR A MAJORITY OF THE DESIGNATED SERVICE AREA OF
9 POTOMAC EDISON POWER COMPANY, A CREDIT OF \$5,600,000;

10 (4) FOR A PUBLIC SERVICE COMPANY PROVIDING ELECTRIC
11 DISTRIBUTION SERVICE FOR A MAJORITY OF THE DESIGNATED SERVICE AREA OF
12 DELMARVA POWER AND LIGHT COMPANY, A CREDIT OF \$3,100,000.

13 (C) (1) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS
14 SECTION MAY NOT EXCEED THE STATE INCOME TAX FOR THAT TAXABLE YEAR,
15 CALCULATED BEFORE APPLICATION OF THE CREDITS ALLOWED UNDER THIS
16 SECTION AND §§ 10-701 AND 10-701.1 OF THIS SUBTITLE BUT AFTER APPLICATION OF
17 ANY OTHER CREDITS ALLOWED UNDER THIS SUBTITLE.

18 (2) THE UNUSED AMOUNT OF THE CREDIT FOR ANY TAXABLE YEAR:

19 (I) MAY BE USED AS A CREDIT AGAINST THE PUBLIC SERVICE
20 COMPANY FRANCHISE TAX AS PROVIDED UNDER § 8-418 OF THIS ARTICLE; AND

21 (II) MAY NOT BE CARRIED OVER TO ANY OTHER YEAR.

22 10-713.

23 (A) AN INDIVIDUAL OR CORPORATION THAT IS NOT A PUBLIC UTILITY MAY
24 CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN THE AMOUNT OF 60% OF THE
25 TOTAL COUNTY AND MUNICIPAL CORPORATION PROPERTY TAXES PAID BY THE
26 PUBLIC SERVICE COMPANY ON PERSONAL PROPERTY IN THE STATE THAT IS
27 MACHINERY OR EQUIPMENT USED TO GENERATE ELECTRICITY FOR SALE.

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

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

35 11-101.

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

1 (ii) generating electricity FOR SALE OR FOR USE IN ANOTHER
2 PRODUCTION ACTIVITY;

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

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

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

9 (k) "Taxable service" means:

10 (9) credit reporting; [or]

11 (10) a security service, including:

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

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

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

17 11-207.

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

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

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

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

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

28 **Article - Tax - Property**

29 1-101.

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

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

3 (2) "PUBLIC UTILITY" INCLUDES:

4 (I) AN ELECTRIC COMPANY;

5 (II) A GAS COMPANY;

6 (III) A PIPELINE COMPANY;

7 (IV) A SEWAGE DISPOSAL COMPANY;

8 (V) A STEAM HEATING COMPANY;

9 (VI) A TELEPHONE COMPANY; AND

10 (VII) A WATER COMPANY.

11 (3) "PUBLIC UTILITY" DOES NOT INCLUDE:

12 (I) A CABLE TELEVISION COMPANY;

13 (II) A CELLULAR TELEPHONE COMPANY;

14 (III) A COGENERATOR;

15 (IV) AN EXEMPT WHOLESALE GENERATOR;

16 (V) AN INDEPENDENT POWER PRODUCER;

17 (VI) A SMALL POWER PRODUCER; OR

18 (VII) A UTILITY OWNED BY A COUNTY OR MUNICIPAL CORPORATION.

19 8-109.

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

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

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

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

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

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

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

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

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

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

24 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 4 of
25 this Act, Section 1 of this Act shall take effect January 1, 2000. The changes to the
26 public service company franchise tax and the income tax under Section 1 of this Act
27 shall be applicable to all taxable years beginning after December 31, 1999; provided,
28 however, that the income tax credits allowed under §§ 10-712 and 10-713 of the Tax
29 - General Article shall be allowed only for property tax paid for a property tax year
30 beginning on or after July 1, 2000.

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

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