

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 387

(Senators Klausmeier and Middleton)

Finance

Economic Matters

Electric Companies and Gas Companies - Use of Trade Names and Trademarks

This bill prohibits a person who sells, markets, installs, maintains, repairs, or provides specified products or services from using, as part of its trade name or trademark, the trade name or trademark of an electric or gas company if the person is owned wholly or in part, directly or indirectly, by the electric or gas company or the parent company of the electric or gas company.

The provisions of the bill apply to all trade names or trademarks used after the bill's May 1, 2005 effective date.

Fiscal Summary

State Effect: The bill's changes could be handled with the existing budgeted resources of the Public Service Commission (PSC).

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Current Law: No statutory provision governs the use of a trade name or trademark between a public service company and an affiliate.

Background: In *Delmarva Power and Light Co. v. Public Service Commission of Maryland*, 370 Md. 1 (2002) [*Delmarva I*], the Court of Appeals found that a PSC order that imposed standards of conduct governing utility company transactions with core-

service and noncore-service affiliates violated Maryland's Administrative Procedure Act. The *Delmarva I* court ruled that the standards of conduct must be adopted by regulation and must comply with the requirements for adopting regulations. Under § 2 of Chapter 494 of 2002, unless a provision of the Public Utility Companies Article specifically requires PSC to act through regulation, PSC may implement any provision of the Article by either order or regulation as PSC deems necessary and proper. In *Delmarva Power and Light Co. v. Public Service Commission of Maryland*, 371 Md. 356 (2002) [*Delmarva II*], the Court of Appeals held that § 2 of Chapter 494 violated the Maryland Constitution's single-subject rule. The *Delmarva II* court ordered § 2 severed from Chapter 494.

Additional Information

Prior Introductions: An identical bill, SB 347, was introduced during the 2003 session. SB 347 was heard in the Senate Finance Committee, where no further action was taken. Similar bills, SB 783 and HB 1280, were introduced in the 2002 session. HB 1280 was withdrawn. SB 783 passed both houses in different forms, and a conference committee was appointed. The bill's differences were not resolved before the General Assembly adjourned *sine die*.

Cross File: None.

Information Source(s): Public Service Commission, Office of People's Counsel, Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2004
ncs/hlb

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