

UNOFFICIAL COPY OF HOUSE BILL 1712  
EMERGENCY BILL

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By: **Delegates D. Davis and McHale**

Introduced and read first time: March 6, 2006

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Electric Restructuring - Standard Offer Service - Regulated Service**

3 FOR the purpose of providing for the regulation of terms, conditions, and rates for  
4 standard offer service as a regulated service by the Public Service Commission  
5 in accordance with certain provisions of law; repealing the termination of  
6 standard offer service and the requirement for certain determinations by the  
7 Commission concerning competition; authorizing an electric company to produce  
8 or procure the electricity needed to meet its standard offer service electricity  
9 supply obligation in accordance with orders or regulations of the Commission;  
10 requiring the phased implementation of certain rates in a certain manner under  
11 certain circumstances; altering the amount and sources of funds to be assessed  
12 for the Electric Universal Service Program each year; requiring the collection of  
13 certain funds for the Program in a certain manner; prohibiting the treatment of  
14 certain costs of reacquisition in a certain manner; repealing certain obsolete  
15 provisions; making this Act an emergency measure; and generally relating to  
16 electric utility industry restructuring and standard offer service.

17 BY repealing and reenacting, with amendments,  
18 Article - Public Utility Companies  
19 Section 7-504, 7-505(b)(8), 7-509, 7-510(c), and 7-512.1(b) and (e)  
20 Annotated Code of Maryland  
21 (1998 Volume and 2005 Supplement)

22 BY repealing and reenacting, without amendments,  
23 Article - Public Utility Companies  
24 Section 7-505(a) and 7-512.1(a) and (f)  
25 Annotated Code of Maryland  
26 (1998 Volume and 2005 Supplement)

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

1 **Article - Public Utility Companies**

2 7-504.

3 The General Assembly finds and declares that the purpose of this subtitle is to:

4 (1) establish customer choice of electricity supply and electricity supply  
5 services;6 (2) create competitive retail electricity supply and electricity supply  
7 services markets;8 (3) deregulate the generation, supply, and pricing of electricity EXCEPT  
9 FOR STANDARD OFFER SERVICE;

10 (4) provide economic benefits for all customer classes; and

11 (5) ensure compliance with federal and State environmental standards.

12 7-505.

13 (a) (1) In assessing and approving each electric company's restructuring  
14 plan, and overseeing the transition process and regulation of the restructured electric  
15 industry, the Commission shall provide that the transition to a competitive electricity  
16 supply and electricity supply services market shall be orderly, maintain electric  
17 system reliability, and ensure compliance with federal and State environmental  
18 regulations, be fair to customers, electric company investors, customers of municipal  
19 electric utilities, electric companies, and electricity suppliers, and provide economic  
20 benefits to all customer classes.21 (2) The Commission shall consider the restructuring plans of municipal  
22 electric utilities, as specified under § 7-510 of this subtitle.23 (b) (8) The Commission shall determine the terms, conditions, and rates of  
24 standard offer service in accordance with[:

25 (i)] Title 4 of this article[; or

26 (ii) as applicable, § 7-510(c)(3)(ii) of this subtitle].

27 7-509.

28 (a) [(1)] On and after the initial implementation date, the generation, supply,  
29 and sale of electricity, including all related facilities and assets, may not be regulated  
30 as an electric company service or function except to:31 [(i)] (1) establish the [price] TERMS, CONDITIONS, AND RATES for  
32 standard offer service under [§ 7-510(c) of this subtitle] TITLE 4 OF THIS ARTICLE;

33 and

1 [(ii)] (2) review and approve transfers of generation assets under §  
2 7-508 of this subtitle.

3 [(2)] (B) This [subsection] SECTION does not apply to:

4 [(i)] (1) regulation of an electricity supplier under § 7-507 of this  
5 subtitle; or

6 [(ii)] (2) the costs of nuclear generation facilities or purchased  
7 power contracts that, as part of a settlement approved by the Commission, remain  
8 regulated or are recovered through the distribution function.

9 [(b)] (1) Subject to paragraph (2) of this subsection, this section does not apply  
10 to an investor-owned electric company until the electric company:

11 (i) transfers generation facilities and generation assets to an  
12 affiliate of the electric company, and the affiliate operates the facilities and assets; or

13 (ii) sells the generation facilities and generation assets to a  
14 nonaffiliate.

15 (2) (i) Notwithstanding the provisions of paragraph (1) of this  
16 subsection, this section applies to an investor-owned electric company that does not  
17 transfer its generation facilities and generation assets to an affiliate or sell its  
18 generation facilities and generation assets to a nonaffiliate if, on January 1, 1999, the  
19 retail peak load of the investor-owned electric company in the State was less than  
20 1,000 megawatts.

21 (ii) An investor-owned electric company to which this section  
22 applies through subparagraph (i) of this paragraph shall, by January 1, 2001:

23 1. transfer its generation facilities and generation assets to  
24 an affiliate of the investor-owned electric company that operates the facilities and  
25 assets; or

26 2. sell the generation facilities and generation assets to a  
27 nonaffiliate.

28 (c) The exceptions in subsection(a)(1) of this section as to any electric company  
29 shall remain in effect until the later of:

30 (1) the date when all customers of that electric company are eligible for  
31 customer choice under § 7-510 of this subtitle;

32 (2) the date when the amount of transition costs or benefits arising from  
33 the generation that is deregulated has been finally determined by the Commission  
34 under § 7-513(a) through (c) of this subtitle; or

1 (3) if, under § 7-510(c)(3)(ii) of this subtitle, the Commission extends the  
2 obligation to provide standard offer service, the date on which the Commission  
3 terminates that obligation.]

4 7-510.

5 (c) (1) Beginning on the initial implementation date, an electric company's  
6 obligation to provide electricity supply and electricity supply service is stated by this  
7 subsection.

8 (2) Electricity supply purchased from a customer's electric company is  
9 known as standard offer service. A customer is considered to have chosen the  
10 standard offer service if the customer:

11 (i) is not allowed to choose an electricity supplier under the phase  
12 in of customer choice in subsection (a) of this section;

13 (ii) contracts for electricity with an electricity supplier and it is not  
14 delivered;

15 (iii) cannot arrange for electricity from an electricity supplier;

16 (iv) does not choose an electricity supplier;

17 (v) chooses the standard offer service; or

18 (vi) has been denied service or referred to the standard offer service  
19 by an electricity supplier in accordance with § 7-507(e)(6) of this subtitle.

20 [(3) Any obligation of an electric company to provide standard offer  
21 service shall cease on July 1, 2003, except that:

22 (i) electric cooperatives and municipal electric utilities may choose  
23 to continue providing standard offer service in their respective distribution  
24 territories, and may cease offering that service after notifying the Commission at  
25 least 12 months in advance; and

26 (ii) 1. if the Commission finds that the electricity supply market  
27 is not competitive or that no acceptable competitive proposal has been received to  
28 supply electricity to those customers described under paragraph (2) of this subsection,  
29 the Commission shall extend the obligation to provide standard offer service to  
30 residential and small commercial customers at a market price that permits recovery  
31 of the verifiable, prudently incurred costs to procure or produce the electricity plus a  
32 reasonable return.

33 2. The Commission shall reexamine the finding made under  
34 this subparagraph at least annually.

35 (4) On or before July 1, 2001, the Commission shall adopt regulations or  
36 issue orders to establish procedures for the competitive selection of electricity

1 suppliers, including an affiliate of an electric company, to provide standard offer  
2 service to customers of electric companies under paragraph (2) of this subsection,  
3 except for customers of electric cooperatives and municipal electric utilities. Unless  
4 delayed by the Commission, the competitive selection shall take effect no later than  
5 July 1, 2003.]

6           [(5)]   (3)     An electric company may PRODUCE THE ELECTRICITY OR  
7 procure the electricity needed to meet its standard offer service electricity supply  
8 obligation from any electricity supplier, including an affiliate of the electric company,  
9 IN ACCORDANCE WITH ORDERS OR REGULATIONS OF THE COMMISSION.

10           (4)     THE REGULATION OF TERMS, CONDITIONS, AND RATES FOR  
11 STANDARD OFFER SERVICE UNDER TITLE 4 OF THIS ARTICLE SHALL INCLUDE  
12 PHASED IMPLEMENTATION OF ELECTRICITY RATES AS NEEDED TO PROTECT  
13 CUSTOMERS FROM THE IMPACT OF SUDDEN AND SIGNIFICANT INCREASES IN  
14 ELECTRICITY RATES.

15 7-512.1.

16       (a)   (1)     The Commission shall establish an electric universal service program  
17 to assist electric customers with annual incomes at or below 150% of the federal  
18 poverty level.

19           (2)     The components of the electric universal service program shall  
20 include:

21                   (i)     bill assistance, at a minimum of 50% of the determined need;

22                   (ii)    low-income weatherization; and

23                   (iii)   the retirement of arrearages for electric customers who have not  
24 previously received assistance in retiring arrearages under the universal service  
25 program, not to exceed a total of \$1.5 million in any given fiscal year.

26           (3)     The Department of Housing and Community Development is  
27 responsible for administering the low-income weatherization component of the  
28 electric universal service program.

29           (4)     The Department of Human Resources, through the Office of Home  
30 Energy Programs, is responsible for administering the bill assistance and the  
31 arrearage retirement components of the electric universal service program.

32           (5)     The Department of Human Resources may, with input from a panel  
33 or roundtable of interested parties, contract to assist in administering the bill  
34 assistance and the arrearage retirement components of the electric universal service  
35 program.

36           (6)     The Commission has oversight responsibility for the bill assistance  
37 and the arrearage retirement components of the electric universal service program.

1 (7) In a specific case, the electric universal service program may waive  
2 the income eligibility limitation under paragraph (1) of this subsection in order to  
3 provide assistance to an electric customer who would qualify for a similar waiver  
4 under the Maryland Energy Assistance Program established under Article 41, § 6-406  
5 of the Code.

6 (b) (1) All customers shall contribute to the funding of the electric universal  
7 service program through a charge collected by each electric company.

8 (2) The Commission shall determine a fair and equitable allocation for  
9 collecting the charges among all customer classes pursuant to subsection (e) of this  
10 section.

11 (3) In accordance with subsection (f)(6) of this section, any unexpended  
12 bill assistance and arrearage retirement funds returned to customers under  
13 subsection (f) of this section shall be returned to each customer class as a credit in the  
14 same proportion that the customer class contributed charges to the fund.

15 (4) [An] EXCEPT AS PROVIDED IN SUBSECTION (E)(3) OF THIS SECTION,  
16 AN electric company shall recover electric universal service program costs in  
17 accordance with § 7-512 of this subtitle.

18 (5) The Commission shall determine the allocation of the electric  
19 universal service charge among the generation, transmission, and distribution rate  
20 components of all classes.

21 (6) The Commission may not assess the electric universal service  
22 surcharge FOR FUNDS COLLECTED UNDER SUBSECTION (E)(1) OR (2) OF THIS  
23 SECTION on a per kilowatt-hour basis.

24 (e) The total amount of funds to be collected for the electric universal service  
25 program each year shall be [\$34,000,000] \$40 MILLION, allocated in the following  
26 manner:

27 (1) \$24.4 million shall be collected from the industrial and commercial  
28 classes; [and]

29 (2) \$9.6 million shall be collected from the residential class; AND

30 (3) \$6 MILLION SHALL BE COLLECTED FROM THE ADMINISTRATIVE  
31 CHARGE INCLUDED IN THE RATES FOR STANDARD OFFER SERVICE ESTABLISHED BY  
32 THE COMMISSION UNDER TITLE 4 OF THIS ARTICLE.

33 (f) (1) In this subsection, "Fund" means the Electric Universal Service  
34 Program Fund.

35 (2) There is an Electric Universal Service Program Fund.



1 treated as a regulatory asset or otherwise be borne by customers of standard offer  
2 service.

3       SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency  
4 measure, is necessary for the immediate preservation of the public health or safety,  
5 has been passed by a ye and nay vote supported by three-fifths of all the members  
6 elected to each of the two Houses of the General Assembly, and shall take effect from  
7 the date it is enacted.