
By: **Senators Green, Brochin, Conway, Della, Dyson, Frosh, Giannetti,
Gladden, Hollinger, Jimeno, and Klausmeier**

Constitutional Requirements Complied with for Introduction in the last 35 Days of
Session

Introduced and read first time: March 24, 2006

Rules suspended

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Electric Companies - Taxes Attributed to Regulated Operations**

3 FOR the purpose of requiring an electric company to file a certain tax report with the
4 Public Service Commission on or before a certain date each year; providing for
5 the contents of the tax report; authorizing the Commission to require an electric
6 company to identify and offer supporting detail for certain items of tax expenses
7 collected in rates; authorizing the Commission to disclose certain information
8 under certain circumstances; requiring the Commission to review the tax report
9 and make a certain determination within a certain time period; requiring the
10 Commission to issue a certain order that requires a certain electric company to
11 establish a certain automatic adjustment clause within a certain time period
12 under certain circumstances; requiring a certain automatic adjustment clause to
13 remain in effect until the Commission issues a certain order under certain
14 circumstances; requiring a certain automatic adjustment clause account for
15 certain taxes for a certain purpose under certain circumstances; prohibiting a
16 certain automatic adjustment clause from being used to make certain
17 adjustments to certain rates under certain circumstances; authorizing the
18 Commission to allow an electric company to include certain taxes and tax
19 requirements and benefits in certain rates under certain circumstances;
20 requiring the Commission to issue a certain order to terminate a certain
21 automatic adjustment clause under certain circumstances; providing for the
22 contents of a certain order; requiring the Commission to hold a certain hearing
23 before issuing a certain order under certain circumstances; prohibiting the
24 Commission from using certain tax information for certain purposes; providing
25 that certain taxes that are properly attributed to the regulated operations of a
26 certain electric company may not exceed a certain amount; defining certain
27 terms; and generally relating to taxes attributed to regulated operations of
28 public service companies.

29 BY adding to

30 Article - Public Utility Companies

1 Section 7-106
2 Annotated Code of Maryland
3 (1998 Volume and 2005 Supplement)

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

6 **Article - Public Utility Companies**

7 7-106.

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (2) "AFFILIATED GROUP" MEANS AN AFFILIATED GROUP OF
11 CORPORATIONS OF WHICH THE ELECTRIC COMPANY IS A MEMBER AND THAT FILES
12 A CONSOLIDATED FEDERAL INCOME TAX RETURN.

13 (3) "AUTOMATIC ADJUSTMENT CLAUSE" MEANS A PROVISION OF A RATE
14 SCHEDULE THAT PROVIDES FOR RATE INCREASES OR DECREASES OR BOTH,
15 WITHOUT PRIOR HEARING, REFLECTING INCREASES OR DECREASES OR BOTH IN
16 COSTS INCURRED, TAXES PAID TO THE FEDERAL GOVERNMENT OR THE STATE OR A
17 LOCAL GOVERNMENT, OR REVENUES EARNED BY AN ELECTRIC COMPANY THAT IS
18 SUBJECT TO REVIEW BY THE COMMISSION.

19 (B) ON OR BEFORE OCTOBER 15 OF EACH YEAR, AN ELECTRIC COMPANY
20 SHALL FILE A TAX REPORT WITH THE COMMISSION FOR THE PRECEDING YEAR.

21 (C) THE TAX REPORT SHALL CONTAIN THE FOLLOWING INFORMATION:

22 (1) THE AMOUNT OF TAXES THE ELECTRIC COMPANY OR THE
23 AFFILIATED GROUP PAID IN THE 4 PRECEDING YEARS THAT WAS PROPERLY
24 ATTRIBUTED TO THE REGULATED OPERATIONS OF THE ELECTRIC COMPANY,
25 REGARDLESS OF THE TAX YEAR FOR WHICH THE TAXES WERE PAID;

26 (2) THE AMOUNT OF TAXES AUTHORIZED TO BE COLLECTED IN RATES
27 FOR THE 3 PRECEDING YEARS;

28 (3) THE METHODOLOGY USED TO APPORTION TAX EXPENSE BETWEEN
29 REGULATED AND NONREGULATED ENTITIES; AND

30 (4) ANY OTHER INFORMATION THAT THE COMMISSION CONSIDERS
31 NECESSARY TO REVIEW THE TAX REPORT AND IMPLEMENT THIS SUBTITLE.

32 (D) THE COMMISSION MAY REQUIRE AN ELECTRIC COMPANY TO IDENTIFY, AN
33 OFFER SUPPORTING DETAIL FOR, ANY ITEM OF TAX EXPENSE COLLECTED IN RATES
34 INCLUDING ANY ITEM ADDING OR SUBTRACTING AN AMOUNT FROM ITS RESERVES
35 FOR TAX EXPENSE.

1 (E) THE COMMISSION MAY DISCLOSE THE AMOUNT BY WHICH THE AMOUNT
2 OF TAXES THAT THE FEDERAL GOVERNMENT OR THE STATE OR A LOCAL
3 GOVERNMENT RECEIVED FROM THE ELECTRIC COMPANY OR AFFILIATED GROUP
4 DIFFERS FROM THE AMOUNT OF COSTS FOR TAXES COLLECTED, DIRECTLY OR
5 INDIRECTLY, AS PART OF RATES PAID BY CUSTOMERS, INCLUDING WHETHER THE
6 DIFFERENCE IS POSITIVE OR NEGATIVE.

7 (F) (1) WITHIN 90 DAYS AFTER A TAX REPORT IS FILED, THE COMMISSION
8 SHALL REVIEW THE TAX REPORT AND ANY OTHER INFORMATION THE COMMISSION
9 HAS OBTAINED AND DETERMINE WHETHER THE AMOUNT OF TAXES COLLECTED IN
10 RATES OR OTHERWISE COLLECTED FROM RATEPAYERS FOR ANY OF THE 4
11 PRECEDING YEARS DIFFERED BY \$100,000 OR MORE FROM THE AMOUNT OF TAXES
12 PAID THAT IS PROPERLY ATTRIBUTED TO THE REGULATED OPERATIONS OF THE
13 ELECTRIC COMPANY.

14 (2) WITHIN 30 DAYS AFTER THE COMMISSION MAKES ITS
15 DETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION
16 SHALL REQUIRE THE ELECTRIC COMPANY TO ESTABLISH AN AUTOMATIC
17 ADJUSTMENT CLAUSE IF THE COMMISSION DETERMINES THAT THE AMOUNT OF
18 TAXES COLLECTED IN RATES OR OTHERWISE COLLECTED FROM RATEPAYERS FOR
19 ANY OF THE 4 PRECEDING YEARS DIFFERED BY \$100,000 OR MORE FROM THE
20 AMOUNT OF TAXES PAID THAT IS PROPERLY ATTRIBUTED TO THE REGULATED
21 OPERATIONS OF THE ELECTRIC COMPANY.

22 (G) (1) IF THE RATE ADJUSTMENT IS MADE UNDER AN AUTOMATIC CLAUSE
23 ADJUSTMENT IN ACCORDANCE WITH THIS SECTION, THE AUTOMATIC ADJUSTMENT
24 CLAUSE SHALL REMAIN IN EFFECT FOR EACH SUCCESSIVE YEAR AFTER AN
25 ADJUSTMENT IS MADE UNTIL AN ORDER TERMINATING THE AUTOMATIC
26 ADJUSTMENT CLAUSE IS ISSUED UNDER PARAGRAPH (5) OF THIS SUBSECTION.

27 (2) THE AUTOMATIC ADJUSTMENT CLAUSE SHALL ACCOUNT FOR ALL
28 TAXES PAID BY THE ELECTRIC COMPANY OR THE AFFILIATED GROUP THAT ARE
29 PROPERLY ATTRIBUTED TO THE REGULATED OPERATIONS OF THE ELECTRIC
30 COMPANY AND ALL TAXES THAT ARE AUTHORIZED TO BE COLLECTED THROUGH
31 RATES, SO THAT RATEPAYERS ARE NOT CHARGED FOR MORE TAX THAN:

32 (I) THE ELECTRIC COMPANY PAYS THAT IS PROPERLY
33 ATTRIBUTED TO THE REGULATED OPERATIONS OF THE ELECTRIC COMPANY; OR

34 (II) IN THE CASE OF AN AFFILIATED GROUP, THE AFFILIATED
35 GROUP PAYS THAT IS PROPERLY ATTRIBUTED TO THE REGULATED OPERATIONS OF
36 THE ELECTRIC COMPANY.

37 (3) AN AUTOMATIC ADJUSTMENT CLAUSE MAY NOT BE USED TO MAKE
38 ADJUSTMENTS TO RATES FROM TAXES PAID THAT ARE PROPERLY ATTRIBUTED TO
39 ANY UNREGULATED AFFILIATE OF THE ELECTRIC COMPANY OR TO THE PARENT OF
40 THE ELECTRIC COMPANY.

41 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THE SECTION, THE
42 COMMISSION MAY AUTHORIZE AN ELECTRIC COMPANY TO INCLUDE IN RATES:

1 (I) DEFERRED TAXES RESULTING FROM ACCELERATED
2 DEPRECIATION OR OTHER TAX TREATMENT OF UTILITY INVESTMENT; AND

3 (II) TAX REQUIREMENTS AND BENEFITS THAT ARE REQUIRED TO
4 BE INCLUDED IN ORDER TO ENSURE COMPLIANCE WITH THE NORMALIZATION
5 REQUIREMENTS OF FEDERAL TAX LAW.

6 (5) (I) IF THE COMMISSION DETERMINES THAT ESTABLISHING AN
7 AUTOMATIC ADJUSTMENT CLAUSE WOULD HAVE A MATERIAL ADVERSE EFFECT ON
8 CUSTOMERS OF AN ELECTRIC COMPANY, THE COMMISSION SHALL ISSUE AN ORDER
9 TERMINATING THE AUTOMATIC ADJUSTMENT CLAUSE.

10 (II) THE ORDER SHALL SET FORTH THE REASONS FOR THE
11 COMMISSION'S DETERMINATION UNDER THIS SUBSECTION.

12 (III) BEFORE ISSUING AN ORDER UNDER THIS PARAGRAPH, THE
13 COMMISSION SHALL HOLD A PUBLIC HEARING TO DETERMINE WHETHER THE
14 AUTOMATIC ADJUSTMENT CLAUSE WOULD HAVE A MATERIAL ADVERSE EFFECT ON
15 CUSTOMERS OF THE ELECTRIC COMPANY.

16 (H) THE COMMISSION MAY NOT USE THE TAX INFORMATION OBTAINED
17 UNDER THIS SECTION FOR ANY PURPOSE OTHER THAN THOSE DESCRIBED IN THIS
18 SECTION.

19 (I) FOR PURPOSES OF THIS SECTION, TAXES PAID THAT ARE PROPERLY
20 ATTRIBUTED TO THE REGULATED OPERATIONS OF THE ELECTRIC COMPANY MAY
21 NOT EXCEED THE LESSER OF:

22 (1) THE PORTION OF THE TOTAL TAXES PAID THAT IS INCURRED AS A
23 RESULT OF INCOME GENERATED BY THE REGULATED OPERATIONS OF THE
24 ELECTRIC COMPANY; AND

25 (2) THE TOTAL AMOUNT OF TAXES PAID BY THE ELECTRIC COMPANY OR
26 THE AFFILIATED GROUP.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 June 1, 2006.