
By: **Senator Astle**

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

Introduced and read first time: March 30, 2006

Rules suspended

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Service Companies - Issuance and Holding of Capital Stock and Debt**

3 FOR the purpose of providing that certain provisions of law do not prohibit a public
4 service company from continuing to hold the capital stock of another public
5 service company that it held on a certain date; providing that certain provisions
6 of law do not apply to the issuance in a certain manner of stock, bonds,
7 securities, notes, or other evidences of indebtedness by certain public service
8 companies that operate, but are not incorporated, in Maryland on or before a
9 certain date; providing that certain provisions of law do not prohibit a public
10 service company from continuing to hold the capital stock of another public
11 service company or a subsidiary or an affiliate of a public service company that
12 it held on a certain date; making this Act an emergency measure; making this
13 Act contingent on the taking effect of another Act; and generally relating to the
14 issuance and holding of capital stock and debt by public service companies.

15 BY repealing and reenacting, with amendments,
16 Article - Public Utility Companies
17 Section 5-203 and 6-101
18 Annotated Code of Maryland
19 (1998 Volume and 2005 Supplement)
20 (As enacted by Chapter ____ (H.B. 1713) of the Acts of the General Assembly of
21 2006)

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

1

Article - Public Utility Companies

2 5-203.

3 (a) (1) Subject to § 6-101 of this article, without prior authorization of the
4 Commission, a public service company may not purchase, acquire, take, or hold any
5 part of the capital stock of another public service company that operates in Maryland.

6 (2) THIS SUBSECTION DOES NOT PROHIBIT A PUBLIC SERVICE COMPANY
7 FROM CONTINUING TO HOLD THE CAPITAL STOCK OF ANOTHER PUBLIC SERVICE
8 COMPANY THAT IT HELD ON MARCH 29, 2006.

9 (b) (1) This subsection applies to corporations that operate in Maryland.

10 (2) Without prior authorization of the Commission, a public service
11 company may not:

12 (i) assume or guarantee an obligation or liability with respect to
13 stocks, bonds, securities, notes, or other evidence of indebtedness that is payable as a
14 whole or in part to any person more than 12 months after the date of issuance; or

15 (ii) issue stocks, bonds, securities, notes, or other evidence of
16 indebtedness payable as a whole or in part more than 12 months after the date of
17 issuance.

18 (3) Stocks, bonds, securities, notes, or other evidence of indebtedness
19 described under paragraph (2)(ii) of this subsection shall be issued in accordance with
20 §§ 6-102 and 6-103 of this article.

21 (4) FOR A PUBLIC SERVICE COMPANY THAT IS OPERATING, BUT IS NOT
22 INCORPORATED, IN MARYLAND ON OR BEFORE MARCH 29, 2006, SUBSECTION (B)(2) OF
23 THIS SECTION DOES NOT APPLY TO THE ISSUANCE OF ANY STOCK, BOND, SECURITY,
24 NOTE, OR OTHER EVIDENCE OF INDEBTEDNESS THAT IS ISSUED:

25 (I) IN ACCORDANCE WITH A REGISTRATION STATEMENT UNDER
26 THE SECURITIES ACT OF 1933, AS AMENDED, FILED WITH THE UNITED STATES
27 SECURITIES AND EXCHANGE COMMISSION ON OR BEFORE JUNE 30, 2006; OR

28 (II) IN ACCORDANCE WITH AN ORDER ISSUED ON OR BEFORE JUNE
29 30, 2006, BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION, THE
30 FEDERAL ENERGY REGULATORY COMMISSION, OR A REGULATORY AUTHORITY OF
31 ANOTHER STATE THAT PERFORMS FUNCTIONS SUBSTANTIALLY SIMILAR TO THOSE
32 PERFORMED BY THE COMMISSION.

33 6-101.

34 (a) (1) This subsection applies only to corporations that operate in
35 Maryland.

1 (2) A public service company shall obtain authorization from the
2 Commission before the public service company:

3 (i) assumes or guarantees an obligation or liability with respect to
4 stocks, bonds, securities, notes, or other evidence of indebtedness of any person that is
5 payable wholly or partly more than 12 months after the date of the assumption or
6 guarantee; or

7 (ii) issues stocks, bonds, securities, notes, or other evidence of
8 indebtedness that is payable wholly or partly more than 12 months after the date
9 issued.

10 (3) An issuance under paragraph (2)(ii) of this subsection shall conform
11 to §§ 6-102 and 6-103 of this subtitle.

12 (4) FOR A PUBLIC SERVICE COMPANY THAT IS OPERATING, BUT IS NOT
13 INCORPORATED, IN MARYLAND ON OR BEFORE MARCH 29, 2006, SUBSECTION (A)(2) OF
14 THIS SECTION DOES NOT APPLY TO THE ISSUANCE OF ANY STOCK, BOND, SECURITY,
15 NOTE, OR OTHER EVIDENCE OF INDEBTEDNESS THAT IS ISSUED:

16 (I) IN ACCORDANCE WITH A REGISTRATION STATEMENT UNDER
17 THE SECURITIES ACT OF 1933, AS AMENDED, FILED WITH THE UNITED STATES
18 SECURITIES AND EXCHANGE COMMISSION ON OR BEFORE JUNE 30, 2006; OR

19 (II) IN ACCORDANCE WITH AN ORDER ISSUED ON OR BEFORE JUNE
20 30, 2006, BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION, THE
21 FEDERAL ENERGY REGULATORY COMMISSION, OR A REGULATORY AUTHORITY OF
22 ANOTHER STATE THAT PERFORMS FUNCTIONS SUBSTANTIALLY SIMILAR TO THOSE
23 PERFORMED BY THE COMMISSION.

24 (b) (1) Subject to the requirements of subsection (c) of this section, the
25 Commission may authorize an act described under subsection (a)(2) of this section if
26 the Commission finds that the act is consistent with the public convenience and
27 necessity.

28 (2) Authorization under this subsection does not:

29 (i) revive a lapsed franchise, validate an invalid franchise, or add
30 to the powers and privileges in a franchise; or

31 (ii) waive a forfeiture.

32 (c) (1) This subsection does not apply to the formation of a holding company
33 by a public service company in a corporate reorganization that involves an exchange
34 of stock of the public service company for stock in the holding company.

35 (2) In this subsection, a company controlling a public service company is
36 deemed a public service company of the same class as the controlled public service
37 company.

1 (3) (I) Without prior authorization of the Commission, a public service
2 company may not take, hold, or acquire any part of the capital stock of a public service
3 company or of a subsidiary or affiliate, as defined in § 7-501 of this Article, of a public
4 service company that:

5 [(i)] 1. operates in Maryland; and

6 [(ii)] 2. is of the same class as the acquiring company.

7 (II) THIS PARAGRAPH DOES NOT PROHIBIT A PUBLIC SERVICE
8 COMPANY FROM CONTINUING TO HOLD THE CAPITAL STOCK OF ANY PUBLIC
9 SERVICE COMPANY, OR OF A SUBSIDIARY OR AFFILIATE OF A PUBLIC SERVICE
10 COMPANY, THAT IT HELD ON MARCH 29, 2006.

11 (4) (i) Except as provided in subparagraph (ii) of this paragraph, a
12 stock corporation may not take, hold, or acquire more than 10% of the total capital
13 stock of a public service company that operates in Maryland unless:

14 1. the stock is acquired as collateral security; and

15 2. the Commission approves the acquisition.

16 (ii) The Commission may authorize a public service company of the
17 same class to take, hold, or acquire more than 10% of the total capital stock of a public
18 service company or of a subsidiary or affiliate, as defined in § 7-501 of this Article, of
19 a public service company that operates in Maryland.

20 (III) THIS PARAGRAPH DOES NOT PROHIBIT A PUBLIC SERVICE
21 COMPANY FROM CONTINUING TO HOLD THE CAPITAL STOCK OF ANY PUBLIC
22 SERVICE COMPANY THAT IT HELD ON MARCH 29, 2006.

23 (5) A public service company may not be a party to a violation of this
24 subsection.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 from the date it is enacted, contingent on the taking effect of Chapter ____ (H.B. 1713)
27 of the Acts of the General Assembly of 2006, and if Chapter ____ does not become
28 effective, this Act shall be null and void without the necessity of further action by the
29 General Assembly.

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