

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 1020  
Finance

(Senator Green)

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**Electric Companies or Electric and Gas Companies - Merger or Acquisition -  
General Assembly Approval Required**

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This bill requires prior General Assembly approval, through legislation, of an acquisition or merger where one of the parties involved is an electric company, electric and gas company, or a person that owns or controls an electric company or electric and gas company in Maryland.

The bill takes effect June 1, 2006.

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**Fiscal Summary**

**State Effect:** The bill would not directly affect State finances.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** The Public Service Commission's (PSC) authority to oversee mergers and purchases of public service companies operating in the State is a part of its general, supervisory, and regulatory powers under the Public Utilities Article. Certain provisions explicitly require public service companies to seek permission from PSC prior to undertaking specified activities. A public service company must receive authorization from PSC prior to assigning, leasing, or transferring a franchise or right under a franchise. Without prior approval, a public service company may not purchase, acquire,

take, or hold any part of the capital stock or indebtedness of another public service company incorporated in Maryland.

**Background:** On December 19, 2005, FPL Group, Inc. and Constellation Energy Group, Inc. announced the signing of a definitive agreement to create the nation's largest competitive energy supplier. Constellation Energy is the parent company of Baltimore Gas & Electric (BGE) which supplies electricity to more than 1 million residential and business customers in the State and supplies gas to over 600,000 gas customers in 10 counties and Baltimore City. On January 23, 2006, BGE submitted a petition to PSC with respect to the proposed merger resulting in PSC opening Case No. 9054. Subsequently, Constellation Energy Group has challenged PSC's jurisdiction over the matter. The Federal Energy Regulatory Commission (FERC) is conducting a separate proceeding to consider the matter.

FERC has authority under the federal Power Act to review mergers. It must approve a merger if it finds that the consolidation will be consistent with the public interest. The analysis under its merger policy statement of whether a consolidation is consistent with the public interest generally involves consideration of three factors: (1) the effect on competition; (2) the effect on rates; and (3) the effect on regulation.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 9, 2006  
mam/jr

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