

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 972

(Senator Green, *et al.*)

Finance

Public Service Companies - Electric Companies and Electricity Suppliers -
Regulation

This bill returns electricity generation to the status of a public service company subject to regulation by the Public Service Commission (PSC) by repealing specified provisions relating to the deregulation of electricity generation.

The bill takes effect June 1, 2006, except the repeal of provisions regarding certain cost recovery by an electric company takes effect January 1, 2010.

Fiscal Summary

State Effect: Potential change in property tax revenues from a change in the category of property assessments. To the extent that reregulation lowers electricity prices, State expenditures would decrease.

Local Effect: Potential change in property tax revenues from a change in the category of property assessments. To the extent that reregulation lowers electricity prices, expenditures would decrease.

Small Business Effect: Potential minimal. To the extent that reregulation lowers electricity prices, small business expenses would decrease.

Analysis

Bill Summary:

Major Deregulation Provisions Changed

The bill makes the following major changes to the current deregulation of electricity generation:

- requires an electric company and an electricity supplier to apply to PSC to adjust its rates and charges. PSC then must hold evidentiary hearings and investigate the application to determine whether the rate increase or decrease is justified and based on its findings may allow or disallow the rate change;
- repeals rate caps and rate reductions, which becomes unnecessary with PSC regulation of the rates;
- repeals provisions allowing for the recovery of stranded and transition costs resulting from electricity deregulation;
- allows electric companies to buy or build generation facilities, but prohibits them from passing on to the rate payers the cost of reacquiring generation assets that the companies sold or transferred to affiliates; and
- requires PSC to consider the need to meet existing and future demand for electric service before taking final action on an application for a certificate of public convenience and necessity.

Major Deregulation Provisions Unchanged

The bill leaves intact the following major provisions of the current deregulation of electricity generation:

- electricity customer choice of an electricity supplier is retained;
- the unbundling of an electric company's rates, charges, and services are unaffected. Distribution, transmission, and generation charges must be separately stated on a customer's bill;

- the licensing requirements of an electricity supplier is retained; and
- the Energy Universal Service Program is unchanged.

The bill also provides that the Department of Legislative Services (DLS) may conduct an audit and study of the fuel procurement and purchasing practices of an electric company or electric supplier and examine an audit issued by or generated at the direction of PSC.

Current Law: As of July 1, 2000, all customers of electric companies have the opportunity for choice of electric suppliers. However, a customer has the option to remain with the supplier of the electric utility under standard offer service (SOS). Any obligation of the electric company to continue to offer SOS expired on July 1, 2003 unless PSC found that the market was not competitive. Then PSC could extend the requirement to provide SOS to residential and small commercial customers at a market price that permits recovery of the verifiable, prudently incurred costs to procure or produce the electricity plus a reasonable return. PSC is to reexamine whether the market is competitive annually. An electric company may procure the electricity needed to meet its SOS from any electricity supplier, including an affiliate of the electric company.

In settlement agreements with each of the State's investor-owned utilities, PSC has extended the obligation to provide SOS. The Electric Customer Choice and Competition Act of 1999 required price caps with statewide rate reductions for four years which could be extended by settlement agreement. Under the final settlement agreements, the price caps required under the Electric Utility Restructuring Act of 1999 expired in PEPCO and Delmarva service territories on July 1, 2004, and are scheduled to expire in the BGE service territory on July 1, 2006, and in the Allegheny service territory on January 1, 2009. Because there continues to be little competition in residential electric service in the State, PSC has extended the obligation to provide SOS in the PEPCO, Delmarva, and BGE service territories by four years after the expiration of the price caps.

Background: It is anticipated that energy costs are going to increase substantially this summer, the same time that the BGE rate freeze is set to expire on July 1, 2006. Based on the recent bidding process for the market priced SOS, BGE residential rates will increase by an average of 72% beginning in July 2006. The average bill will increase by 39% for PEPCO residential customers, and by 35% for Delmarva Power and Light residential customers. As a proactive measure, on January 10, 2006, PSC initiated a proceeding to investigate and take actions it may find appropriate to deal with the anticipated price increases. PSC staff developed a mitigation plan for BGE's generation price increase which was adopted on March 6, 2006. The mitigation plan contains the following features:

- The BGE Rate Stabilization Plan (the plan) begins in July 2006 and ends May 2008 for most residential customers. This two-year rate mitigation plan allows customers the option of more gradually adjusting to market rates over an extended period of time.
- Low-income customers participating in the Electric Universal Service Program will receive an option of a three-year rate mitigation plan.
- As part of the plan, the initial increases will be limited to 21% and customers will receive credits to the distribution portion of their bill from July 2006 to February 2007. For the remaining period of the plan, customers will receive a charge to the distribution portion of their bill to recover the credited amount. At the conclusion of the program, a final true-up will occur for program participants.
- The plan will serve as the default option for residential customers. Customers who wish to pay the full price of electricity beginning July 1, 2006 will have that opportunity.
- BGE will pay the full market price of the electric generation even though customers will only be paying the mitigated amount. PSC has determined that the appropriate interest rate for recovering this short-term deferred balance is 5.0%.
- BGE is required to work with PSC and other interested parties to develop a consumer education plan and enrollment details which must be submitted to PSC by March 31, 2006.

State Effect: The extent to which the reregulation of electricity supply will affect the assessed value of utility property is uncertain at this time. Since the 1999 Act most of the electric generating plants in Maryland have been sold or transferred to unregulated entities. Currently, the State Department of Assessments and Taxation (SDAT) treats these plants as *nonutility generators*, except for the Constellation Energy plants, Southern Maryland Electric Cooperative's Chalk Point plant, PECO's Susquehanna plant, and A&N Electric Cooperative's Smith Island plant, all of which are assessed as *operating utility property*.

Nonutility generators are assessed differently than the properties that have remained a part of utility operating units. For the electric generating plants that are not part of utility operating units, the real property is assessed by the local State assessment office. These properties are valued similarly to other commercial and industrial real properties using the ordinary valuation method. Personal property of electric generating plants is assessed

centrally by SDAT based on original cost less standard depreciation. Conversely, public utilities are centrally assessed by SDAT using income and cost approaches to value. The values for real property and personal property are allocated before certification to local governments for tax billing.

The sale of the utility generators set the market value for the nonutility generators. The plants for all the utilities except for SMECO, A&N, and PECO have transferred outside of the operating units, some to unrelated entities, and the BGE plants are currently treated as a part of the operating unit but may be removed in the near future when the connection between generation and distribution is severed with customer choice beginning in July 2006. The effect of this bill, by allowing the repurchase of generating assets, is uncertain. Operating property of a public utility has always been assessed at 100% of its value. When the State went to 100% assessments for real property, the rate applied to both operating utility real and personal property was adjusted to 2.5 times the real property rate. One result of deregulation and the sale of utility generator plants to nonutility generators has been that the real property of these plants is taxed at a lower rate. However, those sales have resulted, in some cases, in a higher value for the property for assessment purposes.

Even though utilities are valued in a different manner, it cannot be determined whether the property would be valued higher or lower under the ordinary valuation method. Public utility real property is taxed at a higher rate than ordinary taxpayers, but the increased tax that they pay on their real property as utilities could be more than offset by a higher value that their property might have under ordinary valuation methods but the overall fiscal impact is uncertain – it could be positive, negative, or neutral.

Additional Comments: The bill's amendment to the definition of electric company may inadvertently have changed to it so as only a municipal corporation in the business of supplying electricity for other than municipal purposes is considered an electric company. This note has been drafted to the intention of this bill, to reregulate all electric generation.

Additional Information

Prior Introductions: None.

Cross File: HB 1736 (Delegate McMillan, *et al.*) – Rules and Executive Nominations.

Information Source(s): State Department of Assessments and Taxation, Maryland Department of Planning, Department of Natural Resources, Maryland Department of the

Environment, Public Service Commission, Office of People's Counsel, Department of
Legislative Services

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