

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1654
Economic Matters

(Delegate Doory, *et al.*)

Commission to Study the Proposed Merger of FPL Group, Inc. and Constellation Energy Group, Inc. and Rate Cap Extension

This bill establishes a Commission to Study the Proposed Merger of FPL Group, Inc. and Constellation Energy Group, Inc. The commission must collect and review specified information related to the merger of FPL Group and Constellation Energy Group and study the likelihood and impact of cross-subsidization. A report is due by December 31, 2006. The Office of the Attorney General must provide staff for the commission, and the commission may request assistance from the Public Service Commission (PSC), the Office of People's Counsel, and the Office of the Attorney General.

The bill also provides that any rate cap in effect for an electric company on January 1, 2006 will remain in effect until the later of July 1, 2007 or when the rate cap is set to expire under a settlement agreement.

The bill takes effect June 1, 2006 and terminates on May 31, 2008.

Fiscal Summary

State Effect: Any expense reimbursements for commission members and staffing costs for the Office of the Attorney General are assumed to be minimal and absorbable within existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: PSC's 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. More specifically, PSC must review certain agreements to determine whether they will affect the exercise of a franchise for a public service, and whether the acquisition is consistent with the public convenience and necessity.

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 also conducting a separate proceeding to consider the matter.

FERC has power 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.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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

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