

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 1107

(Senator Astle)

Finance

Economic Matters

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

This emergency bill provides that for a public service company operating, but not incorporated, in Maryland on or before March 29, 2006, authorization from the Public Service Commission (PSC) is not required for the issuance of any stock, bond, security, note, or other evidence of indebtedness. The issuance must be in accordance with a registration statement under the federal Securities Act of 1933 or in accordance with an order issued on before June 30, 2006 by the U.S. Securities and Exchange Commission, the Federal Energy Regulatory Commission, or a regulatory authority of another state that performs functions substantially similar to those performed by PSC. The bill also provides that a public service company is not prohibited from continuing to hold the capital stock of any public service company, or of a subsidiary or affiliate that it held on March 29, 2006.

The bill is contingent on enactment of HB 1713 of 2006.

Fiscal Summary

State Effect: The bill's requirements could be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: 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: This bill is a curative bill to correct unintended consequences from the passage of HB 1713, an emergency bill, which sets out application and PSC review requirements related to electric or gas company acquisitions and mergers involving either a public service company or a nonpublic service company. That bill also provides that certain stock and obligation activities of a public service company that *operates* in the State are subject to PSC approval, which currently only applies to a company *incorporated* in the State.

This bill would allow Pepco, as well as Washington Energy and Gas, to continue with current long-term debt refinancing. Under HB 1713, if a public service company *operates* in the State, they would need prior approval to issue specified debt. HB 1713 would require prior approval of PSC immediately because of its emergency status. Both companies are incorporated in other states so under current law, prior PSC approval is not required. This bill would allow them to continue with their current process but require them to have prior approval in the future.

Concerns arose that under HB 1713 certain utility companies would be violating the law because that bill requires prior PSC approval to hold stock of another public service company. Under current law, a public service company does not need approval to hold stock if it is not incorporated in the State. Under HB 1713 they need prior approval because it would change current law to *operate* in the State.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Public Service Commission, Office of People's Counsel, Department of Legislative Services

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ncs/jr

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