

BY: Delegate O'Donnell

AMENDMENTS TO SENATE BILL NO. 1  
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike line 2 in its entirety and substitute:

“Electric Restructuring - Standard Offer Service - Rate Stabilization”.

On pages 1 through 3, strike in their entirety the lines beginning with line 3 on page 1 through line 23 on page 3, inclusive, and substitute:

“FOR the purpose of requiring the Public Service Commission to extend the obligation to provide standard offer service to certain electric customers unless the Commission makes certain findings; altering certain findings and terms for certain extended service; requiring certain electric companies to obtain electricity supply for certain extended service to certain customers in certain manners; authorizing the Commission to take certain actions concerning certain competitive auctions and implementation of certain electricity rates; providing that certain contracts remain in force under certain circumstances; altering the amount and sources of funds to be assessed for the Electric Universal Service Program each year; altering the eligibility of certain customers for the Program; authorizing bill assistance under the Program to be paid on a monthly basis; requiring the collection of certain funds for the Program in a certain manner; authorizing an electric company to file certain rate stabilization plans and tariffs with the Commission; requiring a certain order of the Commission to include a requirement that an electric company establish certain regulatory assets and that customers be given the option to opt-in to the deferral of the recovery of certain costs; providing for the deferral and collection of certain costs and expenses; providing for the establishment and characteristics of rate stabilization property; providing for the issuance of qualified rate orders for certain purposes under certain circumstances; providing for the issuance of certain rate stabilization bonds for certain purposes; providing for the establishment, collection, and adjustment of certain rate stabilization charges in certain

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matters; providing for certain property rights in certain rate stabilization property; providing that certain transfers of certain property are true sales; requiring disclosure of certain information to certain consumers in a certain manner; providing for certain actions in the event of certain defaults; establishing certain rights and duties for a successor to an electric company for certain purposes; establishing certain maximum rates for certain residential electric customers for certain periods; providing for the deferral and collection of certain costs and expenses of certain electric companies related to those customers in certain manners; providing for the determination and application of certain credits of a certain amount for a certain number of years by certain electric companies in certain manners; providing that this Act binds the Commission and any successor body in a certain manner; requiring the Commission to initiate certain proceedings to study and report on certain matters; requiring the Department of Assessments and Taxation to study and report on certain matters; directing the Attorney General to intervene in certain proceedings regarding a certain merger; requiring that certain costs be borne by public service companies in a certain manner; providing for a certain mitigation plan for certain electric companies; requiring the Commission to initiate a certain proceeding to investigate certain options for standard offer service in a certain service territory; providing that the commissioners are appointed in consultation with the President of the Senate and the Speaker of the House of Delegates; providing that the People's Counsel is appointed by and serves at the pleasure of the Attorney General; altering the beginning of the term of office of the members and Chairman of the Commission; defining certain terms; providing for the construction of this Act; providing that certain portions of this Act are contingent on the occurrence of certain events; making this Act an emergency measure; and generally relating to electric utility industry restructuring and standard offer service.”.

AMENDMENT NO. 3

On page 3, in line 26, after “2-102,” insert “2-103,”; in the same line, strike “5-203, 6-101 through 6-103,”; strike in their entirety lines 30 through 34, inclusive; and in line 37, strike “2-202(g), 6-105, and”.

On page 4, strike in their entirety lines 1 through 5, inclusive.

AMENDMENT NO. 4

On pages 4 through 9, strike in their entirety the lines beginning with line 9 on page 4 through line 30 on page 9, inclusive, and substitute:

“2-102.

(a) The Commission consists of five commissioners, appointed by the Governor:

(1) IN CONSULTATION WITH THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES; AND

(2) with the advice and consent of the Senate.

(b) (1) Each commissioner shall be a registered voter of the State.

(2) The Commission shall be broadly representative of the public interest and shall be composed of individuals with diverse training and experience.

(c) Each commissioner shall devote full time to the duties of office.

(d) (1) The term of a commissioner is 5 years and begins on [July 1] APRIL 1.

(2) The terms of commissioners are staggered as required by the terms in effect for commissioners on [October 1, 1998] APRIL 1, 2007.

(3) At the end of a term, a commissioner continues to serve until a successor qualifies.

(4) A commissioner who is appointed after a term has begun serves for the rest of the term and until a successor qualifies.

(e) Before taking office, each appointee to the Commission shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) The Governor may remove a commissioner for incompetence or misconduct in accordance with § 3-307 of the State Government Article.

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2-103.

- (a) With the advice and consent of the Senate, the Governor shall appoint a Chairman.
- (b) (1) The term of the Chairman is 5 years and begins on [July 1] APRIL 1.
- (2) At the end of a term, the Chairman continues to serve until a successor qualifies.
- (3) A Chairman who is appointed after a term has begun serves for the rest of the term and until a successor qualifies.

2-202.

- (a) With the advice and consent of the Senate, the [Governor] ATTORNEY GENERAL shall appoint the People's Counsel.
- (b) The People's Counsel serves at the pleasure of the [Governor] ATTORNEY GENERAL.

7-510.

- (c) (1) Beginning on the initial implementation date, an electric company's obligation to provide electricity supply and electricity supply service is stated by this subsection.
- (2) Electricity supply purchased from a customer's electric company is known as standard offer service. A customer is considered to have chosen the standard offer service if the customer:
  - (i) is not allowed to choose an electricity supplier under the phase in of customer choice in subsection (a) of this section;
  - (ii) contracts for electricity with an electricity supplier and it is not delivered;

(iii) cannot arrange for electricity from an electricity supplier;

(iv) does not choose an electricity supplier;

(v) chooses the standard offer service; or

(vi) has been denied service or referred to the standard offer service by an electricity supplier in accordance with § 7-507(e)(6) of this subtitle.

(3) (I) [Any] EXCEPT AS PROVIDED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, ANY obligation of an electric company to provide standard offer service shall cease on July 1, 2003[, except that:

(i) electric].

(II) 1. ELECTRIC cooperatives and municipal electric utilities may choose to continue providing standard offer service in their respective distribution territories[, and may cease offering that service after notifying the Commission at least 12 months in advance]; and].

[(ii) 1. if the Commission finds that the electricity supply market is not competitive or that no acceptable competitive proposal has been received to supply electricity to those customers described under paragraph (2) of this subsection, the Commission shall extend]

2. ON AND AFTER JULY 1, 2003, AN ELECTRIC COMPANY CONTINUES TO HAVE the obligation to provide standard offer service 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.

[2. The Commission shall reexamine the finding made under this subparagraph at least annually.]

(III) ON OR BEFORE DECEMBER 31, 2006, AND EVERY 3 YEARS

THEREAFTER, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE STATUS OF THE STANDARD OFFER SERVICE.

(4) (I) On or before July 1, 2001, the Commission shall adopt regulations or issue orders to establish procedures for the competitive selection of WHOLESale electricity suppliers, including an affiliate of an electric company, to provide ELECTRICITY FOR standard offer service to customers of electric companies under paragraph (2) of this subsection, except for customers of electric cooperatives and municipal electric utilities. Unless delayed by the Commission, the competitive selection shall take effect no later than July 1, 2003.

(II) 1. UNDER AN EXTENSION OF THE OBLIGATION TO PROVIDE STANDARD OFFER SERVICE IN ACCORDANCE WITH PARAGRAPH (3)(II) OF THIS SUBSECTION, THE COMMISSION, BY REGULATION OR ORDER, SHALL REQUIRE EACH INVESTOR-OWNED ELECTRIC COMPANY TO OBTAIN ITS ELECTRICITY SUPPLY FOR RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS PARTICIPATING IN STANDARD OFFER SERVICE THROUGH A COMPETITIVE PROCESS THAT IS DESIGNED TO OBTAIN THE BEST PRICE FOR THESE CUSTOMERS IN LIGHT OF MARKET CONDITIONS AT THE TIME OF PROCUREMENT AND THE NEED TO PROTECT THESE CUSTOMERS FROM EXCESSIVE PRICE INCREASES.

2. AS THE COMMISSION DIRECTS, THE COMPETITIVE PROCESS SHALL INCLUDE A SERIES OF COMPETITIVE WHOLESale BIDS IN WHICH THE INVESTOR-OWNED ELECTRIC COMPANY SOLICITS BIDS TO SUPPLY ANTICIPATED STANDARD OFFER SERVICE LOAD FOR RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS AS PART OF A PORTFOLIO OF BLENDED WHOLESale SUPPLY CONTRACTS OF SHORT, MEDIUM, AND LONG TERMS AS NEEDED TO MEET DEMAND IN A COST-EFFECTIVE MANNER.

3. A. IN ORDER TO PREVENT AN EXCESSIVE AMOUNT OF LOAD BEING EXPOSED TO UPWARD PRICE RISKS AND VOLATILITY, THE COMMISSION SHALL STAGGER THE DATES FOR THE COMPETITIVE WHOLESale AUCTIONS.

B. BY REGULATION OR ORDER, THE COMMISSION MAY

ALLOW A DATE ON WHICH A COMPETITIVE WHOLESALE AUCTION TAKES PLACE TO BE ALTERED BASED ON CURRENT MARKET CONDITIONS.

(5) An electric company may procure the electricity needed to meet its standard offer service electricity supply obligation from any electricity supplier, including an affiliate of the electric company.

(6) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, TO PROTECT RESIDENTIAL CUSTOMERS FROM THE IMPACT OF SUDDEN AND SIGNIFICANT INCREASES IN ELECTRICITY RATES OF 20% OR MORE OVER THE PREVIOUS YEAR'S ELECTRICITY RATES, THE COMMISSION MAY HOLD PROCEEDINGS TO DETERMINE AN APPROPRIATE PHASED IMPLEMENTATION OF ELECTRICITY RATES.

(II) THE COMMISSION MAY NOT DETERMINE A PHASED IMPLEMENTATION OF ELECTRICITY RATES BECAUSE OF ANY INCREASE THAT IS PROVIDED UNDER A RATE STABILIZATION PLAN."

AMENDMENT NO. 5

On page 15, in line 4, strike "CIRCUIT COURT OF BALTIMORE CITY" and substitute "COURT OF SPECIAL APPEALS"; and in line 7, strike "CIRCUIT COURT" and substitute "COURT OF SPECIAL APPEALS".

AMENDMENT NO. 6

On page 23, in line 24, after "THAT" insert ":

A.";

and in line 26, after "PLAN" insert "; AND

B. CUSTOMERS BE GIVEN THE OPTION TO OPT-IN TO THE DEFERRAL OF THE RECOVERY OF COSTS UNDER THE RATE STABILIZATION PLAN".

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On page 24, strike in their entirety lines 7 through 18, inclusive, and substitute:

“(II) FROM JUNE 1, 2007 THROUGH DECEMBER 31, 2007, 29% OF THE TOTAL RATE IN EFFECT ON MAY 31, 2007.

(2) BEGINNING JANUARY 1, 2008, RESIDENTIAL ELECTRIC CUSTOMERS SHALL BE CHARGED A RATE TO ALLOW THE ELECTRIC COMPANY TO RECOVER ITS FULL COSTS CONSISTENT WITH § 7-510(C)(3) OF THIS SUBTITLE, PLUS A RATE STABILIZATION CHARGE.”;

strike in their entirety lines 25 through 28, inclusive; and in line 29, after “EACH” insert “PARTICIPATING”.

AMENDMENT NO. 7

On pages 25 through 44, strike in their entirety the lines beginning with line 33 on page 25 through line 25 on page 44, inclusive, and substitute:

“SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) Within 90 days after the effective date of a merger involving the parent company of an investor-owned electric company incorporated in Maryland and pending on the effective date of this Act, the electric company shall determine and apply residential electric credits of \$60 million per year for a period of 10 years to the bills of each residential electric customer of the electric company.

(b) The credits shall be in the form of a nonbypassable credit on the customer’s bill, derived as follows:

(1) for a period of 10 years, the electric company shall suspend the collection of the residential return component of the administrative charge collected by the electric company for providing standard offer service under § 7-510(c)(3) of the Public Utility Companies Article, which shall be deemed a value of \$20 million;

(2) for a period of 10 years, an integration credit equal to \$21.4 million per year of stipulated merger savings from a merger of the parent company of the electric company; and



(3) for a period of 10 years, a credit of the \$18,661,980 annual nuclear decommissioning charge collected, without otherwise disturbing the agreement approved by the Maryland Public Service Commission in Order No. 75757, to be imputed as deposits in the Nuclear Decommissioning Trust Fund and to be credited against residential electric customer bills.

(c) The nuclear decommissioning charge described in subsection (b)(3) of this section may not be altered during the 10-year period of the credit.

(d) Residential electric customer credits may not be recovered through electric rates.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) This Act binds the Public Service Commission and any successor unit, including any regulatory or other body that possesses or exercises the same or similar powers, functions, duties, and obligations exercised or possessed by the Commission on the effective date of this Act.

(b) The Public Service Commission and any successor unit, including any regulatory or other body that possesses or exercises the same or similar powers, functions, duties, and obligations exercised or possessed by the Commission may not reduce the cost of service of an electric company in a manner that would result in any duplication of the credits provided to residential customers of the electric company under Section 2 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The Public Service Commission shall initiate an evidentiary proceeding to study and evaluate the status of electric restructuring in the State as it pertains to the availability of competitive generation to residential and small commercial customers and the structure, procurement, and terms and conditions of standard offer service for residential and small commercial customers. In its evaluation, the Commission shall consider changes that are necessary to provide residents the benefit of a reliable electric system at the best possible price.

(b) Among other considerations, the Commission shall consider the implications of the following:

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(1) allowing investor-owned electric companies to buy power on long-term contract;

(2) requiring investor-owned electric companies to build peak-load plants and transmission lines;

(3) providing a process, at the time bids by investor-owned electric companies for electricity supply are obtained for the standard offer service, to solicit bids for the procurement of energy efficiency and conservation measures and services if energy efficiency and conservation measures and services are less expensive than electricity generation;

(4) providing a process to allow investor-owned electric companies to obtain all or part of its electricity supply for standard offer service through the negotiation of bilateral contracts with wholesale electricity suppliers, either in conjunction with or instead of procurement through competitive wholesale auctions; and

(5) allowing opt-out aggregation of residential electric customer demand by local governments.

(c) The Commission shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly by December 1, 2006 on its findings and recommendations.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) The State Department of Assessments and Taxation shall study whether the current valuation of power plants in the State under § 8-109 of the Tax - Property Article provides an adequate and equitable determination of the value of power plants in a restructured electric industry.

(b) In conducting the study under subsection (a) of this section, the Department shall hire a consultant with expertise in plant valuation.

(c) The Department shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly by December 1, 2006 on its findings and recommendations.

SECTION 6. AND BE IT FURTHER ENACTED, That this Act may not be construed to interfere with any determination the Public Service Commission may make to authorize a merger, including any noneconomic terms and conditions with respect to that authorization, in a proceeding involving the parent company of an electric company incorporated in Maryland. In any such proceeding for authorization of the proposed merger between FPL Group, Inc. and Constellation Energy Group, Inc., the economic benefits conferred on residential electric customers under Section 2 of this Act from the merger shall be presumed to constitute the full extent of the economic benefits from the merger. Subject to Section 3 of this Act, the Commission may further consider the economic benefits conferred on residential electric customers under Section 2 of this Act in a future rate making proceeding.

SECTION 7. AND BE IT FURTHER ENACTED, That:

(a) The Public Service Commission, on request by an electric cooperative or on its own initiative, shall initiate a proceeding to investigate options for a rate stabilization plan to assist residential electric customers to gradually adjust to market rates over an extended period of time.

(b) If an electric cooperative determines that total electric rates for residential customers are anticipated to increase by more than 20% in a 12-month period, the electric cooperative shall survey its membership to determine whether to make a request to the Commission to initiate a proceeding under subsection (a) of this section.

(c) Notwithstanding subsections (a) and (b) of this section, as approved by the Commission, an electric cooperative may receive a modification in distribution and transmission rates.

SECTION 8. AND BE IT FURTHER ENACTED, That:

(a) In order to protect the interests of the State and the citizens of Maryland and consistent with the intent of the General Assembly, in accordance with Article V, Section 3 of the Maryland Constitution, the Attorney General is hereby directed to intervene and participate in the Public Service Commission, Case No. 9054 and in any other hearings or other proceedings before the Public Service Commission or any other appropriate State or federal unit, or any case brought

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before any court of competent jurisdiction in the State or any federal court, regarding the merger of FPL Group, Inc. and Constellation Energy Group, Inc.

(b) The costs and expenses associated with the intervention and participation by the Attorney General in hearings and other proceedings regarding the merger of FPL Group, Inc. and Constellation Energy Group, Inc., not exceeding \$200,000, shall be borne by the public service companies that are subject to the Public Service Commission's jurisdiction in the same manner as the Commission's costs and expenses are assessed, collected, and disbursed under §§ 2-110 and 2-110.1 of the Public Utility Companies Article.

SECTION 9. AND BE IT FURTHER ENACTED, That:

(a) In this section the following words have the meanings indicated.

(1) "Market total rate" means the total rate paid by residential electric customers on electric bills that has not been adjusted under this section.

(2) "Transition total rate" means the total rate paid by residential electric customers on electric bills that has been adjusted under this section during a transition period.

(b) For investor-owned electric companies whose rate cap or price freeze for residential customers expired before June 30, 2006, a price mitigation plan for electric service beginning June 1, 2006 shall:

(1) be administered to allow residential electric customers to make an affirmative choice to participate in the plan; and

(2) establish a transition total rate that is:

(i) from June 1, 2006, to February 28, 2007, 15% greater than the total rate in effect on May 31, 2006;

(ii) from March 1, 2007, to May 31, 2007, 15.7% greater than the total rate in effect on February 28, 2007;

(iii) provide that beginning June 1, 2007, residential electric customers shall be charged the market total rate;

(iv) include a revenue recovery component on the distribution portion of each residential electric customer of the electric company that consists of the portion of the market total rate that is not charged to residential customers plus appropriate actual carrying costs; and

(v) require the revenue recovery component be collected from residential customers in the form of a nonbypassable charge which shall take effect on June 1, 2007, and be recovered over a period not to exceed 18 months.

(c) (1) The amount of the revenue recovery component owed to the electric company shall be disclosed on residential customer bills.

(2) During the period the revenue recovery component is accumulated and collected from customers, to the extent available, any reasonable return received by an electric company for providing standard offer service to residential customers under § 7-510(c)(3) of the Public Utility Companies Article as enacted by Section 1 of this Act shall be used to the extent necessary to offset the actual carrying costs charged to residential electric customers as part of the revenue recovery component.

(3) At the end of the recovery period, any overrecovery or underrecovery of the revenue recovery component shall be credited or charged to the residential customers over a period not to exceed 1 year.

(d) The Commission shall issue an order or adopt regulations to implement this section.

SECTION 10. AND BE IT FURTHER ENACTED, That the Public Service Commission, on its own initiative or on request of an electric company in the service territory of which a rate cap or freeze expires after July 1, 2006, shall initiate a proceeding to investigate options available to implement a rate mitigation plan or rate stabilization plan.

SECTION 11. AND BE IT FURTHER ENACTED, That a presently existing obligation or

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contract right may not be impaired in any way by this Act.

SECTION 12. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of § 2-102 of the Public Utility Companies Article, as enacted by this Act, except for subsection (d)(3), the term of office of:

(1) two commissioners of the Public Service Commission serving on the effective date of this Act shall terminate at the end of March 31, 2007, and the terms of commissioners appointed to succeed these commissioners shall expire as follows:

(i) one member in 2008; and

(ii) one member in 2009; and

(2) three commissioners of the Public Service Commission serving on the effective date of this Act shall terminate at the end of March 31, 2008, and the terms of commissioners appointed to succeed these commissioners shall expire as follows:

(i) one member in 2011;

(ii) one member in 2012; and

(iii) one member in 2010.

SECTION 13. AND BE IT FURTHER ENACTED, That Section 2 of this Act is contingent on the taking effect of the merger involving the parent company of an investor-owned electric company incorporated in Maryland. If for any reason the merger fails to become effective on or before December 31, 2006, Section 2 of this Act shall be abrogated and of no further force and effect as of the termination of the merger or December 31, 2006, whichever event occurs earlier.

SECTION 14. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yeay and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall, except as provided in Section 13 of this Act, take effect from the date it is enacted.”.