

UNOFFICIAL COPY OF SENATE BILL 1
EMERGENCY BILL

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By: **The President and Chairman, Finance Committee**

Introduced and read first time: June 14, 2006

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Service Commission - Electric Industry Restructuring**

3 FOR the purpose of altering the criteria for appointment to the Public Service
4 Commission; altering the method of appointment of the People's Counsel and
5 providing a term of office for the People's Counsel; providing for the extension of
6 the obligation to provide standard offer service to certain electric customers;
7 requiring the Commission to report to the Governor and the General Assembly
8 on the status of standard offer service on certain dates; requiring the
9 Commission to adopt certain regulations concerning the wholesale procurement
10 of electricity for standard offer service to certain customers; altering certain
11 findings and terms for certain extended service; requiring certain electric
12 companies to obtain electricity supply for certain extended service to certain
13 customers in certain manners; authorizing the Commission to take certain
14 actions concerning certain competitive auctions and implementation of certain
15 electricity rates; authorizing the procurement of electricity supply for certain
16 service in certain manners, including by a competitive process that includes
17 certain methods and strategies and by negotiated bilateral contracts;
18 authorizing the rejection of certain bids in accordance with certain standards;
19 requiring the disclosure of certain information concerning certain bids and
20 contracts; authorizing the Commission to allow the construction or acquisition of
21 certain facilities by certain electric companies; requiring the Commission to
22 conduct certain proceedings if certain electric rates are to increase by certain
23 amounts; authorizing the recovery of certain deferred costs in certain manners
24 in accordance with certain plans and certain provisions; altering the amount
25 and sources of funds to be assessed for the Electric Universal Service Program
26 each year; altering the eligibility of certain customers for the Program;
27 authorizing bill assistance under the Program to be paid on a monthly basis;
28 requiring the collection of certain funds for the Program in a certain manner;
29 authorizing an electric company to file certain rate stabilization plans and
30 tariffs with the Commission; providing for the deferral and collection of certain
31 costs and expenses; providing for the establishment and characteristics of rate
32 stabilization property; providing for the issuance of qualified rate orders for
33 certain purposes under certain circumstances; providing for the issuance of
34 certain rate stabilization bonds for certain purposes; providing for the
35 establishment, collection, and adjustment of certain rate stabilization charges in

1 certain manners; providing for certain property rights in certain rate
2 stabilization property; providing that certain transfers of certain property are
3 true sales; requiring disclosure of certain information to certain consumers in a
4 certain manner; providing for certain actions in the event of certain defaults;
5 establishing certain rights and duties for a successor to an electric company for
6 certain purposes; establishing certain maximum rates for certain residential
7 electric customers for certain periods; providing for the deferral and collection of
8 certain costs and expenses of certain electric companies related to those
9 customers in certain manners; providing for the determination and application
10 of certain credits of a certain amount for a certain number of years by certain
11 electric companies in certain manners; providing that this Act binds the
12 Commission and any successor body in a certain manner; repealing a credit
13 against the corporate income tax for certain property taxes paid on certain
14 operating real property used to generate electricity for sale; providing for the
15 distribution of certain corporate income tax revenue for a certain fiscal year to a
16 certain special fund; altering certain provisions relating to acquisition and
17 issuance of stock and debt by certain public service companies incorporated in
18 the State to apply to public service companies operating in the State; prohibiting
19 the lending of money from a public service company to an affiliate on certain
20 terms without the prior approval of the Commission; prohibiting a person from
21 acquiring certain public service companies without the prior approval of the
22 Commission; providing for the application and review of certain proposed
23 acquisitions; requiring the disclosure of certain information by certain persons
24 in connection with certain proposed acquisitions; establishing certain factors
25 that the Commission must consider in assessing certain acquisitions; providing
26 that the Commission may only approve certain acquisitions if the acquisitions
27 are consistent with the public interest, convenience, and necessity; stating
28 certain findings and declarations of the General Assembly; requiring the
29 inclusion of certain conditions in any approval of a merger between two certain
30 companies; prohibiting the Commission from approving a certain proposed
31 merger before the occurrence of certain events; requiring the Commission to
32 conduct certain proceedings in connection with a certain merger and in
33 connection with reevaluation of certain matters relating to the Electric
34 Customer Choice and Competition Act of 1999 and related matters; requiring
35 the Commission to incorporate certain funds and adjustments in a certain plan
36 for certain residential customers; requiring the Commission to initiate certain
37 other proceedings to study and report on certain matters; requiring the State
38 Department of Assessments and Taxation to study and report on certain
39 matters; requiring that certain costs be borne by public service companies in a
40 certain manner; providing for a certain mitigation plan for certain electric
41 companies; requiring the Commission to initiate a certain proceeding to
42 investigate certain options for standard offer service in a certain service
43 territory; providing for the termination of the terms of the current members of
44 the Commission and the appointment and terms of new members of the
45 Commission in a certain manner; providing for the continued service of the
46 current People's Counsel at the pleasure of the Attorney General; directing the
47 Attorney General to intervene in certain proceedings regarding a certain
48 merger; providing certain appropriations to certain units; providing for the

1 venue and certain related matters concerning actions to challenge provisions of
2 this Act; prohibiting the use of State funds for certain purposes; defining certain
3 terms; providing for the construction of this Act; providing that certain portions
4 of this Act are contingent on the occurrence of certain events; providing for the
5 application of this Act; making this Act an emergency measure; providing for the
6 effective dates of portions of this Act; and generally relating to the Public Service
7 Commission, the Office of People's Counsel, electric utility industry
8 restructuring and standard offer service, and public service companies, mergers,
9 acquisitions, and financial structures.

10 BY repealing and reenacting, with amendments,
11 Article - Public Utility Companies
12 Section 2-102, 2-202(a) and (b), 5-203, 6-101 through 6-103, 7-510(c), and
13 7-512.1(a), (b), and (e)
14 Annotated Code of Maryland
15 (1998 Volume and 2005 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article - Public Utility Companies
18 Section 2-103, 2-113, and 5-104
19 Annotated Code of Maryland
20 (1998 Volume and 2005 Supplement)

21 BY adding to
22 Article - Public Utility Companies
23 Section 2-202(g), 6-105, and 7-513(f); 7-520 through 7-544, inclusive, to be
24 under the new part "Part III. Rate Stabilization - In General"; and 7-547
25 through 7-549, inclusive, to be under the new part "Part IV. Rate
26 Stabilization - Special Provisions"
27 Annotated Code of Maryland
28 (1998 Volume and 2005 Supplement)

29 BY repealing
30 Article - Tax - General
31 Section 10-712
32 Annotated Code of Maryland
33 (2004 Replacement Volume and 2005 Supplement)

34 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
35 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Public Utility Companies

2 2-102.

3 (a) The Commission consists of five commissioners, appointed by the Governor
4 with the advice and consent of the Senate.

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

6 (2) The Commission shall be:

7 (I) broadly representative of THE GEOGRAPHIC AND
8 DEMOGRAPHIC DIVERSITY OF THE STATE AND OF the public [interest]; and [shall
9 be]

10 (II) composed of individuals with diverse training and experience.

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

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

13 (2) The terms of commissioners are staggered as required by the terms in
14 effect for commissioners on [October 1, 1998] JULY 1, 2006.

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

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

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

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

23 2-103.

24 (a) With the advice and consent of the Senate, the Governor shall appoint a
25 Chairman.

26 (b) (1) The term of the Chairman is 5 years and begins on July 1.

27 (2) At the end of a term, the Chairman continues to serve until a
28 successor qualifies.

29 (3) A Chairman who is appointed after a term has begun serves for the
30 rest of the term and until a successor qualifies.

1 2-113.

2 (a) (1) The Commission shall:

3 (i) supervise and regulate the public service companies subject to
4 the jurisdiction of the Commission to:

5 1. ensure their operation in the interest of the public; and

6 2. promote adequate, economical, and efficient delivery of
7 utility services in the State without unjust discrimination; and

8 (ii) enforce compliance with the requirements of law by public
9 service companies, including requirements with respect to financial condition,
10 capitalization, franchises, plant, manner of operation, rates, and service.

11 (2) In supervising and regulating public service companies, the
12 Commission shall consider the public safety, the economy of the State, the
13 conservation of natural resources, and the preservation of environmental quality.

14 (b) The powers and duties listed in this title do not limit the scope of the
15 general powers and duties of the Commission provided for by this article.

16 2-202.

17 (a) With the advice and consent of the Senate, the [Governor] ATTORNEY
18 GENERAL shall appoint the People's Counsel.

19 (b) (1) The TERM OF THE People's Counsel [serves at the pleasure of the
20 Governor] IS 5 YEARS AND BEGINS ON JULY 1.

21 (2) AT THE END OF A TERM, THE PEOPLE'S COUNSEL CONTINUES TO
22 SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

23 (3) A PEOPLE'S COUNSEL WHO IS APPOINTED AFTER A TERM HAS BEGUN
24 SERVES FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
25 QUALIFIES.

26 (G) THE ATTORNEY GENERAL MAY REMOVE THE PEOPLE'S COUNSEL FOR
27 GOOD CAUSE SHOWN AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD.

28 7-510.

29 (c) (1) Beginning on the initial implementation date, an electric company's
30 obligation to provide electricity supply and electricity supply service is stated by this
31 subsection.

32 (2) Electricity supply purchased from a customer's electric company is
33 known as standard offer service. A customer is considered to have chosen the
34 standard offer service if the customer:

1 (i) is not allowed to choose an electricity supplier under the phase
2 in of customer choice in subsection (a) of this section;

3 (ii) contracts for electricity with an electricity supplier and it is not
4 delivered;

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

6 (iv) does not choose an electricity supplier;

7 (v) chooses the standard offer service; or

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

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

13 (i) electric].

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

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

22 2. ON AND AFTER JULY 1, 2003, AN ELECTRIC COMPANY
23 CONTINUES TO HAVE the obligation to provide standard offer service to residential
24 and small commercial customers at a market price that permits recovery of the
25 verifiable, prudently incurred costs to procure or produce the electricity plus a
26 reasonable return.

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

29 (III) ON OR BEFORE DECEMBER 31, 2008, AND EVERY 5 YEARS
30 THEREAFTER, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN
31 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE
32 GENERAL ASSEMBLY ON THE STATUS OF THE STANDARD OFFER SERVICE, THE
33 DEVELOPMENT OF COMPETITION, AND THE TRANSITION OF STANDARD OFFER
34 SERVICE TO A DEFAULT SERVICE.

35 (4) (I) On or before July 1, 2001, the Commission shall adopt
36 regulations or issue orders to establish procedures for the competitive selection of
37 WHOLESALE electricity suppliers, including an affiliate of an electric company, to

1 provide ELECTRICITY FOR standard offer service to customers of electric companies
2 under paragraph (2) of this subsection, except for customers of electric cooperatives
3 and municipal electric utilities. Unless delayed by the Commission, the competitive
4 selection shall take effect no later than July 1, 2003.

5 (II) 1. UNDER AN EXTENSION OF THE OBLIGATION TO PROVIDE
6 STANDARD OFFER SERVICE IN ACCORDANCE WITH PARAGRAPH (3)(II) OF THIS
7 SUBSECTION, THE COMMISSION, BY REGULATION OR ORDER, AND IN A MANNER
8 THAT IS DESIGNED TO OBTAIN THE BEST PRICE FOR RESIDENTIAL AND SMALL
9 COMMERCIAL CUSTOMERS IN LIGHT OF MARKET CONDITIONS AT THE TIME OF
10 PROCUREMENT AND THE NEED TO PROTECT THESE CUSTOMERS FROM EXCESSIVE
11 PRICE INCREASES:

12 A. SHALL REQUIRE EACH INVESTOR-OWNED ELECTRIC
13 COMPANY TO OBTAIN ITS ELECTRICITY SUPPLY FOR RESIDENTIAL AND SMALL
14 COMMERCIAL CUSTOMERS PARTICIPATING IN STANDARD OFFER SERVICE THROUGH
15 A COMPETITIVE PROCESS IN ACCORDANCE WITH THIS PARAGRAPH; AND

16 B. MAY REQUIRE OR ALLOW AN INVESTOR-OWNED
17 ELECTRIC COMPANY TO PROCURE ELECTRICITY FOR THESE CUSTOMERS DIRECTLY
18 FROM AN ELECTRICITY SUPPLIER THROUGH ONE OR MORE BILATERAL CONTRACTS
19 OUTSIDE THE COMPETITIVE PROCESS.

20 2. A. AS THE COMMISSION DIRECTS, THE COMPETITIVE
21 PROCESS SHALL INCLUDE A SERIES OF COMPETITIVE WHOLESALE BIDS IN WHICH
22 THE INVESTOR-OWNED ELECTRIC COMPANY SOLICITS BIDS TO SUPPLY
23 ANTICIPATED STANDARD OFFER SERVICE LOAD FOR RESIDENTIAL AND SMALL
24 COMMERCIAL CUSTOMERS AS PART OF A PORTFOLIO OF BLENDED WHOLESALE
25 SUPPLY CONTRACTS OF SHORT, MEDIUM, OR LONG TERMS, AND OTHER
26 APPROPRIATE ELECTRICITY PRODUCTS AND STRATEGIES, AS NEEDED TO MEET
27 DEMAND IN A COST-EFFECTIVE MANNER.

28 B. THE COMPETITIVE PROCESS MAY INCLUDE DIFFERENT
29 BIDDING STRUCTURES AND MECHANISMS FOR BASE LOAD, PEAK LOAD, AND VERY
30 SHORT-TERM PROCUREMENT.

31 C. BY REGULATION OR ORDER, AS A PART OF THE
32 COMPETITIVE PROCESS, THE COMMISSION SHALL REQUIRE OR ALLOW THE
33 PROCUREMENT OF ENERGY EFFICIENCY AND CONSERVATION MEASURES AND
34 SERVICES WITH PROJECTED AND VERIFIABLE ENERGY SAVINGS TO OFFSET
35 ANTICIPATED DEMAND TO BE SERVED BY STANDARD OFFER SERVICE, AND THE
36 IMPOSITION OF OTHER DEMAND-SIDE MANAGEMENT PROGRAMS.

37 3. A. IN ORDER TO PREVENT AN EXCESSIVE AMOUNT OF
38 LOAD BEING EXPOSED TO UPWARD PRICE RISKS AND VOLATILITY, THE COMMISSION
39 MAY STAGGER THE DATES FOR THE COMPETITIVE WHOLESALE AUCTIONS.

40 B. BY REGULATION OR ORDER, THE COMMISSION MAY
41 ALLOW A DATE ON WHICH A COMPETITIVE WHOLESALE AUCTION TAKES PLACE TO
42 BE ALTERED BASED ON CURRENT MARKET CONDITIONS.

1 4. BY REGULATION OR ORDER, THE COMMISSION MAY
2 ALLOW AN INVESTOR-OWNED ELECTRIC COMPANY TO REFUSE TO ACCEPT SOME OR
3 ALL OF THE BIDS MADE IN A COMPETITIVE WHOLESale AUCTION IN ACCORDANCE
4 WITH STANDARDS ADOPTED BY THE COMMISSION.

5 5. THE INVESTOR-OWNED ELECTRIC COMPANY SHALL
6 PUBLICLY DISCLOSE THE NAMES OF ALL BIDDERS AND THE NAMES AND LOAD
7 ALLOCATION OF ALL SUCCESSFUL BIDDERS 90 DAYS AFTER ALL CONTRACTS FOR
8 SUPPLY ARE EXECUTED.

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

12 (6) IN ORDER TO MEET LONG-TERM, ANTICIPATED DEMAND IN THE
13 STATE FOR STANDARD OFFER SERVICE AND OTHER ELECTRICITY SUPPLY, THE
14 COMMISSION MAY ALLOW AN INVESTOR-OWNED ELECTRIC COMPANY TO
15 CONSTRUCT OR ACQUIRE, AND OPERATE, ITS OWN GENERATING FACILITIES AND
16 TRANSMISSION FACILITIES NECESSARY TO INTERCONNECT THE GENERATING
17 FACILITIES WITH THE ELECTRIC GRID.

18 (7) (I) TO DETERMINE WHETHER AN APPROPRIATE PHASED
19 IMPLEMENTATION OF ELECTRICITY RATES THAT IS NECESSARY TO PROTECT
20 RESIDENTIAL CUSTOMERS FROM THE IMPACT OF SUDDEN AND SIGNIFICANT
21 INCREASES IN ELECTRICITY RATES, THE COMMISSION IN THE CASE OF AN INCREASE
22 OF 20% OR MORE OVER THE PREVIOUS YEAR'S ELECTRICITY RATES, SHALL CONDUCT
23 EVIDENTIARY PROCEEDINGS, INCLUDING PUBLIC HEARINGS.

24 (II) 1. A DEFERRAL OF COSTS AS PART OF A PHASED
25 IMPLEMENTATION OF ELECTRICITY RATES BY AN INVESTOR-OWNED ELECTRIC
26 COMPANY SHALL BE TREATED AS A REGULATORY ASSET TO BE RECOVERED IN
27 ACCORDANCE WITH A RATE STABILIZATION PLAN UNDER PART III OF THIS SUBTITLE
28 OR ANY OTHER PLAN FOR PHASED IMPLEMENTATION APPROVED BY THE
29 COMMISSION.

30 2. A DEFERRAL OF COSTS UNDER THIS PARAGRAPH MUST BE
31 JUST, REASONABLE, AND IN THE PUBLIC INTEREST.

32 (III) THE COMMISSION SHALL APPROVE THE RECOVERY OF
33 DEFERRED COSTS UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH AS:

34 1. LONG-TERM RECOVERY IN ACCORDANCE WITH A RATE
35 STABILIZATION PLAN UNDER PART III OF THIS SUBTITLE; OR

36 2. SHORT-TERM RECOVERY THROUGH A RATE PROCEEDING
37 UNDER TITLE 4 OF THIS ARTICLE.

38 (IV) THE COMMISSION MAY APPROVE A PHASING IN OF INCREASED
39 COSTS BY:

1 1. PLACING A CAP ON RATES AND ALLOWING RECOVERY
2 OVER TIME; OR

3 2. ALLOWING RATES TO INCREASE AND PROVIDING FOR A
4 REBATE TO CUSTOMERS OF ANY EXCESS COSTS PAID.

5 (8) (I) THE COMMISSION, ON REQUEST BY AN ELECTRIC
6 COOPERATIVE OR ON ITS OWN INITIATIVE, SHALL INITIATE A PROCEEDING TO
7 INVESTIGATE OPTIONS FOR A RATE STABILIZATION PLAN TO ASSIST RESIDENTIAL
8 ELECTRIC CUSTOMERS TO GRADUALLY ADJUST TO MARKET RATES OVER AN
9 EXTENDED PERIOD OF TIME.

10 (II) IF AN ELECTRIC COOPERATIVE DETERMINES THAT TOTAL
11 ELECTRIC RATES FOR RESIDENTIAL CUSTOMERS ARE ANTICIPATED TO INCREASE BY
12 MORE THAN 20% IN A 12-MONTH PERIOD RESULTING FROM AN INCREASE IN THE
13 COST OF GENERATION, THE ELECTRIC COOPERATIVE SHALL SURVEY ITS
14 MEMBERSHIP TO DETERMINE WHETHER TO MAKE A REQUEST TO THE COMMISSION
15 TO INITIATE A PROCEEDING UNDER SUBSECTION (A) OF THIS SECTION.

16 (III) NOTWITHSTANDING SUBPARAGRAPHS (I) AND (II) OF THIS
17 PARAGRAPH, AS APPROVED BY THE COMMISSION, AN ELECTRIC COOPERATIVE MAY
18 RECEIVE A MODIFICATION IN DISTRIBUTION AND TRANSMISSION RATES.

19 7-512.1.

20 (a) (1) The Commission shall establish an electric universal service program
21 to assist electric customers with annual incomes at or below [150%] 175% of the
22 federal poverty level.

23 (2) The components of the electric universal service program shall
24 include:

25 (i) bill assistance, at a minimum of 50% of the determined need;

26 (ii) low-income weatherization; and

27 (iii) the retirement of arrearages for electric customers who have not
28 previously received assistance in retiring arrearages under the universal service
29 program, not to exceed a total of \$1.5 million in any given fiscal year.

30 (3) The Department of Housing and Community Development is
31 responsible for administering the low-income weatherization component of the
32 electric universal service program.

33 (4) The Department of Human Resources, through the Office of Home
34 Energy Programs, is responsible for administering the bill assistance and the
35 arrearage retirement components of the electric universal service program.

36 (5) The Department of Human Resources may, with input from a panel
37 or roundtable of interested parties, contract to assist in administering the bill

1 assistance and the arrearage retirement components of the electric universal service
2 program.

3 (6) The Commission has oversight responsibility for the bill assistance
4 and the arrearage retirement components of the electric universal service program.

5 (7) In a specific case, the electric universal service program may waive
6 the income eligibility limitation under paragraph (1) of this subsection in order to
7 provide assistance to an electric customer who would qualify for a similar waiver
8 under the Maryland Energy Assistance Program established under Article 41, § 6-406
9 of the Code.

10 (b) (1) All customers shall contribute to the funding of the electric universal
11 service program through a charge collected by each electric company.

12 (2) The Commission shall determine a fair and equitable allocation for
13 collecting the charges among all customer classes pursuant to subsection (e) of this
14 section.

15 (3) In accordance with subsection (f)(6) of this section, any unexpended
16 bill assistance and arrearage retirement funds returned to customers under
17 subsection (f) of this section shall be returned to each customer class as a credit in the
18 same proportion that the customer class contributed charges to the fund.

19 (4) An electric company shall recover electric universal service program
20 costs in accordance with § 7-512 of this subtitle.

21 (5) AS DETERMINED BY THE OFFICE OF HOME ENERGY PROGRAMS, BILL
22 ASSISTANCE PAYMENTS TO AN ELECTRIC COMPANY MAY BE ON A MONTHLY BASIS
23 FOR EACH CUSTOMER.

24 (6) The Commission shall determine the allocation of the electric
25 universal service charge among the generation, transmission, and distribution rate
26 components of all classes.

27 [(6)] (7) The Commission may not assess the electric universal service
28 surcharge on a per kilowatt-hour basis.

29 (e) The total amount of funds to be collected for the electric universal service
30 program each year shall be [\$34,000,000] \$37 MILLION, allocated in the following
31 manner:

32 (1) [\$24.4] \$27.4 million shall be collected from the industrial and
33 commercial classes; and

34 (2) \$9.6 million shall be collected from the residential class.

1 7-513.

2 (F) THIS SECTION DOES NOT APPLY TO RATE STABILIZATION COSTS
3 ESTABLISHED OR QUALIFIED RATE ORDERS ISSUED UNDER PART III OR PART IV OF
4 THIS SUBTITLE.

5 7-519. RESERVED.

6 PART III. RATE STABILIZATION.

7 7-520.

8 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

9 (B) "ASSIGNEE" MEANS ANY INDIVIDUAL, CORPORATION, OR OTHER LEGALLY
10 RECOGNIZED ENTITY TO WHICH AN ELECTRIC COMPANY TRANSFERS ALL OR A
11 PORTION OF ITS INTEREST IN RATE STABILIZATION PROPERTY, OTHER THAN AS
12 SECURITY, INCLUDING ANY ASSIGNEE OF THAT PARTY.

13 (C) (1) "FINANCING PARTY" MEANS A HOLDER OF RATE STABILIZATION
14 BONDS.

15 (2) "FINANCING PARTY" INCLUDES A TRUSTEE, COLLATERAL AGENT,
16 AND ANY OTHER PERSON ACTING FOR THE BENEFIT OF THE HOLDER.

17 (D) "QUALIFIED RATE ORDER" MEANS AN ORDER OF THE COMMISSION
18 APPROVING ONE OR MORE QUALIFIED RATE STABILIZATION CHARGES.

19 (E) "QUALIFIED RATE STABILIZATION CHARGE" MEANS THAT PORTION OF A
20 USAGE-BASED NONBYPASSABLE RATE, CHARGE, OR SIMILAR APPROPRIATE
21 MECHANISM FOR THE PROVISION, AVAILABILITY, OR TERMINATION OF ELECTRIC
22 SERVICE, APPROVED IN CONNECTION WITH A RATE STABILIZATION PLAN IN
23 ACCORDANCE WITH § 7-522 OR § 7-548 OF THIS SUBTITLE, THAT A QUALIFIED RATE
24 ORDER OF THE COMMISSION AUTHORIZES TO BE IMPOSED FOR THE RECOVERY OF
25 RATE STABILIZATION COSTS.

26 (F) "RATE STABILIZATION BOND" MEANS A BOND, DEBENTURE, NOTE,
27 CERTIFICATE OF PARTICIPATION OR BENEFICIAL INTEREST, OR OTHER EVIDENCE
28 OF INDEBTEDNESS OR OWNERSHIP THAT:

29 (1) IS AUTHORIZED IN A QUALIFIED RATE ORDER AND ISSUED UNDER
30 AN EXECUTED TRUST INDENTURE OR OTHER AGREEMENT OF AN ELECTRIC
31 COMPANY OR ASSIGNEE; AND

32 (2) IS SECURED BY, EVIDENCES AN OWNERSHIP INTEREST IN, OR IS
33 PAYABLE FROM RATE STABILIZATION PROPERTY.

34 (G) (1) "RATE STABILIZATION COST" MEANS A COST, LIABILITY, OR
35 INVESTMENT THAT AN ELECTRIC COMPANY INCURS OR WILL INCUR UNDER A RATE
36 STABILIZATION PLAN APPROVED BY THE COMMISSION.

1 (2) "RATE STABILIZATION COST" INCLUDES:

2 (I) THE EXCESS OF THE CONTRACTED PRICE INCURRED BY AN
3 ELECTRIC COMPANY FOR THE PURCHASE OF ENERGY SUPPLIES TO BE REQUIRED
4 FOR RETAIL CUSTOMERS TO WHOM IT PROVIDES STANDARD OFFER SERVICE, OVER
5 THE AMOUNTS THAT IT IS AUTHORIZED TO CHARGE CURRENTLY TO THOSE
6 CUSTOMERS UNDER THE RATE STABILIZATION PLAN;

7 (II) THE APPROVED COSTS OF ISSUING, SUPPORTING, AND
8 SERVICING RATE STABILIZATION BONDS; AND

9 (III) ANY APPROVED COSTS FOR RETIRING AND REFUNDING
10 EXISTING DEBT AND EQUITY SECURITIES OF THE ELECTRIC COMPANY ISSUED TO
11 TEMPORARILY FINANCE THOSE RATE STABILIZATION COSTS.

12 (H) "RATE STABILIZATION PLAN" MEANS A PLAN APPROVED BY THE
13 COMMISSION IN ACCORDANCE WITH THIS PART.

14 (I) (1) "RATE STABILIZATION PROPERTY" MEANS THE RIGHT, TITLE, AND
15 INTEREST OF AN ELECTRIC COMPANY OR ASSIGNEE IN A QUALIFIED RATE ORDER.

16 (2) "RATE STABILIZATION PROPERTY" INCLUDES:

17 (I) ALL RIGHTS IN, TO, AND UNDER A QUALIFIED RATE ORDER,
18 INCLUDING THE RIGHT TO IMPOSE AND COLLECT RATE STABILIZATION CHARGES
19 AND RIGHTS TO REVENUES, COLLECTIONS, CLAIMS, PAYMENTS, MONEY, OR OTHER
20 PROPERTY AND AMOUNTS ARISING FROM THE IMPOSITION OF RATE STABILIZATION
21 CHARGES UNDER THE QUALIFIED RATE ORDER; AND

22 (II) IN THE HANDS OF AN ASSIGNEE, THE RIGHT TO REQUIRE THE
23 ELECTRIC COMPANY TO PROVIDE ELECTRIC SERVICES AND TO COLLECT AND REMIT
24 THE QUALIFIED RATE STABILIZATION CHARGES AUTHORIZED IN THE QUALIFIED
25 RATE ORDER, BUT NOT THE RIGHT OR DUTY TO PROVIDE ELECTRIC SERVICES.

26 7-521.

27 THIS PART APPLIES TO AN ELECTRIC COMPANY THAT:

28 (1) HAS AN OBLIGATION TO PROVIDE STANDARD OFFER SERVICE TO
29 RESIDENTIAL ELECTRICITY CUSTOMERS IN ACCORDANCE WITH § 7-510(C) OF THIS
30 SUBTITLE; AND

31 (2) IS NOT SUBJECT TO A RATE CAP OR PRICE FREEZE UNDER § 7-505(D)
32 OF THIS SUBTITLE DURING THE PERIOD FOR WHICH A RATE STABILIZATION PLAN IS
33 REQUESTED UNDER THIS PART.

34 7-522.

35 (A) AN ELECTRIC COMPANY SUBJECT TO THIS PART MAY FILE A RATE
36 STABILIZATION PLAN WITH THE COMMISSION FOR APPROVAL.

1 (B) THE RATE STABILIZATION PLAN MAY INCLUDE BOTH SHORT-TERM AND
2 LONG-TERM DEFERRALS OF INCREMENTAL EXPENSES OF ELECTRICITY SUPPLIES.

3 7-523.

4 (A) THE COMMISSION MAY REQUIRE THAT A DEFERRAL OF EXPENSES UNDER
5 A RATE STABILIZATION PLAN BE EITHER VOLUNTARY OR MANDATORY IF THE
6 COMMISSION FINDS THAT THE REQUIRED TYPE OF DEFERRAL IS IN THE PUBLIC
7 INTEREST.

8 (B) THE RATE STABILIZATION PLAN MAY PROVIDE THAT A DEFERRAL SHALL
9 BE SECURED THROUGH THE ISSUANCE OF RATE STABILIZATION BONDS
10 AUTHORIZED BY A QUALIFIED RATE ORDER UNDER THIS PART.

11 7-524.

12 (A) TARIFFS IMPLEMENTING A RATE STABILIZATION PLAN MAY PROVIDE
13 THAT:

14 (1) RESIDENTIAL CUSTOMERS SHALL BE CHARGED THE FULL COST OF
15 RESIDENTIAL STANDARD OFFER SERVICE NECESSARY TO RECOVER THE ELECTRIC
16 COMPANY'S COSTS UNDER § 7- 510(C)(3) OF THIS SUBTITLE; AND

17 (2) ANY CREDITS OR RECOVERIES REQUIRED OR AUTHORIZED UNDER
18 THIS PART SHALL BE REFLECTED AS NONBYPASSABLE CREDITS OR CHARGES ON
19 THE ELECTRIC DISTRIBUTION PORTION OF EACH RESIDENTIAL CUSTOMER'S BILL.

20 (B) AS PART OF THE SUBMISSION OF A RATE STABILIZATION PLAN, AN
21 ELECTRIC COMPANY MAY APPLY TO THE COMMISSION FOR A QUALIFIED RATE
22 ORDER FOR THE FINANCING AND RECOVERY OF ITS APPROVED RATE STABILIZATION
23 COSTS IN ACCORDANCE WITH THIS PART.

24 7-525.

25 (A) THE COMMISSION MAY AUTHORIZE AN ELECTRIC COMPANY TO RECOVER,
26 AS ADDITIONAL RATE STABILIZATION COSTS, THE ACTUAL COST TO THE ELECTRIC
27 COMPANY OF CARRYING THE DEFERRED EXPENSES AS REGULATORY ASSETS UNDER
28 SHORT-TERM AND LONG-TERM DEFERRAL PLANS.

29 (B) THE ACTUAL COST IS EQUAL TO THE DEFERRED EXPENSES AS
30 REGULATORY ASSETS MULTIPLIED BY THE ELECTRIC COMPANY'S COST OF DEBT.

31 (C) IF THE ELECTRIC COMPANY SECURES THE DEBT IN ACCORDANCE WITH
32 THIS PART, THE COST OF THE SECURED DEBT IS SUBSTITUTED FOR THE ELECTRIC
33 COMPANY'S COST OF DEBT.

1 7-526.

2 (A) AN ELECTRIC COMPANY MAY APPLY TO THE COMMISSION FOR A
3 QUALIFIED RATE ORDER FOR THE FINANCING AND RECOVERY OF ITS RATE
4 STABILIZATION COSTS.

5 (B) ON APPLICATION OF AN ELECTRIC COMPANY, THE COMMISSION MAY
6 ADOPT A QUALIFIED RATE ORDER IF THE COMMISSION FINDS THAT THE TOTAL
7 AMOUNT OF REVENUE TO BE COLLECTED UNDER THE QUALIFIED RATE ORDER IS
8 LESS THAN THE RATE STABILIZATION COSTS REVENUE THAT WOULD BE RECOVERED
9 OVER THE SAME PERIOD USING THE ELECTRIC COMPANY'S WEIGHTED AVERAGE
10 COST OF CAPITAL.

11 (C) THE RATE STABILIZATION COSTS TO BE FINANCED AND RECOVERED
12 UNDER A QUALIFIED RATE ORDER MAY BE REDUCED BY FUNDS CONTRIBUTED FROM
13 OTHER SOURCES.

14 7-527.

15 (A) THE QUALIFIED RATE ORDER SHALL SET FORTH THE RATE
16 STABILIZATION COSTS TO BE RECOVERED AND THE PERIOD OVER WHICH THE
17 NONBYPASSABLE QUALIFIED RATE STABILIZATION CHARGES SHALL BE RECOVERED.

18 (B) THE RECOVERY PERIOD MAY NOT EXCEED 12 YEARS.

19 7-528.

20 (A) A QUALIFIED RATE ORDER SHALL BECOME EFFECTIVE IN ACCORDANCE
21 WITH ITS TERMS.

22 (B) AFTER A QUALIFIED RATE ORDER BECOMES EFFECTIVE, THE QUALIFIED
23 RATE ORDER AND THE QUALIFIED RATE STABILIZATION CHARGES AUTHORIZED IN
24 THE QUALIFIED RATE ORDER ARE IRREVOCABLE AND ARE NOT SUBJECT TO
25 REDUCTION, IMPAIRMENT, OR ADJUSTMENT BY FURTHER ACTION OF THE
26 COMMISSION EXCEPT IN ACCORDANCE WITH §§ 7-531, 7-533, AND 7-534 OF THIS
27 SUBTITLE.

28 (C) (1) A QUALIFIED RATE ORDER IS NOT SUBJECT TO REHEARING BY THE
29 COMMISSION.

30 (2) A QUALIFIED RATE ORDER MAY BE REVIEWED BY APPEAL ONLY TO
31 THE CIRCUIT COURT OF BALTIMORE CITY BY A PARTY TO THE PROCEEDING FILED
32 WITHIN 15 DAYS AFTER THE QUALIFIED RATE ORDER IS SIGNED BY THE
33 COMMISSION.

34 (3) THE JUDGMENT OF THE CIRCUIT COURT MAY BE REVIEWED ONLY
35 BY DIRECT APPEAL TO THE COURT OF APPEALS OF MARYLAND FILED WITHIN 15
36 DAYS AFTER ENTRY OF JUDGMENT.

1 (4) ALL APPEALS SHALL BE HEARD AND DETERMINED BY THE CIRCUIT
2 COURT AND BY THE COURT OF APPEALS OF MARYLAND AS EXPEDITIOUSLY AS
3 POSSIBLE WITH LAWFUL PRECEDENCE OVER OTHER MATTERS.

4 (5) REVIEW ON APPEAL SHALL BE BASED SOLELY ON THE RECORD
5 BEFORE THE COMMISSION AND BRIEFS TO THE COURTS AND SHALL BE LIMITED TO
6 WHETHER THE QUALIFIED RATE ORDER CONFORMS TO THE CONSTITUTION AND
7 LAWS OF THIS STATE AND THE UNITED STATES AND IS WITHIN THE AUTHORITY OF
8 THE COMMISSION UNDER THIS SUBTITLE.

9 (6) THE REVIEW PROCESS IN THIS SUBSECTION SHALL BE THE
10 EXCLUSIVE REMEDY TO CHALLENGE OR REVIEW A QUALIFIED RATE ORDER.

11 7-529.

12 THE COMMISSION SHALL MAKE A FINAL DECISION ON THE ISSUANCE OF A
13 QUALIFIED RATE ORDER UNDER THIS PART NO LATER THAN 60 DAYS AFTER THE
14 ELECTRIC COMPANY FILES ITS REQUEST FOR THE QUALIFIED RATE ORDER.

15 7-530.

16 A QUALIFIED RATE ORDER APPROVED BY THE COMMISSION SHALL INCLUDE
17 TERMS ENSURING THAT THE IMPOSITION AND COLLECTION OF QUALIFIED RATE
18 STABILIZATION CHARGES AUTHORIZED IN THE ORDER ARE NONBYPASSABLE.

19 7-531.

20 THE COMMISSION SHALL ESTABLISH SPECIFIC PROCEDURES AND TIME
21 FRAMES FOR THE REVIEW AND ADJUSTMENT OF QUALIFIED RATE STABILIZATION
22 CHARGES AT LEAST ONCE EACH YEAR, WITHIN 90 DAYS BEFORE THE ANNIVERSARY
23 DATE OF THE ISSUANCE OF THE RATE STABILIZATION BONDS, TO CORRECT ANY
24 OVERCOLLECTIONS OR UNDERCOLLECTIONS OF THE PRECEDING 12 MONTHS AND
25 TO ENSURE THE EXPECTED RECOVERY OF AMOUNTS SUFFICIENT TO TIMELY
26 PROVIDE ALL PAYMENTS OF DEBT SERVICE AND OTHER REQUIRED AMOUNTS AND
27 CHARGES IN CONNECTION WITH THE RATE STABILIZATION BONDS.

28 7-532.

29 (A) A QUALIFIED RATE ORDER SHALL TERMINATE AND EXPIRE 1 YEAR AFTER
30 THE DATE OF ITS ADOPTION IF, DURING THAT PERIOD, NO RATE STABILIZATION
31 BONDS AUTHORIZED IN THE QUALIFIED RATE ORDER SHALL HAVE BEEN ISSUED.

32 (B) THIS PERIOD SHALL BE EXTENDED BY ANY PERIOD DURING WHICH
33 JUDICIAL PROCEEDINGS FOR REVIEW MAY BE PENDING IN ACCORDANCE WITH §
34 7-528(C) OF THIS SUBTITLE.

35 7-533.

36 (A) AT THE REQUEST OF AN ELECTRIC COMPANY, THE COMMISSION MAY
37 ADOPT A QUALIFIED RATE ORDER PROVIDING FOR RETIRING AND REFUNDING RATE

1 STABILIZATION BONDS IF THE COMMISSION FINDS THAT THE FUTURE QUALIFIED
2 RATE STABILIZATION CHARGES REQUIRED TO SERVICE THE NEW RATE
3 STABILIZATION BONDS, INCLUDING TRANSACTION COSTS, WILL BE LESS THAN THE
4 FUTURE QUALIFIED RATE STABILIZATION CHARGES REQUIRED TO SERVICE THE
5 RATE STABILIZATION BONDS BEING REFUNDED.

6 (B) ON THE RETIREMENT OF THE REFUNDED RATE STABILIZATION BONDS,
7 THE COMMISSION SHALL ADJUST THE RELATED QUALIFIED RATE STABILIZATION
8 CHARGES ACCORDINGLY.

9 7-534.

10 (A) AT THE REQUEST OF AN ELECTRIC COMPANY, THE COMMISSION MAY
11 MODIFY AN EXISTING QUALIFIED RATE ORDER, OR ISSUE AN ADDITIONAL
12 QUALIFIED RATE ORDER, PROVIDING FOR THE ISSUANCE OF:

13 (1) ADDITIONAL RATE STABILIZATION BONDS FOR RATE STABILIZATION
14 COSTS NOT RECOVERED UNDER AN ORIGINAL QUALIFIED RATE ORDER; OR

15 (2) NEW RATE STABILIZATION BONDS FOR THE COMBINED PURPOSES
16 OF:

17 (I) FINANCING AND RECOVERING RATE STABILIZATION COSTS
18 NOT RECOVERED UNDER AN ORIGINAL QUALIFIED RATE ORDER; AND

19 (II) SUBJECT TO § 7-533 OF THIS SUBTITLE, RETIRING AND
20 REFUNDING EXISTING RATE STABILIZATION BONDS.

21 (B) UNLESS OTHERWISE PROVIDED IN THE MODIFIED OR ADDITIONAL
22 QUALIFIED RATE ORDER OR IN THE TRUST AGREEMENT SECURING THE ADDITIONAL
23 OR NEW RATE STABILIZATION BONDS, THE ADDITIONAL OR NEW RATE
24 STABILIZATION BONDS ARE:

25 (1) CONSIDERED TO BE OF THE SAME ISSUE AS THE ORIGINAL ISSUE;
26 AND

27 (2) ENTITLED TO PAYMENT FROM THE SAME FUNDS AS THE ORIGINAL
28 ISSUE, WITHOUT PREFERENCE OR PRIORITY OF THE RATE STABILIZATION BONDS OF
29 THE ORIGINAL ISSUE.

30 7-535.

31 (A) A RATE STABILIZATION BOND ISSUED UNDER THIS PART IS NOT A DEBT,
32 LIABILITY, OR A PLEDGE OF THE FULL FAITH AND CREDIT OF THE STATE OR ANY
33 OTHER GOVERNMENTAL UNIT.

34 (B) THE ISSUANCE OF A RATE STABILIZATION BOND UNDER THIS PART IS NOT
35 DIRECTLY, INDIRECTLY, OR CONTINGENTLY A MORAL OR OTHER OBLIGATION OF THE
36 STATE OR ANY OTHER GOVERNMENTAL UNIT TO LEVY OR PLEDGE ANY TAX OR TO
37 MAKE AN APPROPRIATION TO PAY THE RATE STABILIZATION BOND.

1 (C) EACH RATE STABILIZATION BOND ISSUED UNDER THIS PART SHALL
2 STATE ON ITS FACE THAT:

3 (1) THE STATE AND ANY GOVERNMENTAL UNIT ARE NOT OBLIGED TO
4 PAY THE PRINCIPAL OF OR INTEREST ON THE BOND; AND

5 (2) NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF
6 THE STATE OR ANY OTHER GOVERNMENTAL UNIT IS PLEDGED TO THE PAYMENT OF
7 THE PRINCIPAL OF OR INTEREST ON A RATE STABILIZATION BOND.

8 (D) (1) THE STATE PLEDGES, FOR THE BENEFIT AND PROTECTION OF
9 FINANCING PARTIES AND THE ELECTRIC COMPANY, THAT IT WILL NOT TAKE OR
10 ALLOW ANY ACTION THAT WOULD IMPAIR THE VALUE OF RATE STABILIZATION
11 PROPERTY, OR, EXCEPT AS ALLOWED IN ACCORDANCE WITH §§ 7-531, 7-533, AND 7-534
12 OF THIS SUBTITLE, REDUCE, ALTER, OR IMPAIR THE QUALIFIED RATE
13 STABILIZATION CHARGES TO BE IMPOSED, COLLECTED, AND REMITTED TO
14 FINANCING PARTIES, UNTIL THE PRINCIPAL, INTEREST, AND PREMIUM, AND ANY
15 OTHER CHARGES INCURRED AND CONTRACTS TO BE PERFORMED IN CONNECTION
16 WITH THE RELATED RATE STABILIZATION BONDS HAVE BEEN PAID AND PERFORMED
17 IN FULL.

18 (2) ANY PARTY ISSUING RATE STABILIZATION BONDS IS AUTHORIZED TO
19 INCLUDE THIS PLEDGE IN ANY DOCUMENTATION RELATING TO THOSE BONDS.

20 7-536.

21 A QUALIFIED RATE ORDER UNDER THIS PART THAT AUTHORIZES THE
22 ISSUANCE OF RATE STABILIZATION BONDS MAY:

23 (1) STATE THE RIGHTS AND REMEDIES OF BONDHOLDERS AND ANY
24 ASSIGNEE; AND

25 (2) CONTAIN PROVISIONS TO PROTECT AND ENFORCE THE RIGHTS AND
26 REMEDIES OF BONDHOLDERS AND ANY ASSIGNEE.

27 7-537.

28 (A) THE RIGHTS AND INTERESTS OF AN ELECTRIC COMPANY OR SUCCESSOR
29 UNDER A QUALIFIED RATE ORDER, INCLUDING THE RIGHT TO IMPOSE, COLLECT,
30 AND RECEIVE QUALIFIED RATE STABILIZATION CHARGES AUTHORIZED IN THE
31 ORDER:

32 (1) BECOME RATE STABILIZATION PROPERTY WHEN THEY ARE FIRST
33 TRANSFERRED TO AN ASSIGNEE OR ARE PLEDGED IN CONNECTION WITH THE
34 ISSUANCE OF RATE STABILIZATION BONDS; BUT

35 (2) ARE ONLY CONTRACT RIGHTS BEFORE THAT FIRST TRANSFER OR
36 PLEDGE.

1 (B) RATE STABILIZATION PROPERTY CONSTITUTES A PRESENT PROPERTY
2 RIGHT:

3 (1) FOR PURPOSES OF CONTRACTS CONCERNING THE SALE OR PLEDGE
4 OF PROPERTY, EVEN THOUGH THE IMPOSITION AND COLLECTION OF QUALIFIED
5 RATE STABILIZATION CHARGES DEPENDS ON FURTHER ACTS OF THE ELECTRIC
6 COMPANY OR OTHERS THAT HAVE NOT YET OCCURRED; AND

7 (2) FOR ALL PURPOSES UNTIL THE LATER OF:

8 (I) THE PERIOD PROVIDED IN THE QUALIFIED RATE ORDER, TO
9 THE EXTENT PROVIDED IN THAT ORDER; OR

10 (II) THE PAYMENT IN FULL OF THE RATE STABILIZATION BONDS,
11 INCLUDING ALL PRINCIPAL, INTEREST, PREMIUM, COSTS, AND ARREARAGES ON THE
12 BONDS.

13 (C) ALL REVENUES AND COLLECTIONS RESULTING FROM QUALIFIED RATE
14 STABILIZATION CHARGES ARE PROCEEDS ONLY OF THE RATE STABILIZATION
15 PROPERTY ARISING FROM THE QUALIFIED RATE ORDER.

16 7-538.

17 A TRANSACTION THAT INVOLVES THE TRANSFER AND OWNERSHIP OF RATE
18 STABILIZATION PROPERTY AND THE RECEIPT OF RATE STABILIZATION CHARGES ARE
19 EXEMPT FROM STATE AND LOCAL INCOME, SALES, FRANCHISE, GROSS RECEIPTS,
20 AND OTHER TAXES OR SIMILAR CHARGES.

21 7-539.

22 (A) AN AGREEMENT BY AN ELECTRIC COMPANY OR ASSIGNEE TO TRANSFER
23 RATE STABILIZATION PROPERTY THAT EXPRESSLY STATES THAT THE TRANSFER IS A
24 SALE OR OTHER ABSOLUTE TRANSFER SIGNIFIES THAT:

25 (1) THE TRANSACTION IS A TRUE SALE AND IS NOT A SECURED
26 TRANSACTION; AND

27 (2) LEGAL AND EQUITABLE TITLE HAS PASSED TO THE ENTITY TO
28 WHICH THE RATE STABILIZATION PROPERTY IS TRANSFERRED.

29 (B) THE STATUS OF THE TRANSFER AS A TRUE SALE PREVAILS REGARDLESS
30 OF ANY RECOURSE THE PURCHASER MAY HAVE AGAINST THE SELLER, OR ANY
31 OTHER TERM OF THE PARTIES' AGREEMENT, INCLUDING:

32 (1) THE SELLER'S RETENTION OF AN EQUITY INTEREST IN THE RATE
33 STABILIZATION PROPERTY;

34 (2) THE FACT THAT THE ELECTRIC COMPANY ACTS AS THE COLLECTOR
35 OF QUALIFIED RATE STABILIZATION CHARGES RELATING TO THE RATE
36 STABILIZATION PROPERTY; AND

1 (3) THE TREATMENT OF THE TRANSFER AS A FINANCING FOR TAX,
2 FINANCIAL REPORTING, OR OTHER PURPOSES.

3 7-540.

4 (A) THE INTEREST OF AN ASSIGNEE OR PLEDGEE IN RATE STABILIZATION
5 PROPERTY AND IN THE REVENUES AND COLLECTIONS ARISING FROM THAT
6 PROPERTY IS NOT SUBJECT TO SETOFF, COUNTERCLAIM, SURCHARGE, OR DEFENSE
7 BY THE ELECTRIC COMPANY OR ANY OTHER PERSON OR IN CONNECTION WITH THE
8 BANKRUPTCY OF THE ELECTRIC COMPANY OR ANY OTHER ENTITY.

9 (B) A QUALIFIED RATE ORDER REMAINS IN EFFECT AND UNABATED
10 NOTWITHSTANDING THE BANKRUPTCY OF THE ELECTRIC COMPANY, ITS
11 SUCCESSORS, OR ASSIGNEES.

12 7-541.

13 (A) (1) THE ELECTRIC BILL OF AN ELECTRIC COMPANY THAT HAS
14 OBTAINED A QUALIFIED RATE ORDER AND ISSUED RATE STABILIZATION BONDS
15 MUST:

16 (I) EXPLICITLY REFLECT THAT A PORTION OF THE CHARGES ON
17 THE BILL REPRESENTS QUALIFIED RATE STABILIZATION CHARGES APPROVED IN A
18 QUALIFIED RATE ORDER ISSUED TO THE ELECTRIC COMPANY; AND

19 (II) IF THE RATE STABILIZATION PROPERTY HAS BEEN
20 TRANSFERRED TO AN ASSIGNEE, INCLUDE A STATEMENT TO THE EFFECT THAT:

21 1. THE ASSIGNEE IS THE OWNER OF THE RIGHTS TO
22 QUALIFIED RATE STABILIZATION CHARGES; AND

23 2. THE ELECTRIC COMPANY OR ANY OTHER ENTITY, IF
24 APPLICABLE, IS ACTING AS A COLLECTION AGENT OR SERVICER FOR THE ASSIGNEE.

25 (2) THE TARIFF APPLICABLE TO CUSTOMERS MUST INDICATE THE
26 QUALIFIED RATE STABILIZATION CHARGE AND THE OWNERSHIP OF THAT CHARGE.

27 (B) THE FAILURE OF AN ELECTRIC COMPANY TO COMPLY WITH THIS SECTION
28 MAY NOT INVALIDATE, IMPAIR, OR AFFECT ANY QUALIFIED RATE ORDER, RATE
29 STABILIZATION PROPERTY, QUALIFIED RATE STABILIZATION CHARGE, OR RATE
30 STABILIZATION BONDS.

31 7-542.

32 (A) (1) RATE STABILIZATION PROPERTY DOES NOT CONSTITUTE AN
33 ACCOUNT OR GENERAL INTANGIBLE UNDER § 9-102 OF THE COMMERCIAL LAW
34 ARTICLE.

35 (2) THE CREATION, GRANTING, PERFECTION, AND ENFORCEMENT OF
36 LIENS AND SECURITY INTERESTS IN RATE STABILIZATION PROPERTY, INCLUDING

1 ALL PROCEEDS OF THAT PROPERTY, ARE GOVERNED BY THIS SECTION AND NOT BY
2 THE MARYLAND UNIFORM COMMERCIAL CODE.

3 (B) (1) A VALID AND ENFORCEABLE LIEN AND SECURITY INTEREST IN
4 INTANGIBLE RATE STABILIZATION PROPERTY, INCLUDING ALL PROCEEDS OF THAT
5 PROPERTY, MAY BE CREATED ONLY BY A QUALIFIED RATE ORDER AND THE
6 EXECUTION AND DELIVERY OF A SECURITY AGREEMENT WITH A FINANCING PARTY
7 IN CONNECTION WITH THE ISSUANCE OF RATE STABILIZATION BONDS.

8 (2) (I) THE LIEN AND SECURITY INTEREST SHALL ATTACH
9 AUTOMATICALLY FROM THE TIME THAT VALUE IS RECEIVED FOR THE BONDS.

10 (II) ON PERFECTION THROUGH THE FILING OF NOTICE WITH THE
11 STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IN ACCORDANCE WITH THE
12 PROCEDURES PRESCRIBED UNDER SUBSECTION (D) OF THIS SECTION:

13 1. THE LIEN AND SECURITY INTEREST SHALL BE A
14 CONTINUOUSLY PERFECTED LIEN AND SECURITY INTEREST IN THE RATE
15 STABILIZATION PROPERTY; AND

16 2. ALL PROCEEDS OF THE PROPERTY, WHETHER ACCRUED
17 OR NOT, SHALL HAVE PRIORITY IN THE ORDER OF FILING AND TAKE PRECEDENCE
18 OVER ANY SUBSEQUENT JUDICIAL OR OTHER LIEN CREDITOR.

19 (3) THE SECURITY INTEREST SHALL BE PERFECTED:

20 (I) RETROACTIVE TO THE DATE VALUE WAS RECEIVED IF NOTICE
21 IS FILED WITHIN 10 DAYS AFTER VALUE IS RECEIVED FOR THE RATE STABILIZATION
22 BONDS; OR

23 (II) AS OF THE DATE OF FILING, IF NOTICE IS NOT FILED WITHIN
24 THAT 10-DAY PERIOD.

25 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, TRANSFER OF AN
26 INTEREST IN RATE STABILIZATION PROPERTY TO AN ASSIGNEE SHALL BE
27 PERFECTED AGAINST ALL THIRD PARTIES, INCLUDING SUBSEQUENT JUDICIAL OR
28 OTHER LIEN CREDITORS, WHEN:

29 (I) THE QUALIFIED RATE ORDER BECOMES EFFECTIVE;

30 (II) TRANSFER DOCUMENTS HAVE BEEN DELIVERED TO THE
31 ASSIGNEE; AND

32 (III) A NOTICE OF THAT TRANSFER HAS BEEN FILED IN
33 ACCORDANCE WITH PROCEDURES ADOPTED UNDER SUBSECTION (D) OF THIS
34 SECTION.

35 (2) IF NOTICE OF THE TRANSFER HAS NOT BEEN FILED IN ACCORDANCE
36 WITH THIS SUBSECTION WITHIN 10 DAYS AFTER THE DELIVERY OF TRANSFER

1 DOCUMENTATION, THE TRANSFER OF THE INTEREST IS NOT PERFECTED AGAINST
2 THIRD PARTIES UNTIL THE NOTICE IS FILED.

3 (D) THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION SHALL
4 IMPLEMENT THIS SECTION BY ESTABLISHING AND MAINTAINING A SEPARATE
5 SYSTEM OF RECORDS FOR THE FILING OF NOTICES UNDER THIS SECTION AND
6 PRESCRIBING THE PROCEDURES FOR THOSE FILINGS BASED ON TITLE 9 OF THE
7 MARYLAND UNIFORM COMMERCIAL CODE, AS ADAPTED TO THIS SUBTITLE AND
8 USING THE TERMS DEFINED IN THIS SUBTITLE.

9 (E) (1) THE PRIORITY OF A LIEN AND SECURITY INTEREST PERFECTED
10 UNDER THIS SECTION IS NOT IMPAIRED BY:

11 (I) ANY LATER MODIFICATION OF THE QUALIFIED RATE ORDER
12 UNDER § 7-531, § 7-533, OR § 7-534 OF THIS SUBTITLE; OR

13 (II) THE COMMINGLING OF FUNDS ARISING FROM QUALIFIED RATE
14 STABILIZATION CHARGES WITH OTHER FUNDS.

15 (2) ANY OTHER SECURITY INTEREST THAT MAY APPLY TO THOSE FUNDS
16 SHALL BE TERMINATED WHEN THEY ARE TRANSFERRED TO A SEGREGATED
17 ACCOUNT FOR THE ASSIGNEE OR A FINANCING PARTY.

18 (3) IF RATE STABILIZATION PROPERTY HAS BEEN TRANSFERRED TO AN
19 ASSIGNEE, ANY PROCEEDS OF THAT PROPERTY SHALL BE HELD IN TRUST FOR THE
20 ASSIGNEE.

21 (F) IF A DEFAULT OR TERMINATION OCCURS UNDER THE RATE
22 STABILIZATION BONDS:

23 (1) THE FINANCING PARTIES OR THEIR REPRESENTATIVES MAY
24 FORECLOSE ON OR OTHERWISE ENFORCE THEIR LIEN AND SECURITY INTEREST IN
25 ANY INTANGIBLE RATE STABILIZATION PROPERTY AS IF THEY WERE SECURED
26 PARTIES UNDER TITLE 9 OF THE MARYLAND UNIFORM COMMERCIAL CODE;

27 (2) THE COMMISSION MAY ORDER THAT AMOUNTS ARISING FROM
28 QUALIFIED RATE STABILIZATION CHARGES BE TRANSFERRED TO A SEPARATE
29 ACCOUNT FOR THE FINANCING PARTIES' BENEFIT, TO WHICH THEIR LIEN AND
30 SECURITY INTEREST SHALL APPLY; AND

31 (3) ON APPLICATION BY OR ON BEHALF OF THE FINANCING PARTIES,
32 THE CIRCUIT COURT FOR BALTIMORE CITY, BUSINESS AND TECHNOLOGY CASE
33 MANAGEMENT PROGRAM, SHALL ORDER THE SEQUESTRATION AND PAYMENT TO
34 THE FINANCING PARTIES OF REVENUES ARISING FROM THE QUALIFIED RATE
35 STABILIZATION CHARGES.

36 (G) THE COURT ORDER UNDER SUBSECTION (F) OF THIS SECTION SHALL
37 REMAIN IN FULL FORCE AND EFFECT NOTWITHSTANDING ANY REORGANIZATION,
38 BANKRUPTCY, OR OTHER INSOLVENCY PROCEEDINGS WITH RESPECT TO THE
39 ELECTRIC COMPANY OR ITS SUCCESSORS OR ASSIGNEES.

1 (H) THIS SECTION DOES NOT LIMIT ANY OTHER REMEDIES AVAILABLE TO THE
2 APPLYING PARTY.

3 7-543.

4 (A) THIS SECTION APPLIES TO A PERSON THAT IS A SUCCESSOR TO AN
5 ELECTRIC COMPANY, WHETHER THROUGH:

6 (1) A REORGANIZATION, BANKRUPTCY, OR OTHER INSOLVENCY
7 PROCEEDING;

8 (2) A MERGER OR ACQUISITION, SALE, OR OTHER BUSINESS
9 COMBINATION; OR

10 (3) A TRANSFER BY OPERATION OF LAW.

11 (B) A SUCCESSOR TO AN ELECTRIC COMPANY SHALL PERFORM AND SATISFY
12 ALL OBLIGATIONS OF, AND HAVE THE SAME RIGHTS UNDER A QUALIFIED RATE
13 ORDER AS, THE ELECTRIC COMPANY UNDER THE QUALIFIED RATE ORDER IN THE
14 SAME MANNER AND TO THE SAME EXTENT AS THE ELECTRIC COMPANY, INCLUDING:

15 (1) COLLECTING THE REVENUES, COLLECTIONS, PAYMENTS, OR
16 PROCEEDS OF THE RATE STABILIZATION PROPERTY; AND

17 (2) PAYING THEM TO THE PERSON ENTITLED TO RECEIVE THEM.

18 7-544.

19 AN ASSIGNEE OR FINANCING PARTY MAY NOT BE CONSIDERED TO BE A PUBLIC
20 SERVICE COMPANY OR AN ELECTRICITY SUPPLIER SOLELY BY VIRTUE OF THE
21 TRANSACTIONS DESCRIBED IN THIS PART.

22 7-545. RESERVED.

23 7-546. RESERVED.

24 PART IV. RATE STABILIZATION - SPECIFIC PROVISIONS.

25 7-547.

26 THIS PART APPLIES TO AN INVESTOR-OWNED ELECTRIC COMPANY THAT HAS
27 AN OBLIGATION TO PROVIDE STANDARD OFFER SERVICE UNDER § 7-510(C) OF THIS
28 SUBTITLE TO RESIDENTIAL ELECTRIC CUSTOMERS FOR WHOM RATE CAP OR PRICE
29 FREEZE SERVICE ESTABLISHED UNDER A SETTLEMENT AGREEMENT APPROVED IN
30 ACCORDANCE WITH § 7-505(D) OF THIS SUBTITLE EXPIRES AT THE END OF JUNE 30,
31 2006.

32 7-548.

33 (A) (1) (I) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE,
34 BUT SUBJECT TO PARAGRAPHS (2) THROUGH (4) OF THIS SUBSECTION, AN ELECTRIC

1 COMPANY TO WHICH THIS PART APPLIES SHALL FILE TARIFFS WITH THE
2 COMMISSION THAT IMPLEMENT A RATE STABILIZATION PLAN CONSISTENT WITH
3 THIS PART.

4 (II) 1. THE COMMISSION SHALL REVIEW THE TARIFFS
5 REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

6 2. WITHIN 20 DAYS AFTER THE FILING OF THE TARIFFS
7 REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSION
8 SHALL ISSUE AN ORDER IMPLEMENTING THE RATE STABILIZATION PLAN IN
9 ACCORDANCE WITH THIS PART AND PART III OF THIS SUBTITLE.

10 3. THE ORDER ISSUED BY THE COMMISSION SHALL INCLUDE
11 A REQUIREMENT THAT THE ELECTRIC COMPANY ESTABLISH REGULATORY ASSETS
12 TO ACCOUNT FOR THE RATE STABILIZATION COSTS DEFERRED UNDER THE RATE
13 STABILIZATION PLAN.

14 (2) UNDER THE RATE STABILIZATION PLAN, THE RESIDENTIAL
15 STANDARD OFFER SERVICE RATE SHALL RECOVER THE COSTS TO THE ELECTRIC
16 COMPANY UNDER § 7-510(C)(3) OF THIS SUBTITLE DEFERRED DURING THE PERIOD
17 JULY 1, 2006 THROUGH MAY 31, 2007.

18 (3) ANY CREDIT OR CHARGES TO THE COST OF STANDARD OFFER
19 SERVICE FOR RESIDENTIAL ELECTRIC CUSTOMERS REQUIRED OR AUTHORIZED
20 UNDER THIS PART SHALL BE INCLUDED AS A NONBYPASSABLE CREDIT OR CHARGE
21 ON THE ELECTRIC DISTRIBUTION PORTION OF THE BILL OF EACH RESIDENTIAL
22 ELECTRIC CUSTOMER OF THE ELECTRIC COMPANY.

23 (4) AN ELECTRIC COMPANY MAY APPLY TO THE COMMISSION FOR A
24 QUALIFIED RATE ORDER UNDER PART III OF THIS SUBTITLE FOR THE FINANCING
25 AND RECOVERY OF ITS RATE STABILIZATION COSTS.

26 (B) (1) THE INCREASE IN THE TOTAL RATES CHARGED TO EACH
27 RESIDENTIAL ELECTRIC CUSTOMER ON STANDARD OFFER SERVICE, AS COMPARED
28 WITH THE TOTAL RATES FOR RESIDENTIAL ELECTRIC CUSTOMERS IN EFFECT ON
29 JUNE 30, 2006, SHALL BE:

30 (I) FROM JULY 1, 2006 THROUGH MAY 31, 2007, 15% OF THE TOTAL
31 RATE IN EFFECT ON JUNE 30, 2006; AND

32 (II) FROM JUNE 1, 2007 IN AN AMOUNT DETERMINED BY THE
33 COMMISSION UNDER § 7-510 OF THIS SUBTITLE.

34 (2) STANDARD OFFER SERVICE FOR RESIDENTIAL ELECTRIC
35 CUSTOMERS SHALL BE AT FULL MARKET RATES UNDER THIS PART STARTING JUNE 1,
36 2008.

37 (3) A RATE STABILIZATION COST MAY NOT BE RECOVERED BEFORE
38 JANUARY 1, 2007.

1 (4) FOR PURPOSES OF CALCULATING THE RATES TO BE CHARGED
2 UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE RATE STABILIZATION CHARGE
3 MAY NOT BE CONSIDERED TO BE PART OF THE TOTAL RATES CHARGED TO
4 RESIDENTIAL ELECTRIC CUSTOMERS.

5 (5) THE COMMISSION NEED NOT CONDUCT EVIDENTIARY PROCEEDINGS
6 UNDER § 7-510(C)(7)(I) OF THIS SUBTITLE TO DETERMINE THE SECOND OR
7 SUBSEQUENT PHASE OF THE TRANSITION TO FULL MARKET RATES UNDER THIS
8 PART.

9 (C) (1) THE ELECTRIC COMPANY SHALL PROVIDE EACH RESIDENTIAL
10 ELECTRIC CUSTOMER A DEFERRAL CREDIT EQUAL TO THE DIFFERENCE BETWEEN
11 THE COST INCURRED BY THE ELECTRIC COMPANY UNDER § 7-510(C)(3) OF THIS
12 SUBTITLE AND THE RATES AUTHORIZED IN SUBSECTION (B)(1) OF THIS SECTION.

13 (2) (I) THE TOTAL AMOUNT OF COST RECOVERY DEFERRED THROUGH
14 DEFERRAL CREDITS PROVIDED TO RESIDENTIAL ELECTRIC CUSTOMERS SHALL BE A
15 RATE STABILIZATION COST TO BE RECOVERED AS A REGULATORY ASSET.

16 (II) THE TOTAL COST DEFERRED MAY BE SECURED UNDER PART III
17 OF THIS SUBTITLE.

18 (3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE
19 ELECTRIC COMPANY SHALL PERFORM A RECONCILIATION OF ANY OVERCOLLECTION
20 OR UNDERCOLLECTION OF THE DEFERRED COSTS AND EXPENSES RESULTING FROM
21 THIS RATE STABILIZATION PLAN:

22 1. EACH YEAR DURING THE RATE STABILIZATION PLAN; AND

23 2. WITHIN 90 DAYS AFTER THE END OF THE RATE
24 STABILIZATION PLAN.

25 (II) TO THE EXTENT THAT SECURITIZATION IS IMPLEMENTED
26 UNDER PART III OF THIS SUBTITLE, ANY RECONCILIATIONS MADE IN ACCORDANCE
27 WITH PART III OF THIS SUBTITLE SHALL BE IN ADDITION TO ANY RECONCILIATIONS
28 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

29 (D) RATE STABILIZATION COSTS SHALL BE RECOVERED BY THE ELECTRIC
30 COMPANY FROM THE RESIDENTIAL ELECTRIC CUSTOMERS THROUGH A
31 USAGE-BASED RATE STABILIZATION CHARGE OVER A PERIOD NOT TO EXCEED 10
32 YEARS.

33 (E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, AS
34 APPROVED BY THE COMMISSION, AN ELECTRIC COMPANY MAY RECEIVE A
35 MODIFICATION IN DISTRIBUTION AND TRANSMISSION RATES WHILE THE RATE
36 STABILIZATION PLAN IS IN EFFECT.

1 7-549.

2 (A) IN THIS SECTION, "ACTUAL COST" MEANS THE COSTS AND EXPENSES
3 DEFERRED AS REGULATORY ASSETS MULTIPLIED BY:

4 (1) THE ELECTRIC COMPANY'S COST OF DEBT; OR

5 (2) IF THE ELECTRIC COMPANY SECURES THE DEBT UNDER PART III OF
6 THIS SUBTITLE, THE COST OF THE SECURED DEBT.

7 (B) AN ELECTRIC COMPANY SHALL RECOVER, AS AN ADDITIONAL RATE
8 STABILIZATION COST, THE ACTUAL COST TO THE ELECTRIC COMPANY OF CARRYING
9 THE COSTS AND EXPENSES DEFERRED AS REGULATORY ASSETS UNDER THE RATE
10 STABILIZATION PLAN.

11 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
12 read as follows:

13 **Article - Tax - General**

14 [10-712.

15 (a) A public utility may claim a credit against the State income tax in an
16 amount equal to 60% of the total property taxes paid by the public utility on its
17 operating real property in the State, other than operating land, that is used to
18 generate electricity or steam for sale.

19 (b) (1) For any taxable year, the credit allowed under this section may not
20 exceed the State income tax for that taxable year, calculated before application of the
21 credits allowed under this section and §§ 10-701 and 10-701.1 of this subtitle but
22 after application of any other credits allowed under this subtitle.

23 (2) The unused amount of the credit for any taxable year may not be
24 carried over to any other taxable year.]

25 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
26 read as follows:

27 **Article - Public Utility Companies**

28 5-104.

29 (a) The Commission may authorize the acts described in §§ 5-202, 5-203, and
30 5-205 of this title and § 6-101(a) of this article if it finds that the authorization is
31 consistent with the public convenience and necessity.

32 (b) Authority that the Commission grants under §§ 5-202 and 5-203 of this
33 title does not:

34 (1) revive a lapsed franchise;

- 1 (2) validate an invalid franchise;
- 2 (3) enlarge or add to the powers and privileges of a franchise; or
- 3 (4) waive a forfeiture.

4 5-203.

5 (a) Subject to § 6-101 of this article, without prior authorization of the
6 Commission, a public service company may not purchase, acquire, take, or hold any
7 part of the capital stock of another public service company [incorporated] THAT
8 OPERATES in Maryland.

9 (b) (1) This subsection applies to corporations [incorporated] THAT
10 OPERATE in Maryland.

11 (2) Without prior authorization of the Commission, a public service
12 company may not:

13 (i) assume or guarantee an obligation or liability with respect to
14 stocks, bonds, securities, notes, or other evidence of indebtedness that is payable as a
15 whole or in part to any person more than 12 months after the date of issuance; or

16 (ii) issue stocks, bonds, securities, notes, or other evidence of
17 indebtedness payable as a whole or in part more than 12 months after the date of
18 issuance.

19 (3) Stocks, bonds, securities, notes, or other evidence of indebtedness
20 described under paragraph (2)(ii) of this subsection shall be issued in accordance with
21 §§ 6-102 and 6-103 of this article.

22 6-101.

23 (a) (1) This subsection applies only to [Maryland] corporations THAT
24 OPERATE IN MARYLAND.

25 (2) A public service company shall obtain authorization from the
26 Commission before the public service company:

27 (i) assumes or guarantees an obligation or liability with respect to
28 stocks, bonds, securities, notes, or other evidence of indebtedness of any person that is
29 payable wholly or partly more than 12 months after the date of the assumption or
30 guarantee; [or]

31 (ii) issues stocks, bonds, securities, notes, or other evidence of
32 indebtedness that is payable wholly or partly more than 12 months after the date
33 issued; OR

34 (III) LENDS MONEY TO AN AFFILIATE, AS DEFINED IN § 7-501 OF
35 THIS ARTICLE, AT RATES OR ON TERMS THAT ARE SIGNIFICANTLY MORE FAVORABLE

1 TO THE AFFILIATE THAN THE RATES OR TERMS THAT ARE OTHERWISE
2 COMMERCIALY AVAILABLE TO THE AFFILIATE.

3 (3) An issuance under paragraph (2)(ii) of this subsection shall conform
4 to §§ 6-102 and 6-103 of this subtitle.

5 (b) (1) Subject to the requirements of subsection (c) of this section, the
6 Commission may authorize an act described under subsection (a)(2) of this section if
7 the Commission finds that the act is consistent with the public convenience and
8 necessity.

9 (2) Authorization under this subsection does not:

10 (i) revive a lapsed franchise, validate an invalid franchise, or add
11 to the powers and privileges in a franchise; or

12 (ii) waive a forfeiture.

13 (c) (1) This subsection does not apply to the formation of a holding company
14 by a public service company in a corporate reorganization that involves an exchange
15 of stock of the public service company for stock in the holding company.

16 (2) In this subsection, a company controlling a public service company is
17 deemed a public service company of the same class as the controlled public service
18 company.

19 (3) Without prior authorization of the Commission, a public service
20 company may not take, hold, or acquire any part of the capital stock of a public service
21 company that [is]:

22 (i) [incorporated] OPERATES in Maryland; and

23 (ii) IS of the same class as the acquiring company.

24 (4) (i) Except as provided in subparagraph (ii) of this paragraph, a
25 stock corporation may not take, hold, or acquire more than 10% of the total capital
26 stock of a public service company [incorporated] THAT OPERATES in Maryland
27 unless:

28 1. the stock is acquired as collateral security; and

29 2. the Commission approves the acquisition.

30 (ii) The Commission may authorize a public service company of the
31 same class to take, hold, or acquire more than 10% of the total capital stock of a public
32 service company [incorporated] THAT OPERATES in Maryland.

33 (5) A public service company may not be a party to a violation of this
34 subsection.

1 6-102.

2 (a) This section applies only to public service companies that [are] OPERATE
3 IN Maryland [corporations].

4 (b) The Commission shall authorize a public service company to issue stocks,
5 bonds, securities, notes, or other evidence of indebtedness, payable wholly or partly
6 more than 12 months after the date of issuance, if the Commission finds that the
7 issuance is reasonably required for the public service company to:

8 (1) acquire property;

9 (2) construct, complete, extend, or improve its facilities;

10 (3) discharge or lawfully refund its obligations;

11 (4) maintain or improve service; or

12 (5) reimburse money, not secured by or obtained from the issuance, that
13 is expended for a purpose described in item (1), (2), or (3) of this subsection within 5
14 years before the filing of an application with the Commission for the reimbursement.

15 (c) (1) The Commission may authorize a public service company to issue
16 stocks, bonds, securities, notes, or other evidence of indebtedness, payable wholly or
17 partly more than 12 months after the date of issuance, for the public service company
18 to:

19 (i) conform the aggregate capitalization of the public service
20 company to the value of its property; or

21 (ii) subject to paragraph (2) of this subsection, pay a dividend in
22 shares of the public service company's own stock.

23 (2) An order of the Commission authorizing an issuance under
24 paragraph (1)(ii) of this subsection shall state that:

25 (i) concurrently with the issuance, the public service company
26 shall transfer from surplus to capital an amount that the Commission determines
27 under paragraph (3) of this subsection; and

28 (ii) a sum equal to the amount to be transferred has been expended
29 from income or other money in the treasury of the public service company not secured
30 by, obtained from, or reimbursed by the issuance of stocks, bonds, notes, or other
31 evidence of indebtedness of the public service company for a purpose described in
32 subsection (b)(1), (2), or (3) of this section.

33 (3) The amount that the Commission determines under paragraph (2)(i)
34 of this subsection may not be less than:

35 (i) the aggregate par value of the stock whose issuance is to be
36 authorized; or

1 (ii) if the stock has no par value, the capital value of the stock.

2 (d) (1) An authorization by the Commission under subsection (b) or (c) of
3 this section shall be by order.

4 (2) The order shall specify:

5 (i) the amount of the issuance authorized; and

6 (ii) the purpose under subsection (b) or (c) of this section for which
7 the issuance is reasonably required.

8 (e) (1) Notwithstanding subsections (b), (c), (d), and (g) of this section, the
9 Commission may approve the issuance of stocks, bonds, securities, notes, or other
10 evidence of indebtedness in connection with the organization of a new public service
11 company by the purchaser of the franchise or property of a public service company
12 sold under judicial proceedings, mortgage, or deed of trust.

13 (2) An issuance that the Commission approves under this subsection
14 shall be in the amount that the Commission considers necessary fully to protect the
15 rights and equities of the holders of the securities of the predecessor company.

16 (f) A public service company's application for authorization under this section
17 of long-term debt in excess of \$1,000,000 shall include a copy of any restrictive
18 covenant attached to the debt.

19 (g) (1) Except as provided in paragraph (2) of this subsection, this section
20 does not prevent a public service company from issuing, without the prior consent of
21 the Commission, notes that are:

22 (i) for proper corporate purposes;

23 (ii) not otherwise in violation of the law; and

24 (iii) payable at periods totaling not more than 12 months after the
25 date of issuance.

26 (2) Except as authorized under subsection (b) or (c) of this section, notes
27 issued under paragraph (1) of this subsection may not be refunded directly or
28 indirectly, wholly or partly, by an evidence of indebtedness running for more than 12
29 months.

30 6-103.

31 (a) This section applies only to public service companies that [are] OPERATE
32 IN Maryland [corporations].

33 (b) (1) A public service company may not:

34 (i) capitalize or issue bonds against or as lien on a contract for
35 consolidation, merger, or lease; or

1 (ii) except as provided in paragraph (2) of this subsection, capitalize
2 a franchise or the right to own a franchise.

3 (2) A public service company may capitalize a franchise or right to own a
4 franchise in an amount not exceeding the amount, exclusive of any tax or annual
5 charge, actually paid to the State or a political subdivision as consideration for the
6 grant of the franchise or right.

7 (c) The stated capital, as determined under Title 2, Subtitle 3 of the
8 Corporations and Associations Article, of a public service company formed by a
9 merger or consolidation of corporations may not exceed, solely by virtue of the merger
10 or consolidation, the stated capital of the corporations merged or consolidated plus
11 any additional sum paid in cash.

12 (d) (1) This subsection does not apply to the capitalization of a franchise to
13 be a public service company.

14 (2) Notwithstanding any other provision of this article, the Commission
15 may approve the capitalization of tangible and intangible property of:

16 (i) a newly chartered public service company; or

17 (ii) a public service company organized or reorganized by the
18 purchaser of the franchise and property of its predecessor at a sale under judicial
19 proceedings, mortgage, or deed of trust.

20 (3) Capitalization under paragraph (2) of this subsection shall be in the
21 amount and form that the Commission considers reasonably necessary to enable the
22 public service company to obtain the capital necessary to establish itself as a going
23 concern.

24 6-105.

25 (A) IN THIS SECTION, "AFFILIATE" HAS THE MEANING STATED IN § 7-501 OF
26 THIS ARTICLE.

27 (B) (1) THE GENERAL ASSEMBLY FINDS THAT:

28 (I) EXISTING LEGISLATION REQUIRES THE APPROVAL BY THE
29 COMMISSION OF THE ACQUISITION BY ONE PUBLIC SERVICE COMPANY OF ANOTHER
30 PUBLIC SERVICE COMPANY'S STOCKS AND OBLIGATIONS, BUT DOES NOT REQUIRE
31 THE COMMISSION'S APPROVAL OF THESE ACQUISITIONS BY PERSONS NOT ENGAGED
32 IN THE PUBLIC UTILITY BUSINESS IN THE STATE; AND

33 (II) AN ATTEMPT BY A PERSON NOT ENGAGED IN THE PUBLIC
34 UTILITY BUSINESS IN THE STATE TO ACQUIRE THE POWER TO EXERCISE ANY
35 SUBSTANTIAL INFLUENCE OVER THE POLICIES AND ACTIONS OF A PUBLIC SERVICE
36 COMPANY THAT PROVIDES ELECTRICITY OR GAS IN THE STATE COULD RESULT IN
37 HARM TO THE CUSTOMERS OF THE PUBLIC SERVICE COMPANY, INCLUDING THE

1 DEGRADATION OF UTILITY SERVICES, HIGHER RATES, WEAKENED FINANCIAL
2 STRUCTURE, AND DIMINUTION OF UTILITY ASSETS.

3 (2) THE GENERAL ASSEMBLY DECLARES THAT IT IS THE POLICY OF THE
4 STATE TO REGULATE ACQUISITIONS BY PERSONS THAT ARE NOT ENGAGED IN THE
5 PUBLIC UTILITY BUSINESS IN THE STATE OF THE POWER TO EXERCISE ANY
6 SUBSTANTIAL INFLUENCE OVER THE POLICIES AND ACTIONS OF A PUBLIC SERVICE
7 COMPANY THAT PROVIDES ELECTRICITY OR GAS IN THE STATE IN ORDER TO
8 PREVENT UNNECESSARY AND UNWARRANTED HARM TO THE CUSTOMERS OF THE
9 PUBLIC SERVICE COMPANY.

10 (C) THIS SECTION APPLIES TO THE ACQUISITION OF AN ELECTRIC COMPANY
11 OR A GAS COMPANY.

12 (D) WITHOUT PRIOR AUTHORIZATION FROM THE COMMISSION, A PERSON
13 MAY NOT ACQUIRE, DIRECTLY OR INDIRECTLY, THE POWER TO EXERCISE ANY
14 SUBSTANTIAL INFLUENCE OVER THE POLICIES AND ACTIONS OF AN ELECTRIC
15 COMPANY OR GAS COMPANY, IF THE PERSON WOULD BECOME AN AFFILIATE OF THE
16 ELECTRIC COMPANY OR GAS COMPANY AS A RESULT OF THE ACQUISITION.

17 (E) AN APPLICATION FOR AUTHORIZATION UNDER SUBSECTION (D) OF THIS
18 SECTION MUST INCLUDE DETAILED INFORMATION REGARDING:

19 (1) THE APPLICANT'S IDENTITY AND FINANCIAL ABILITY;

20 (2) THE BACKGROUND OF THE KEY PERSONNEL ASSOCIATED WITH THE
21 APPLICANT;

22 (3) THE SOURCE AND AMOUNTS OF FUNDS OR OTHER CONSIDERATION
23 TO BE USED IN THE ACQUISITION;

24 (4) THE APPLICANT'S COMPLIANCE WITH FEDERAL LAW IN CARRYING
25 OUT THE ACQUISITION;

26 (5) WHETHER THE APPLICANT OR THE KEY PERSONNEL ASSOCIATED
27 WITH THE APPLICANT HAVE VIOLATED ANY STATE OR FEDERAL STATUTES
28 REGULATING THE ACTIVITIES OF PUBLIC SERVICE COMPANIES;

29 (6) ALL DOCUMENTS RELATING TO THE TRANSACTION GIVING RISE TO
30 THE APPLICATION;

31 (7) THE APPLICANT'S EXPERIENCE IN OPERATING PUBLIC SERVICE
32 COMPANIES PROVIDING ELECTRICITY;

33 (8) THE APPLICANT'S PLAN FOR OPERATING THE PUBLIC SERVICE
34 COMPANY;

35 (9) HOW THE ACQUISITION WILL SERVE THE CUSTOMERS OF THE
36 PUBLIC SERVICE COMPANY IN THE PUBLIC INTEREST, CONVENIENCE, AND
37 NECESSITY; AND

1 (10) ANY OTHER INFORMATION THAT THE COMMISSION MAY SPECIFY BY
2 REGULATION OR ORDER.

3 (F) (1) THE COMMISSION PROMPTLY SHALL:

4 (I) EXAMINE AND INVESTIGATE EACH APPLICATION RECEIVED
5 UNDER THIS SECTION; AND

6 (II) UNDERTAKE ANY PROCEEDINGS NECESSARY OR CONVENIENT
7 TO REVIEW THE APPLICATION IN ACCORDANCE WITH TITLE 3 OF THIS ARTICLE AND
8 ISSUE AN ORDER CONCERNING THE ACQUISITION.

9 (2) THE COMMISSION SHALL CONSIDER THE FOLLOWING FACTORS IN
10 CONSIDERING AN ACQUISITION UNDER THIS SECTION:

11 (I) THE POTENTIAL IMPACT OF THE ACQUISITION ON RATES AND
12 CHARGES PAID BY CUSTOMERS AND ON THE SERVICES AND CONDITIONS OF
13 OPERATION OF THE PUBLIC SERVICE COMPANY;

14 (II) THE POTENTIAL IMPACT OF THE ACQUISITION ON CONTINUING
15 INVESTMENT NEEDS FOR THE MAINTENANCE OF UTILITY SERVICES, PLANT, AND
16 RELATED INFRASTRUCTURE;

17 (III) THE PROPOSED CAPITAL STRUCTURE THAT WILL RESULT
18 FROM THE ACQUISITION, INCLUDING ALLOCATION OF EARNINGS FROM THE PUBLIC
19 SERVICE COMPANY;

20 (IV) THE POTENTIAL EFFECTS ON EMPLOYMENT BY THE PUBLIC
21 SERVICE COMPANY;

22 (V) THE PROJECTED ALLOCATION OF ANY SAVINGS THAT ARE
23 EXPECTED TO THE PUBLIC SERVICE COMPANY BETWEEN STOCKHOLDERS AND RATE
24 PAYERS;

25 (VI) ISSUES OF RELIABILITY, QUALITY OF SERVICE, AND QUALITY
26 OF CUSTOMER SERVICE;

27 (VII) THE POTENTIAL IMPACT OF THE ACQUISITION ON COMMUNITY
28 INVESTMENT;

29 (VIII) AFFILIATE AND CROSS-SUBSIDIZATION ISSUES;

30 (IX) THE USE OR PLEDGE OF UTILITY ASSETS FOR THE BENEFIT OF
31 AN AFFILIATE;

32 (X) JURISDICTIONAL AND CHOICE-OF-LAW ISSUES; AND

33 (XI) ANY OTHER ISSUES THE COMMISSION CONSIDERS RELEVANT
34 TO THE ASSESSMENT OF ACQUISITION IN RELATION TO THE PUBLIC INTEREST,
35 CONVENIENCE, AND NECESSITY.

1 (3) (I) IF THE COMMISSION FINDS THAT THE ACQUISITION IS
2 CONSISTENT WITH THE PUBLIC INTEREST, CONVENIENCE, AND NECESSITY, AND
3 DOES NO HARM TO CONSUMERS, THE COMMISSION SHALL ISSUE AN ORDER
4 GRANTING THE APPLICATION.

5 (II) THE COMMISSION MAY CONDITION AN ORDER AUTHORIZING
6 THE ACQUISITION ON THE APPLICANT'S SATISFACTORY PERFORMANCE OR
7 ADHERENCE TO SPECIFIC REQUIREMENTS.

8 (4) IF THE COMMISSION DOES NOT FIND THAT THE ACQUISITION IS
9 CONSISTENT WITH THE PUBLIC INTEREST, CONVENIENCE, AND NECESSITY, OR THAT
10 THE ACQUISITION WOULD NOT HARM CONSUMERS, THE COMMISSION SHALL ISSUE
11 AN ORDER DENYING THE APPLICATION.

12 (5) THE APPLICANT BEARS THE BURDEN OF SHOWING THAT GRANTING
13 THE ACQUISITION IS CONSISTENT WITH THE PUBLIC INTEREST, CONVENIENCE, AND
14 NECESSITY, AND DOES NO HARM TO CONSUMERS.

15 (G) NOTHING IN THIS SECTION PROHIBITS DISSEMINATION BY ANY PARTY OF
16 INFORMATION CONCERNING THE ACQUISITION IF THE DISSEMINATION DOES NOT
17 OTHERWISE CONFLICT WITH FEDERAL OR STATE LAW.

18 SECTION 4. AND BE IT FURTHER ENACTED, That any approval by the
19 Public Service Commission of a merger between FPL Group, Inc., and Constellation
20 Energy Group, Inc., pending as of the effective date of this Act must include the
21 following conditions:

22 (1) the transaction may not allow the transfer of facilities between
23 Florida Power & Light Company or Baltimore Gas and Electric Company and an
24 associate company;

25 (2) the transaction may not allow the new issuances of securities by
26 Florida Power & Light Company or Baltimore Gas and Electric Company for the
27 benefit of an associate company;

28 (3) the transaction may not allow new pledges or encumbrances of assets
29 of Florida Power & Light Company or Baltimore Gas and Electric Company for the
30 benefit of an associate company;

31 (4) the transaction may not allow new affiliate contracts between
32 nonutility associate companies and Florida Power & Light Company or Baltimore Gas
33 and Electric Company, other than for goods and services subject to review under §§
34 205 and 206 of the Federal Power Act; and

35 (5) any savings realized as a result of the merger must be applied in part
36 to the elimination of carrying charges and the delay of increases in residential electric
37 rates approved by the Public Service Commission in Case No. 9052 or successor
38 proceedings.

39 SECTION 5. AND BE IT FURTHER ENACTED, That:

1 (a) The Public Service Commission may not take final action to approve or
2 disapprove a merger between FPL Group, Inc., and Constellation Energy Group, Inc.,
3 pending as of the effective date of this Act until five members of the Commission have
4 been appointed and qualified in accordance with Section 12 of this Act.

5 (b) The Public Service Commission appointed in accordance with Section 12 of
6 this Act shall:

7 (1) conduct investigatory and evidentiary proceedings, including the use
8 of any necessary outside experts and consultants, to reevaluate the general
9 regulatory structure, agreements, orders, and other prior actions of the Public Service
10 Commission under the Electric Customer Choice and Competition Act of 1999,
11 including the determination of and allowances for stranded costs;

12 (2) on or before December 31, 2006, report the results of that
13 reevaluation to the General Assembly in accordance with § 2-1246 of the State
14 Government Article;

15 (3) review the proposed merger between FPL Group, Inc., and
16 Constellation Energy Group, Inc., in accordance with the standards and procedures
17 contained in § 6-105 of the Public Utility Companies Article, as enacted by this Act;

18 (4) provide to residential customers of the Baltimore Gas and Electric
19 Company funds for mitigation of rate increases including:

20 (i) any adjustment, in favor of those customers, to allowances for
21 stranded costs for assets that were transferred from Baltimore Gas and Electric
22 Company to an affiliate; and

23 (ii) any funds identified by the Commission as properly allocated to
24 Baltimore Gas and Electric Company and its residential customers as conditions of
25 approval of the merger between FPL Group, Inc., and Constellation Energy Group,
26 Inc.; and

27 (5) require that any funds for mitigating rates for residential electric
28 customers under item (4) of this subsection must be in the form of a nonbypassable
29 credit on the customer's bill, and may not be recovered subsequently from those
30 customers in rates or otherwise.

31 SECTION 6. AND BE IT FURTHER ENACTED, That:

32 (a) Starting January 1, 2007, the investor-owned electric company
33 incorporated in Maryland whose parent is involved in a merger on the effective date
34 of this Act shall determine and apply residential electric credits totaling \$38,661,980
35 each year for a period of 10 years to the bills of all residential electric customers of the
36 electric company.

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

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

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

10 (c) The nuclear decommissioning charge described in subsection (b)(2) of this
11 section may not be altered during the 10-year period of the credit.

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

14 SECTION 7. AND BE IT FURTHER ENACTED, That:

15 (a) The Public Service Commission appointed in accordance with Section 12 of
16 this Act shall initiate an evidentiary proceeding to study and evaluate the status of
17 electric restructuring in the State as it pertains to the availability of competitive
18 generation to residential and small commercial customers and the structure,
19 procurement, and terms and conditions of standard offer service for residential and
20 small commercial customers. In its evaluation, the Commission shall consider
21 changes that are necessary to provide residents the benefit of a reliable electric
22 system at the best possible price and options for reregulation, if advisable.

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

25 (1) requiring or allowing investor-owned electric companies to purchase
26 electricity by competitive or negotiated contracts of various durations or through
27 other appropriate methods to minimize price volatility;

28 (2) allowing investor-owned electric companies to construct or acquire
29 peak-load or other generating plants and associated transmission lines;

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

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

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

3 (c) On or before December 31, 2006, the Commission shall report to the
4 Governor and, in accordance with § 2-1246 of the State Government Article, to the
5 General Assembly on its findings and recommendations.

6 (d) (1) The Commission may not implement any of the actions under
7 subsection (b)(1) through (4) of this section that are otherwise authorized by this Act
8 unless the Commission finds that the action is in the public interest.

9 (2) On or before December 31, 2006, and based on its consideration of
10 energy efficiency and conservation measures under subsection (b)(3) of this section,
11 the Commission shall establish, by regulation or order:

12 (i) the process for procurement of energy and conservation
13 measures and services; and

14 (ii) criteria to evaluate bids that are submitted for energy and
15 conservation measures and services.

16 (3) As a part of its review of electric restructuring in the State as it
17 pertains to the availability of competitive generation to residential and small
18 commercial customers and the structure, procurement, and terms and conditions of
19 standard offer service for residential and small commercial customers, the
20 Commission shall adopt a uniform definition of a "small commercial customer" for
21 purposes of standard offer service that applies in all service territories in the State.

22 (e) The requirement to study opt-out local governmental aggregation under
23 subsection (b)(5) of this section may not be construed to interfere with any pilot
24 program to implement local aggregation in existence on the effective date of this Act.

25 SECTION 8. AND BE IT FURTHER ENACTED, That, notwithstanding the rate
26 cap imposed in accordance with § 7-505(d) of the Public Utility Companies Article and
27 implementing settlement agreements and orders, the Public Service Commission, on
28 its own initiative or on request of an electric company in the service territory of which
29 a rate cap or freeze expires after July 1, 2006, shall initiate a proceeding to
30 investigate options available to implement a rate mitigation plan or rate stabilization
31 plan, including renegotiation of a settlement agreement to allow a portion of the
32 residential electric supply in that service territory to be procured at market rates so
33 that the full residential electricity rates in that service territory are not exposed to
34 volatile market conditions at one time, while ensuring that residential customers in
35 that service territory obtain the full value of the savings provided under the existing
36 rate cap.

37 SECTION 9. AND BE IT FURTHER ENACTED, That:

38 (a) (1) The State Department of Assessments and Taxation shall study
39 whether the current valuation of power plants in the State for property tax purposes
40 and any proposed change to the current method of valuation provides an adequate

1 and equitable determination of the value of power plants in a restructured electric
2 industry.

3 (2) The study shall include the potential fiscal impact to the State,
4 counties, and electric companies and their affiliates of any proposed change to the
5 current method of valuation.

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

8 (c) The Department shall report to the Governor and, in accordance with §
9 2-1246 of the State Government Article, to the General Assembly on or before
10 December 31, 2006, on its findings and recommendations.

11 (d) The Department may not change the current method of valuation before
12 May 1, 2007.

13 SECTION 10. AND BE IT FURTHER ENACTED, That, notwithstanding any
14 other provision of law, for fiscal year 2007 only:

15 (a) After making the distribution required under § 2-613 of the Tax - General
16 Article, but before making the distributions required under §§ 2-614 and 2-615 of the
17 Tax - General Article, from the remaining income tax revenue from corporations, the
18 Comptroller shall distribute \$6,000,000 to the Electric Universal Service Fund
19 established under § 7-512.1 of the Public Utility Companies Article.

20 (b) The funds distributed to the Electric Universal Service Fund under this
21 section:

22 (1) shall be in addition to the funds collected for the electric universal
23 service program under § 7-512.1(e) of the Public Utility Companies Article;

24 (2) may not be returned to customers under § 7-512.1(b)(3) of the Public
25 Utility Companies Article; and

26 (3) shall be administered by the Department of Human Resources and
27 disbursed as bill assistance and arrearage retirement funds without regard to the
28 limitation on retirement of arrearages under § 7-512.1(a)(2)(iii) of the Public Utility
29 Companies Article.

30 SECTION 11. AND BE IT FURTHER ENACTED, That:

31 (a) The Public Service Commission shall study:

32 (1) the impact of the costs of rising fuel prices on residential consumers
33 by obtaining on a monthly basis, for electric customers and gas customers, for each
34 company and category of service:

35 (i) the number of residential utility turn-off notices issued in
36 Maryland;

1 (ii) the number of residential customer turn-offs in Maryland;

2 (iii) the number of residential re-connections established in
3 Maryland; and

4 (iv) the gross amount of residential customer arrearages for each
5 class of customers in Maryland; and

6 (2) potential programs to mitigate the impact of these costs on
7 low-income residential customers, including:

8 (i) percentage of income plans; and

9 (ii) tiered rate structure plans.

10 (b) On or before October 1 of 2006 through 2010, the Commission shall report
11 the information obtained under subsection (a)(1) of this section to the Senate Finance
12 Committee and the House Economic Matters Committee in accordance with § 2-1246
13 of the State Government Article and shall publish the report for the benefit of the
14 public.

15 (c) On or before December 31, 2006, the Public Service Commission shall
16 submit to the Senate Finance Committee and the House Economic Matters
17 Committee a report of its recommendations for the adoption and feasibility of any
18 appropriate mitigation programs studied under subsection (a)(2) of this section and
19 shall publish the report for the benefit of the public.

20 SECTION 12. AND BE IT FURTHER ENACTED, That, notwithstanding the
21 provisions of § 2-102 of the Public Utility Companies Article, as enacted by this Act,
22 except for subsection (d)(3), and notwithstanding the provision of § 2-103 of the
23 Public Utility Companies Article, as enacted by this Act, except for subsection (b)(2):

24 (1) the term of office of the chairman and each commissioner of the
25 Public Service Commission serving on the effective date of this Act shall terminate at
26 the end of June 30, 2006;

27 (2) on or before July 1, 2006, the President of the Senate of Maryland
28 and the Speaker of the House of Delegates shall present:

29 (i) a list, containing at least three names, from which the Governor
30 shall select a new Chairman of the Public Service Commission in accordance with this
31 Act;

32 (ii) a second list, containing at least ten names, from which the
33 Governor shall select four other new commissioners of the Public Service Commission
34 in accordance with this Act;

35 (3) if the Governor fails to appoint five members to the Public Service
36 Commission by July 15, 2006:

1 (i) the President and the Speaker promptly shall appoint the
2 members needed to complete the Commission's fully authorized membership; and

3 (ii) the Executive Secretary of the Public Service Commission shall
4 be authorized to act on behalf of the Commission in carrying out ministerial functions
5 until the fully authorized membership has been appointed;

6 (4) the members of the Commission appointed under this section do not
7 require confirmation by the Senate;

8 (5) a name may appear on both lists under item (2) of this section; and

9 (6) the terms of office of the members of the Public Service Commission
10 appointed under this section shall expire as follows:

11 (i) one commissioner at the end of June 30, 2007;

12 (ii) one commissioner at the end of June 30, 2008;

13 (iii) the Chairman at the end of June 30, 2009;

14 (iv) one commissioner at the end of June 30, 2010; and

15 (v) one commissioner at the end of June 30, 2011.

16 SECTION 13. AND BE IT FURTHER ENACTED, That, notwithstanding the
17 provisions of § 2-202 of the Public Utility Companies Article, as enacted by this Act,
18 the People's Counsel serving as of June 30, 2006, shall continue in office to serve at
19 the pleasure of the Attorney General until a successor is appointed and qualifies in
20 accordance with § 2-202 of the Public Utility Companies Article, as enacted by this
21 Act.

22 SECTION 14. AND BE IT FURTHER ENACTED, That a member of the Public
23 Service Commission or a People's Counsel appointed under Section 12 or Section 13 of
24 this Act need not be required to recuse himself or herself from any matter before the
25 Commission under this Act on account of prior involvement in the matter in another
26 capacity.

27 SECTION 15. AND BE IT FURTHER ENACTED, That:

28 (a) In order to protect the interests of the State and the citizens of Maryland
29 and consistent with the intent of the General Assembly, in accordance with Article V,
30 Section 3 of the Maryland Constitution, the Attorney General is hereby directed to
31 intervene and participate in the Public Service Commission, Case No. 9054 and in
32 any other hearings or other proceedings before the Public Service Commission or any
33 other appropriate State or federal unit, or any case brought before any court of
34 competent jurisdiction in the State or any federal court, regarding the merger of FPL
35 Group, Inc., and Constellation Energy Group, Inc.

1 (b) The costs and expenses associated with the intervention and participation
 2 by the Attorney General in hearings and other proceedings regarding the merger of
 3 FPL Group, Inc., and Constellation Energy Group, Inc., not exceeding \$500,000, shall
 4 be borne by the public service companies that are subject to the Public Service
 5 Commission's jurisdiction in the same manner as the Commission's costs and
 6 expenses are assessed, collected, and disbursed under §§ 2-110 and 2-110.1 of the
 7 Public Utility Companies Article.

8 SECTION 16. AND BE IT FURTHER ENACTED, That except as expressly
 9 provided to the contrary in this Act, any transaction affected by or flowing from any
 10 statute here amended, and validly entered into before the effective date of this Act
 11 and every right, duty, or interest flowing from it remains valid after the effective date
 12 of this Act and may be terminated, completed, consummated, or enforced pursuant to
 13 law.

14 SECTION 17. AND BE IT FURTHER ENACTED, That except as otherwise
 15 provided in this Act, all permits and licenses, applications for permits and licenses,
 16 tariffs, rules and regulations, proposed rules and regulations, standards and
 17 guidelines, proposed standards and guidelines, orders and other directives, forms,
 18 plans, memberships, special funds, appropriations, grants, applications for grants,
 19 contracts, properties, investigations, administrative and judicial proceedings, rights
 20 to sue and be sued, and all other duties and responsibilities of the Public Service
 21 Commission and the Office of People's Counsel, respectively, shall continue in effect
 22 under the Commission and the Office, respectively, or the appropriate unit within the
 23 Commission or the Office, until completed, withdrawn, canceled, modified, or
 24 otherwise changed pursuant to law.

25 SECTION 18. AND BE IT FURTHER ENACTED, That:

26 (a) Pursuant to Article III, § 52(14) of the Maryland Constitution, in addition
 27 to the amounts provided under Chapter 216 of the Acts of 2006 (The Budget Bill), the
 28 following appropriations shall be made for fiscal year 2007 to implement the
 29 requirements of this Act:

30	(1)	Department of Assessments and Taxation		
31		E50C00.01 Executive Direction	\$250,000 General Funds
32	(2)	Public Service Commission		
33		C90G00.01 General Administration and Hearings	\$750,000 Special
34		Funds		
35	(3)	People's Counsel		
36		C91H00.01 General Administration.....		\$500,000 Special Funds
37	(4)	Attorney General		
38		C81C00.01 Legal Counsel and Advice	\$500,000 Special Funds

1 (b) Special funds appropriated in this section shall be recovered through the
2 assessment on public utilities authorized under § 2-110 of the Public Utility
3 Companies Article.

4 SECTION 19. AND BE IT FURTHER ENACTED, That, notwithstanding any
5 other provision of law, if any action is brought for declaratory, injunctive, or other
6 relief to challenge the constitutionality or legality of any provision of this Act or any
7 amendment made by this Act, the following rules shall apply:

8 (1) The action shall be filed in the Circuit Court of Baltimore City.

9 (2) The Attorney General, on behalf of the State, has an unconditional
10 right to intervene and participate as a party in all aspects, including but not limited
11 to the presentation of evidence and legal argument.

12 (3) A final decision of the Circuit Court shall be reviewable by appeal
13 directly to the Court of Appeals of Maryland. Any such appeal shall be taken by the
14 filing of a notice of appeal within 10 days after the entry of the final decision.

15 (4) It shall be the duty of the Circuit Court and the Court of Appeals to
16 advance on the docket and to expedite to the greatest possible extent the disposition
17 of the action and the appeal.

18 (5) No State funds may be spent directly or indirectly by any officer or
19 unit of State government to challenge any provision of this Act, or to pay private
20 counsel to challenge any provision of this Act, in a State court or federal court.

21 SECTION 20. AND BE IT FURTHER ENACTED, That, notwithstanding §
22 7-510(c)(3) of the Public Utility Companies Article, as enacted by this Act:

23 (1) an electric company is allowed to recover the costs of electricity for
24 which it has contracted before the effective date of this Act to provide standard offer
25 service; and

26 (2) an electric company that is collecting an authorized reasonable
27 return for providing standard offer service under an extension of the obligation to
28 provide that service in a service territory in which a rate cap or freeze under §
29 7-505(d) of the Public Utility Companies Article is no longer in effect may continue to
30 collect the return until the termination of the extension.

31 SECTION 21. AND BE IT FURTHER ENACTED, That the provisions of Section
32 3 of this Act relating to the holding of stock by a corporation operating in Maryland
33 shall be construed to apply only prospectively and may not be applied or interpreted
34 to have any effect on or application to any stock acquired before the effective date of
35 this Act.

36 SECTION 22. AND BE IT FURTHER ENACTED, That:

37 (a) If any provision of this Act or the application thereof to any person or
38 circumstance is held invalid for any reason in a court of competent jurisdiction, the

1 invalidity does not affect other provisions or any other application of this Act which
2 can be given effect without the invalid provision or application, and for this purpose
3 the provisions of this Act are declared severable.

4 (b) If § 12(1) of this Act is held invalid, then the term of the Chairman and
5 each member of the Public Service Commission is eliminated and these public officers
6 serve at the pleasure of the Attorney General, who is authorized to terminate their
7 service and appoint their successors.

8 (c) If § 12(2) and (3) of this Act are held invalid, then the Attorney General
9 shall appoint the Chairman and each member of the Public Service Commission in
10 accordance with the remaining provisions of § 12 of this Act.

11 SECTION 23. AND BE IT FURTHER ENACTED, That Section 2 of this Act
12 shall be applicable to all taxable years beginning after December 31, 2005.

13 SECTION 24. AND BE IT FURTHER ENACTED, That Section 3 of this Act
14 shall take effect January 1, 2007.

15 SECTION 25. AND BE IT FURTHER ENACTED, That this Act is an emergency
16 measure, is necessary for the immediate preservation of the public health or safety,
17 has been passed by a yea and nay vote supported by three-fifths of all the members
18 elected to each of the two Houses of the General Assembly, and shall, except as
19 provided in Section 24 of this Act, take effect from the date it is enacted. If this Act
20 does not secure sufficient votes to pass as an emergency measure, it shall take effect
21 July 1, 2006, pursuant to Article III, § 31 of the Maryland Constitution.