

UNOFFICIAL COPY OF SENATE BILL 10
EMERGENCY BILL

C5
HB 1712/06 - ECM

6lr0046
CF 6lr0042

By: **Senators Brinkley, Colburn, Greenip, Hafer, Haines, Harris, Hooper,
Jacobs, Kittleman, Munson, Schrader, and Stoltzfus**

Introduced and read first time: June 14, 2006

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Electric Restructuring - Standard Offer Service - Rate Stabilization**

3 FOR the purpose of requiring the Public Service Commission to extend the obligation
4 to provide standard offer service to certain electric customers unless the
5 Commission makes certain findings; altering certain findings and terms for
6 certain extended service; requiring certain electric companies to obtain
7 electricity supply for certain extended service to certain customers in certain
8 manners; authorizing the Commission to take certain actions concerning certain
9 competitive auctions and implementation of certain electricity rates; providing
10 that certain contracts remain in force under certain circumstances; altering the
11 amount and sources of funds to be assessed for the Electric Universal Service
12 Program each year; altering the eligibility of certain customers for the Program;
13 authorizing bill assistance under the Program to be paid on a monthly basis;
14 requiring the collection of certain funds for the Program in a certain manner;
15 authorizing an electric company to file certain rate stabilization plans and
16 tariffs with the Commission; requiring a certain order of the Commission to
17 include a requirement that an electric company establish certain regulatory
18 assets and that customers be given the option to opt-in to the deferral of the
19 recovery of certain costs; providing for the deferral and collection of certain costs
20 and expenses; providing for the establishment and characteristics of rate
21 stabilization property; providing for the issuance of qualified rate orders for
22 certain purposes under certain circumstances; providing for the issuance of
23 certain rate stabilization bonds for certain purposes; providing for the
24 establishment, collection, and adjustment of certain rate stabilization charges in
25 certain manners; providing for certain property rights in certain rate
26 stabilization property; providing that certain transfers of certain property are
27 true sales; requiring disclosure of certain information to certain consumers in a
28 certain manner; providing for certain actions in the event of certain defaults;
29 establishing certain rights and duties for a successor to an electric company for
30 certain purposes; establishing certain maximum rates for certain residential
31 electric customers for certain periods; providing for the deferral and collection of
32 certain costs and expenses of certain electric companies related to those
33 customers in certain manners; providing for the determination and application
34 of certain credits of a certain amount for a certain number of years by certain

1 electric companies in certain manners; providing that this Act binds the
 2 Commission and any successor body in a certain manner; requiring the
 3 Commission to initiate certain proceedings to study and report on certain
 4 matters; requiring the Department of Assessments and Taxation to study and
 5 report on certain matters; directing the Attorney General to intervene in certain
 6 proceedings regarding a certain merger; requiring that certain costs be borne by
 7 public service companies in a certain manner; providing for a certain mitigation
 8 plan for certain electric companies; requiring the Commission to initiate a
 9 certain proceeding to investigate certain options for standard offer service in a
 10 certain service territory; providing that the commissioners are appointed in
 11 consultation with the President of the Senate and the Speaker of the House of
 12 Delegates; providing that the People's Counsel is appointed by and serves at the
 13 pleasure of the Attorney General; altering the beginning of the term of office of
 14 the members and Chairman of the Commission; defining certain terms;
 15 providing for the construction of this Act; providing that certain portions of this
 16 Act are contingent on the occurrence of certain events; making this Act an
 17 emergency measure; and generally relating to electric utility industry
 18 restructuring and standard offer service.

19 BY repealing and reenacting, with amendments,
 20 Article - Public Utility Companies
 21 Section 2-102, 2-103, 2-202(a) and (b), 7-510(c), and 7-512.1(a), (b), and (e)
 22 Annotated Code of Maryland
 23 (1998 Volume and 2005 Supplement)

24 BY adding to
 25 Article - Public Utility Companies
 26 Section 7-513(f); 7-520 through 7-544, inclusive, to be under the new part "Part
 27 III. Rate Stabilization - In General"; and 7-547 through 7-549, inclusive,
 28 to be under the new part "Part IV. Rate Stabilization - Specific Provisions"
 29 Annotated Code of Maryland
 30 (1998 Volume and 2005 Supplement)

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

33 **Article - Public Utility Companies**

34 2-102.

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

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

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

- 1 (b) (1) Each commissioner shall be a registered voter of the State.
- 2 (2) The Commission shall be broadly representative of the public interest
3 and shall be composed of individuals with diverse training and experience.
- 4 (c) Each commissioner shall devote full time to the duties of office.
- 5 (d) (1) The term of a commissioner is 5 years and begins on [July 1] APRIL
6 1.
- 7 (2) The terms of commissioners are staggered as required by the terms in
8 effect for commissioners on [October 1, 1998] APRIL 1, 2007.
- 9 (3) At the end of a term, a commissioner continues to serve until a
10 successor qualifies.
- 11 (4) A commissioner who is appointed after a term has begun serves for
12 the rest of the term and until a successor qualifies.
- 13 (e) Before taking office, each appointee to the Commission shall take the oath
14 required by Article I, § 9 of the Maryland Constitution.
- 15 (f) The Governor may remove a commissioner for incompetence or misconduct
16 in accordance with § 3-307 of the State Government Article.
- 17 2-103.
- 18 (a) With the advice and consent of the Senate, the Governor shall appoint a
19 Chairman.
- 20 (b) (1) The term of the Chairman is 5 years and begins on [July 1] APRIL 1.
- 21 (2) At the end of a term, the Chairman continues to serve until a
22 successor qualifies.
- 23 (3) A Chairman who is appointed after a term has begun serves for the
24 rest of the term and until a successor qualifies.
- 25 2-202.
- 26 (a) With the advice and consent of the Senate, the [Governor] ATTORNEY
27 GENERAL shall appoint the People's Counsel.
- 28 (b) The People's Counsel serves at the pleasure of the [Governor] ATTORNEY
29 GENERAL.
- 30 7-510.
- 31 (c) (1) Beginning on the initial implementation date, an electric company's
32 obligation to provide electricity supply and electricity supply service is stated by this
33 subsection.

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

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

6 (ii) contracts for electricity with an electricity supplier and it is not
7 delivered;

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

9 (iv) does not choose an electricity supplier;

10 (v) chooses the standard offer service; or

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

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

16 (i) electric].

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

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

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

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

32 (III) ON OR BEFORE DECEMBER 31, 2006, AND EVERY 3 YEARS
33 THEREAFTER, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN
34 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE
35 GENERAL ASSEMBLY ON THE STATUS OF THE STANDARD OFFER SERVICE.

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

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

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

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

27 B. BY REGULATION OR ORDER, THE COMMISSION MAY
28 ALLOW A DATE ON WHICH A COMPETITIVE WHOLESale AUCTION TAKES PLACE TO
29 BE ALTERED BASED ON CURRENT MARKET CONDITIONS.

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

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

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

1 7-512.1.

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

5 (2) The components of the electric universal service program shall
6 include:

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

8 (ii) low-income weatherization; and

9 (iii) the retirement of arrearages for electric customers who have not
10 previously received assistance in retiring arrearages under the universal service
11 program, not to exceed a total of [\$1.5 million] \$1,500,000 in any given fiscal year.

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

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

18 (5) The Department of Human Resources may, with input from a panel
19 or roundtable of interested parties, contract to assist in administering the bill
20 assistance and the arrearage retirement components of the electric universal service
21 program.

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

24 (7) In a specific case, the electric universal service program may waive
25 the income eligibility limitation under paragraph (1) of this subsection in order to
26 provide assistance to an electric customer who would qualify for a similar waiver
27 under the Maryland Energy Assistance Program established under Article 41, §
28 6-406 of the Code.

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

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

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

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

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

6 [(5)] (6) The Commission shall determine the allocation of the electric
7 universal service charge among the generation, transmission, and distribution rate
8 components of all classes.

9 [(6)] (7) The Commission may not assess the electric universal service
10 surcharge on a per kilowatt-hour basis.

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

14 (1) [~~\$24.4 million~~] \$27,400,000 shall be collected from the industrial
15 and commercial classes; and

16 (2) [~~\$9.6 million~~] \$9,600,000 shall be collected from the residential class.

17 7-513.

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

21 7-519. RESERVED.

22 PART III. RATE STABILIZATION - IN GENERAL.

23 7-520.

24 (A) IN THIS PART AND IN PART IV OF THIS SUBTITLE THE FOLLOWING WORDS
25 HAVE THE MEANINGS INDICATED.

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

30 (C) (1) "FINANCING PARTY" MEANS A HOLDER OF RATE STABILIZATION
31 BONDS.

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

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

3 (E) "QUALIFIED RATE STABILIZATION CHARGE" MEANS THAT PORTION OF A
4 USAGE-BASED NONBYPASSABLE RATE, CHARGE, OR SIMILAR APPROPRIATE
5 MECHANISM FOR THE PROVISION, AVAILABILITY, OR TERMINATION OF ELECTRIC
6 SERVICE, APPROVED IN CONNECTION WITH A RATE STABILIZATION PLAN IN
7 ACCORDANCE WITH § 7-522 OR § 7-548 OF THIS SUBTITLE, THAT A QUALIFIED RATE
8 ORDER OF THE COMMISSION AUTHORIZES TO BE IMPOSED FOR THE RECOVERY OF
9 RATE STABILIZATION COSTS.

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

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

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

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

21 (2) "RATE STABILIZATION COST" INCLUDES:

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

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

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

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

34 (2) "RATE STABILIZATION PROPERTY" INCLUDES:

35 (I) ALL RIGHTS IN, TO, AND UNDER A QUALIFIED RATE ORDER,
36 INCLUDING THE RIGHT TO IMPOSE AND COLLECT RATE STABILIZATION CHARGES
37 AND RIGHTS TO REVENUES, COLLECTIONS, CLAIMS, PAYMENTS, MONEY, OR OTHER

1 PROPERTY AND AMOUNTS ARISING FROM THE IMPOSITION OF RATE STABILIZATION
2 CHARGES UNDER THE QUALIFIED RATE ORDER; AND

3 (II) IN THE HANDS OF AN ASSIGNEE, THE RIGHT TO REQUIRE THE
4 ELECTRIC COMPANY TO PROVIDE ELECTRIC SERVICES AND TO COLLECT AND REMIT
5 THE QUALIFIED RATE STABILIZATION CHARGES AUTHORIZED IN THE QUALIFIED
6 RATE ORDER, BUT NOT THE RIGHT OR DUTY TO PROVIDE ELECTRIC SERVICES.

7 (I) "RATE STABILIZATION PLAN" MEANS A PLAN APPROVED BY THE
8 COMMISSION IN ACCORDANCE WITH THIS PART.

9 7-521.

10 THIS PART APPLIES TO AN ELECTRIC COMPANY THAT:

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

14 (2) IS NOT SUBJECT TO A RATE CAP OR PRICE FREEZE DURING THE
15 PERIOD FOR WHICH A RATE STABILIZATION PLAN IS REQUESTED UNDER THIS PART.
16 7-522.

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

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

21 7-523.

22 (A) THE COMMISSION MAY REQUIRE THAT A DEFERRAL OF EXPENSES UNDER
23 A RATE STABILIZATION PLAN BE EITHER VOLUNTARY OR MANDATORY IF THE
24 COMMISSION FINDS THAT THE REQUIRED TYPE OF DEFERRAL IS IN THE PUBLIC
25 INTEREST.

26 (B) THE RATE STABILIZATION PLAN MAY PROVIDE THAT A DEFERRAL SHALL
27 BE SECURITIZED THROUGH THE ISSUANCE OF RATE STABILIZATION BONDS
28 AUTHORIZED BY A QUALIFIED RATE ORDER UNDER THIS PART.

29 7-524.

30 (A) TARIFFS IMPLEMENTING A RATE STABILIZATION PLAN MAY PROVIDE
31 THAT:

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

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

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

8 7-525.

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

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

15 (C) IF THE ELECTRIC COMPANY SECURITIZES THE DEBT IN ACCORDANCE
16 WITH THIS PART, THE COST OF THE SECURITIZED DEBT IS SUBSTITUTED FOR THE
17 ELECTRIC COMPANY'S COST OF DEBT.

18 7-526.

19 (A) AN ELECTRIC COMPANY MAY APPLY TO THE COMMISSION FOR A
20 QUALIFIED RATE ORDER FOR THE FINANCING AND RECOVERY OF ITS RATE
21 STABILIZATION COSTS.

22 (B) ON APPLICATION OF AN ELECTRIC COMPANY, THE COMMISSION MAY
23 ADOPT A QUALIFIED RATE ORDER IF THE COMMISSION FINDS THAT THE TOTAL
24 AMOUNT OF REVENUE TO BE COLLECTED UNDER THE QUALIFIED RATE ORDER IS
25 LESS THAN THE RATE STABILIZATION COSTS REVENUE THAT WOULD BE RECOVERED
26 OVER THE SAME PERIOD USING THE ELECTRIC COMPANY'S WEIGHTED AVERAGE
27 COST OF CAPITAL.

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

31 7-527.

32 (A) THE QUALIFIED RATE ORDER SHALL SET FORTH THE RATE
33 STABILIZATION COSTS TO BE RECOVERED AND THE PERIOD OVER WHICH THE
34 NONBYPASSABLE QUALIFIED RATE STABILIZATION CHARGES SHALL BE RECOVERED.

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

1 7-528.

2 (A) A QUALIFIED RATE ORDER SHALL BECOME EFFECTIVE IN ACCORDANCE
3 WITH ITS TERMS.

4 (B) AFTER A QUALIFIED RATE ORDER BECOMES EFFECTIVE, THE QUALIFIED
5 RATE ORDER AND THE QUALIFIED RATE STABILIZATION CHARGES AUTHORIZED IN
6 THE QUALIFIED RATE ORDER ARE IRREVOCABLE AND ARE NOT SUBJECT TO
7 REDUCTION, IMPAIRMENT, OR ADJUSTMENT BY FURTHER ACTION OF THE
8 COMMISSION EXCEPT IN ACCORDANCE WITH §§ 7-531, 7-533, AND 7-534 OF THIS
9 SUBTITLE.

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

12 (2) A QUALIFIED RATE ORDER MAY BE REVIEWED BY APPEAL ONLY TO
13 THE COURT OF SPECIAL APPEALS BY A PARTY TO THE PROCEEDING FILED WITHIN 15
14 DAYS AFTER THE QUALIFIED RATE ORDER IS SIGNED BY THE COMMISSION.

15 (3) THE JUDGMENT OF THE COURT OF SPECIAL APPEALS MAY BE
16 REVIEWED ONLY BY DIRECT APPEAL TO THE COURT OF APPEALS OF MARYLAND
17 FILED WITHIN 15 DAYS AFTER ENTRY OF JUDGMENT.

18 (4) ALL APPEALS SHALL BE HEARD AND DETERMINED BY THE COURT OF
19 SPECIAL APPEALS AND BY THE COURT OF APPEALS OF MARYLAND AS
20 EXPEDITIOUSLY AS POSSIBLE WITH LAWFUL PRECEDENCE OVER OTHER MATTERS.

21 (5) REVIEW ON APPEAL SHALL BE BASED SOLELY ON THE RECORD
22 BEFORE THE COMMISSION AND BRIEFS TO THE COURT AND SHALL BE LIMITED TO
23 WHETHER THE QUALIFIED RATE ORDER CONFORMS TO THE CONSTITUTION AND
24 LAWS OF THIS STATE AND THE UNITED STATES AND IS WITHIN THE AUTHORITY OF
25 THE COMMISSION UNDER THIS SUBTITLE.

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

28 7-529.

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

32 7-530.

33 A QUALIFIED RATE ORDER APPROVED BY THE COMMISSION SHALL INCLUDE
34 TERMS ENSURING THAT THE IMPOSITION AND COLLECTION OF QUALIFIED RATE
35 STABILIZATION CHARGES AUTHORIZED IN THE ORDER IS NONBYPASSABLE.

1 7-531.

2 THE COMMISSION SHALL ESTABLISH SPECIFIC PROCEDURES AND TIME
3 FRAMES FOR THE REVIEW AND ADJUSTMENT OF QUALIFIED RATE STABILIZATION
4 CHARGES AT LEAST ONCE EACH YEAR, WITHIN 90 DAYS BEFORE THE ANNIVERSARY
5 DATE OF THE ISSUANCE OF THE RATE STABILIZATION BONDS, TO CORRECT ANY
6 OVERCOLLECTIONS OR UNDERCOLLECTIONS OF THE PRECEDING 12 MONTHS AND
7 TO ENSURE THE EXPECTED RECOVERY OF AMOUNTS SUFFICIENT TO TIMELY
8 PROVIDE ALL PAYMENTS OF DEBT SERVICE AND OTHER REQUIRED AMOUNTS AND
9 CHARGES IN CONNECTION WITH THE RATE STABILIZATION BONDS.

10 7-532.

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

14 (B) THIS PERIOD SHALL BE EXTENDED BY ANY PERIOD DURING WHICH
15 JUDICIAL PROCEEDINGS FOR REVIEW MAY BE PENDING IN ACCORDANCE WITH §
16 7-528(C) OF THIS SUBTITLE.

17 7-533.

18 (A) AT THE REQUEST OF AN ELECTRIC COMPANY, THE COMMISSION MAY
19 ADOPT A QUALIFIED RATE ORDER PROVIDING FOR RETIRING AND REFUNDING RATE
20 STABILIZATION BONDS IF THE COMMISSION FINDS THAT THE FUTURE QUALIFIED
21 RATE STABILIZATION CHARGES REQUIRED TO SERVICE THE NEW RATE
22 STABILIZATION BONDS, INCLUDING TRANSACTION COSTS, WILL BE LESS THAN THE
23 FUTURE QUALIFIED RATE STABILIZATION CHARGES REQUIRED TO SERVICE THE
24 RATE STABILIZATION BONDS BEING REFUNDED.

25 (B) ON THE RETIREMENT OF THE REFUNDED RATE STABILIZATION BONDS,
26 THE COMMISSION SHALL ADJUST THE RELATED QUALIFIED RATE STABILIZATION
27 CHARGES ACCORDINGLY.

28 7-534.

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

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

34 (2) NEW RATE STABILIZATION BONDS FOR THE COMBINED PURPOSES
35 OF:

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

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

3 (B) UNLESS OTHERWISE PROVIDED IN THE MODIFIED OR ADDITIONAL
4 QUALIFIED RATE ORDER OR IN THE TRUST AGREEMENT SECURING THE ADDITIONAL
5 OR NEW RATE STABILIZATION BONDS, THE ADDITIONAL OR NEW RATE
6 STABILIZATION BONDS ARE:

7 (1) CONSIDERED TO BE OF THE SAME ISSUE AS THE ORIGINAL ISSUE;
8 AND

9 (2) ENTITLED TO PAYMENT FROM THE SAME FUNDS AS THE ORIGINAL
10 ISSUE, WITHOUT PREFERENCE OR PRIORITY OF THE RATE STABILIZATION BONDS OF
11 THE ORIGINAL ISSUE.

12 7-535.

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

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

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

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

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

27 (D) (1) THE STATE PLEDGES, FOR THE BENEFIT AND PROTECTION OF
28 FINANCING PARTIES AND THE ELECTRIC COMPANY, THAT IT WILL NOT TAKE OR
29 ALLOW ANY ACTION THAT WOULD IMPAIR THE VALUE OF RATE STABILIZATION
30 PROPERTY, OR, EXCEPT AS ALLOWED IN ACCORDANCE WITH §§ 7-531, 7-533, AND
31 7-534 OF THIS SUBTITLE, REDUCE, ALTER, OR IMPAIR THE QUALIFIED RATE
32 STABILIZATION CHARGES TO BE IMPOSED, COLLECTED, AND REMITTED TO
33 FINANCING PARTIES, UNTIL THE PRINCIPAL, INTEREST, AND PREMIUM, AND ANY
34 OTHER CHARGES INCURRED AND CONTRACTS TO BE PERFORMED IN CONNECTION
35 WITH THE RELATED RATE STABILIZATION BONDS HAVE BEEN PAID AND PERFORMED
36 IN FULL.

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

1 7-536.

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

4 (1) STATE THE RIGHTS AND REMEDIES OF BONDHOLDERS AND ANY
5 ASSIGNEE; AND

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

8 7-537.

9 (A) THE RIGHTS AND INTERESTS OF AN ELECTRIC COMPANY OR SUCCESSOR
10 UNDER A QUALIFIED RATE ORDER, INCLUDING THE RIGHT TO IMPOSE, COLLECT,
11 AND RECEIVE QUALIFIED RATE STABILIZATION CHARGES AUTHORIZED IN THE
12 ORDER:

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

16 (2) ARE ONLY CONTRACT RIGHTS BEFORE THAT FIRST TRANSFER OR
17 PLEDGE.

18 (B) RATE STABILIZATION PROPERTY CONSTITUTES A PRESENT PROPERTY
19 RIGHT:

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

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

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

27 (II) THE PAYMENT IN FULL OF THE RATE STABILIZATION BONDS,
28 INCLUDING ALL PRINCIPAL, INTEREST, PREMIUM, COSTS, AND ARREARAGES ON THE
29 BONDS.

30 (C) ALL REVENUES AND COLLECTIONS RESULTING FROM QUALIFIED RATE
31 STABILIZATION CHARGES ARE PROCEEDS ONLY OF THE RATE STABILIZATION
32 PROPERTY ARISING FROM THE QUALIFIED RATE ORDER.

33 7-538.

34 A TRANSACTION THAT INVOLVES THE TRANSFER AND OWNERSHIP OF RATE
35 STABILIZATION PROPERTY AND THE RECEIPT OF RATE STABILIZATION CHARGES ARE

1 EXEMPT FROM STATE AND LOCAL INCOME, SALES, FRANCHISE, GROSS RECEIPTS,
2 AND OTHER TAXES OR SIMILAR CHARGES.

3 7-539.

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

7 (1) THE TRANSACTION IS A TRUE SALE AND IS NOT A SECURED
8 TRANSACTION; AND

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

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

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

16 (2) THE FACT THAT THE ELECTRIC COMPANY ACTS AS THE COLLECTOR
17 OF QUALIFIED RATE STABILIZATION CHARGES RELATING TO THE RATE
18 STABILIZATION PROPERTY; AND

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

21 7-540.

22 (A) THE INTEREST OF AN ASSIGNEE OR PLEDGEE IN RATE STABILIZATION
23 PROPERTY AND IN THE REVENUES AND COLLECTIONS ARISING FROM THAT
24 PROPERTY ARE NOT SUBJECT TO SETOFF, COUNTERCLAIM, SURCHARGE, OR
25 DEFENSE BY THE ELECTRIC COMPANY OR ANY OTHER PERSON OR IN CONNECTION
26 WITH THE BANKRUPTCY OF THE ELECTRIC COMPANY OR ANY OTHER ENTITY.

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

30 7-541.

31 (A) (1) THE ELECTRIC BILL OF AN ELECTRIC COMPANY THAT HAS
32 OBTAINED A QUALIFIED RATE ORDER AND ISSUED RATE STABILIZATION BONDS
33 MUST:

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

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

3 1. THE ASSIGNEE IS THE OWNER OF THE RIGHTS TO
4 QUALIFIED RATE STABILIZATION CHARGES; AND

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

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

9 (B) THE FAILURE OF AN ELECTRIC COMPANY TO COMPLY WITH THIS SECTION
10 MAY NOT INVALIDATE, IMPAIR, OR AFFECT ANY QUALIFIED RATE ORDER, RATE
11 STABILIZATION PROPERTY, QUALIFIED RATE STABILIZATION CHARGE, OR RATE
12 STABILIZATION BONDS.

13 7-542.

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

17 (2) THE CREATION, GRANTING, PERFECTION, AND ENFORCEMENT OF
18 LIENS AND SECURITY INTERESTS IN RATE STABILIZATION PROPERTY, INCLUDING
19 ALL PROCEEDS OF THAT PROPERTY, ARE GOVERNED BY THIS SECTION AND NOT BY
20 THE MARYLAND UNIFORM COMMERCIAL CODE.

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

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

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

31 1. THE LIEN AND SECURITY INTEREST SHALL BE A
32 CONTINUOUSLY PERFECTED LIEN AND SECURITY INTEREST IN THE RATE
33 STABILIZATION PROPERTY; AND

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

37 (3) THE SECURITY INTEREST SHALL BE PERFECTED:

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

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

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

10 (I) THE QUALIFIED RATE ORDER BECOMES EFFECTIVE;

11 (II) TRANSFER DOCUMENTS HAVE BEEN DELIVERED TO THE
12 ASSIGNEE; AND

13 (III) A NOTICE OF THAT TRANSFER HAS BEEN FILED IN
14 ACCORDANCE WITH PROCEDURES ADOPTED UNDER SUBSECTION (D) OF THIS
15 SECTION.

16 (2) IF NOTICE OF THE TRANSFER HAS NOT BEEN FILED IN ACCORDANCE
17 WITH THIS SUBSECTION WITHIN 10 DAYS AFTER THE DELIVERY OF TRANSFER
18 DOCUMENTATION, THE TRANSFER OF THE INTEREST IS NOT PERFECTED AGAINST
19 THIRD PARTIES UNTIL THE NOTICE IS FILED.

20 (D) THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION SHALL
21 IMPLEMENT THIS SECTION BY ESTABLISHING AND MAINTAINING A SEPARATE
22 SYSTEM OF RECORDS FOR THE FILING OF NOTICES UNDER THIS SECTION AND
23 PRESCRIBING THE PROCEDURES FOR THOSE FILINGS BASED ON TITLE 9 OF THE
24 MARYLAND UNIFORM COMMERCIAL CODE, AS ADAPTED TO THIS SUBTITLE AND
25 USING THE TERMS DEFINED IN THIS SUBTITLE.

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

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

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

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

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

1 (F) IF A DEFAULT OR TERMINATION OCCURS UNDER THE RATE
2 STABILIZATION BONDS:

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

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

11 (3) ON APPLICATION BY OR ON BEHALF OF THE FINANCING PARTIES,
12 THE CIRCUIT COURT FOR BALTIMORE CITY, BUSINESS AND TECHNOLOGY CASE
13 MANAGEMENT PROGRAM, SHALL ORDER THE SEQUESTRATION AND PAYMENT TO
14 THE FINANCING PARTIES OF REVENUES ARISING FROM THE QUALIFIED RATE
15 STABILIZATION CHARGES.

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

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

22 7-543.

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

25 (1) A REORGANIZATION, BANKRUPTCY, OR OTHER INSOLVENCY
26 PROCEEDING;

27 (2) A MERGER OR ACQUISITION, SALE, OR OTHER BUSINESS
28 COMBINATION; OR

29 (3) A TRANSFER BY OPERATION OF LAW.

30 (B) A SUCCESSOR TO AN ELECTRIC COMPANY SHALL PERFORM AND SATISFY
31 ALL OBLIGATIONS OF, AND HAVE THE SAME RIGHTS UNDER A QUALIFIED RATE
32 ORDER AS, THE ELECTRIC COMPANY UNDER THE QUALIFIED RATE ORDER IN THE
33 SAME MANNER AND TO THE SAME EXTENT AS THE ELECTRIC COMPANY, INCLUDING:

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

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

1 7-544.

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

5 7-545. RESERVED.

6 7-546. RESERVED.

7 PART IV. RATE STABILIZATION - SPECIFIC PROVISIONS.

8 7-547.

9 THIS PART APPLIES TO AN INVESTOR-OWNED ELECTRIC COMPANY THAT HAS
10 AN OBLIGATION TO PROVIDE STANDARD OFFER SERVICE UNDER § 7-510(C) OF THIS
11 SUBTITLE TO RESIDENTIAL ELECTRIC CUSTOMERS FOR WHOM RATE CAP OR PRICE
12 FREEZE SERVICE ESTABLISHED UNDER A SETTLEMENT AGREEMENT APPROVED IN
13 ACCORDANCE WITH § 7-505(D) OF THIS SUBTITLE EXPIRES AT THE END OF JUNE 30,
14 2006.

15 7-548.

16 (A) (1) (I) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE
17 BUT SUBJECT TO PARAGRAPHS (2) THROUGH (4) OF THIS SUBSECTION, AN ELECTRIC
18 COMPANY TO WHICH THIS PART APPLIES SHALL FILE TARIFFS WITH THE
19 COMMISSION THAT IMPLEMENT A RATE STABILIZATION PLAN CONSISTENT WITH
20 THE PROVISIONS OF THIS PART.

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

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

27 3. THE ORDER ISSUED BY THE COMMISSION SHALL INCLUDE
28 A REQUIREMENT THAT:

29 A. THE ELECTRIC COMPANY ESTABLISH REGULATORY
30 ASSETS TO ACCOUNT FOR THE RATE STABILIZATION COSTS DEFERRED UNDER THE
31 RATE STABILIZATION PLAN; AND

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

34 (2) UNDER THE RATE STABILIZATION PLAN, THE RESIDENTIAL
35 STANDARD OFFER SERVICE RATE SHALL RECOVER THE COSTS TO THE ELECTRIC

1 COMPANY UNDER § 7-510(C)(3) OF THIS SUBTITLE DEFERRED DURING THE PERIOD
2 JULY 1, 2006 THROUGH DECEMBER 31, 2007.

3 (3) ANY CREDIT OR CHARGES TO THE COST OF STANDARD OFFER
4 SERVICE FOR RESIDENTIAL ELECTRIC CUSTOMERS REQUIRED OR AUTHORIZED
5 UNDER THIS PART SHALL BE INCLUDED AS A NONBYPASSABLE CREDIT OR CHARGE
6 ON THE ELECTRIC DISTRIBUTION PORTION OF THE BILL OF EACH PARTICIPATING
7 RESIDENTIAL ELECTRIC CUSTOMER OF THE ELECTRIC COMPANY.

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

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

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

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

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

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

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

29 (C) (1) THE ELECTRIC COMPANY SHALL PROVIDE EACH PARTICIPATING
30 RESIDENTIAL ELECTRIC CUSTOMER A DEFERRAL CREDIT EQUAL TO THE
31 DIFFERENCE BETWEEN THE COST INCURRED BY THE ELECTRIC COMPANY UNDER §
32 7-510(C)(3) OF THIS SUBTITLE AND THE RATES AUTHORIZED IN SUBSECTION (B)(1) OF
33 THIS SECTION.

34 (2) (I) THE TOTAL AMOUNT OF COST RECOVERY DEFERRED THROUGH
35 DEFERRAL CREDITS PROVIDED TO PARTICIPATING RESIDENTIAL ELECTRIC
36 CUSTOMERS SHALL BE A RATE STABILIZATION COST TO BE RECOVERED AS A
37 REGULATORY ASSET.

38 (II) THE TOTAL COST DEFERRED MAY BE SECURITIZED UNDER
39 PART III OF THIS SUBTITLE.

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

5 1. EACH YEAR DURING THE RATE STABILIZATION PLAN; AND
6 2. WITHIN 90 DAYS AFTER THE END OF THE RATE
7 STABILIZATION PLAN.

8 (II) TO THE EXTENT THAT SECURITIZATION IS IMPLEMENTED
9 UNDER PART III OF THIS SUBTITLE, ANY RECONCILIATIONS MADE IN ACCORDANCE
10 WITH PART III OF THIS SUBTITLE SHALL BE IN ADDITION TO ANY RECONCILIATIONS
11 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

12 (D) RATE STABILIZATION COSTS SHALL BE RECOVERED BY THE ELECTRIC
13 COMPANY FROM PARTICIPATING RESIDENTIAL ELECTRIC CUSTOMERS THROUGH A
14 USAGE-BASED RATE STABILIZATION CHARGE OVER A PERIOD NOT TO EXCEED 10
15 YEARS.

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

20 7-549.

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

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

24 (2) IF THE ELECTRIC COMPANY SECURITIZES THE DEBT UNDER PART III
25 OF THIS SUBTITLE, THE COST OF THE SECURITIZED DEBT.

26 (B) AN ELECTRIC COMPANY SHALL RECOVER, AS AN ADDITIONAL RATE
27 STABILIZATION COST, THE ACTUAL COST TO THE ELECTRIC COMPANY OF CARRYING
28 THE COSTS AND EXPENSES DEFERRED AS REGULATORY ASSETS UNDER THE RATE
29 STABILIZATION PLAN.

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

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

36 (b) The credits shall be in the form of a nonbypassable credit on the customer's
37 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;

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

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

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

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

17 SECTION 3. AND BE IT FURTHER ENACTED, That:

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

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

28 SECTION 4. AND BE IT FURTHER ENACTED, That:

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

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

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

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

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

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

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

15 (c) The Commission shall report to the Governor and, in accordance with §
16 2-1246 of the State Government Article, to the General Assembly by December 1,
17 2006 on its findings and recommendations.

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

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

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

25 (c) The Department shall report to the Governor and, in accordance with §
26 2-1246 of the State Government Article, to the General Assembly by December 1,
27 2006 on its findings and recommendations.

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

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

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

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

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

13 SECTION 8. AND BE IT FURTHER ENACTED, That:

14 (a) In order to protect the interests of the State and the citizens of Maryland
15 and consistent with the intent of the General Assembly, in accordance with Article V,
16 Section 3 of the Maryland Constitution, the Attorney General is hereby directed to
17 intervene and participate in the Public Service Commission, Case No. 9054 and in
18 any other hearings or other proceedings before the Public Service Commission or any
19 other appropriate State or federal unit, or any case brought before any court of
20 competent jurisdiction in the State or any federal court, regarding the merger of FPL
21 Group, Inc. and Constellation Energy Group, Inc.

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

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

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

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

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

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

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

3 (2) establish a transition total rate that is:

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

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

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

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

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

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

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

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

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

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

35 SECTION 11. AND BE IT FURTHER ENACTED, That a presently existing
36 obligation or contract right may not be impaired in any way by this Act.

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

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

7 (i) one member in 2008; and

8 (ii) one member in 2009; and

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

12 (i) one member in 2011;

13 (ii) one member in 2012; and

14 (iii) one member in 2010.

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

21 SECTION [3.] 14. AND BE IT FURTHER ENACTED, That this Act is an
22 emergency measure, is necessary for the immediate preservation of the public health
23 or safety, has been passed by a ye and nay vote supported by three-fifths of all the
24 members elected to each of the two Houses of the General Assembly, and shall, except
25 as provided in Section 13 of this Act, take effect from the date it is enacted.