

# SENATE BILL 400

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EMERGENCY BILL

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By: **Senators Pipkin, Astle, Della, Exum, Garagiola, Kelley, Klausmeier, and Middleton**

Introduced and read first time: February 2, 2007

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Electric Industry Restructuring – Proceedings – Review and Evaluation**

3 FOR the purpose of requiring the Public Service Commission to initiate new  
4 proceedings to review and evaluate certain requirements under a certain Act  
5 beginning on a certain date; making this Act an emergency measure; and  
6 generally relating to the Public Service Commission.

7 BY repealing and reenacting, with amendments,  
8 Chapter 5 of the Acts of the General Assembly of the First Special Session of  
9 2006  
10 Section 5 and 7

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

13 **Chapter 5 of the Acts of the First Special Session of 2006**

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

15 [(a) The Public Service Commission may not take final action to approve or  
16 disapprove a merger between FPL Group, Inc., and Constellation Energy Group, Inc.,  
17 pending as of the effective date of this Act until five members of the Commission have  
18 been appointed and qualified in accordance with Section 12 or Section 22 of this Act.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b)] The Public Service Commission [appointed in accordance with Section 12  
2 or Section 22 of this Act] shall:

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

8 (2) on or before June 30, 2007, report the results of that reevaluation  
9 to the General Assembly in accordance with § 2-1246 of the State Government Article;

10 (3) promptly and comprehensively review and take action on the  
11 proposed merger between FPL Group, Inc., and Constellation Energy Group, Inc., in  
12 accordance with the standards and procedures contained in § 6-105 of the Public  
13 Utility Companies Article, as enacted by this Act;

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

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

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

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

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

28 (a) The Public Service Commission [appointed in accordance with Section 12  
29 of this Act] shall initiate an evidentiary proceeding to study and evaluate the status of  
30 electric restructuring in the State as it pertains to the availability of competitive  
31 generation to residential and small commercial customers and the structure,  
32 procurement, and terms and conditions of standard offer service for residential and  
33 small commercial customers. In its evaluation, the Commission shall consider changes

1 that are necessary to provide residents the benefit of a reliable electric system at the  
2 best possible price and options for reregulation, if advisable, and to allow electric  
3 companies to develop a portfolio of electricity supply that provides electricity at the  
4 lowest cost with the least volatility.

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

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

10 (2) requiring or allowing investor-owned electric companies to  
11 construct, acquire, or lease peak-load or other generating plants and associated  
12 transmission lines;

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

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

23 (5) allowing opt-out aggregation of residential electric customer  
24 demand by local governments in the service territories of investor-owned electric  
25 companies.

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

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

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

1 (i) the process for procurement of energy and conservation  
2 measures and services; and

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

5 (3) As a part of its review of electric restructuring in the State as it  
6 pertains to the availability of competitive generation to residential and small  
7 commercial customers and the structure, procurement, and terms and conditions of  
8 standard offer service for residential and small commercial customers, the  
9 Commission shall:

10 1. adopt a uniform definition of a “small commercial customer”  
11 for purposes of standard offer service that applies in all service territories in the State;  
12 and

13 2. consider whether it benefits small commercial customers for  
14 an electric company not to be required to provide the standard offer service under §  
15 7–510(c) for small commercial customers.

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

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

20 (a) (1) The Public Service Commission shall initiate new proceedings to  
21 review and evaluate the requirements under Section 5(b) and Section 7 of Chapter 5 of  
22 the Acts of the General Assembly of the First Special Session of 2006.

23 (2) The review and evaluation shall include any orders that were  
24 issued by the Commission relating to the requirements of those sections.

25 (b) The new proceedings shall begin on the earlier of:

26 (1) the date a Chairman of the Public Service Commission is  
27 appointed to replace the Chairman who served on January 30, 2007; or

28 (2) July 1, 2008.

1           (c)     On or before December 31, 2008, the Public Service Commission shall  
2 submit a report of its review and evaluations to the Governor and, in accordance with  
3 § 2-1246 of the State Government Article, the General Assembly.

4           SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency  
5 measure, is necessary for the immediate preservation of the public health or safety,  
6 has been passed by a yea and nay vote supported by three-fifths of all the members  
7 elected to each of the two Houses of the General Assembly, and shall take effect from  
8 the date it is enacted.