

# HOUSE BILL 82

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By: **Delegates Stukes, Burns, Conaway, Oaks, Riley, Robinson, Tarrant, and F. Turner**

Introduced and read first time: January 11, 2008

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Service Companies – Electric Companies and Electricity Suppliers –**  
3 **Regulation**

4 FOR the purpose of returning electric generation to the status of a utility service  
5 subject to regulation by the Public Service Commission; requiring a public  
6 service company to charge just and reasonable rates for its utility services;  
7 requiring a public service company to file a certain tariff schedule of certain  
8 rates and charges with the Commission; providing that a certain electric  
9 company or electricity supplier may apply to the Commission to adjust certain  
10 rates and charges; establishing certain procedures for the Commission to  
11 review, investigate, and adjust certain rates and charges in a certain manner;  
12 authorizing a certain electric company or electricity supplier to have a  
13 separately stated and zero-based fuel rate to charge for a certain cost of fuel;  
14 requiring the Commission to authorize a certain fuel rate adjustment only if  
15 certain circumstances are met; requiring a certain electric company or  
16 electricity supplier to file an application with the Commission to reduce a  
17 certain fuel rate under certain circumstances; authorizing an electric company  
18 or electricity supplier to defer certain costs as an operating expense and recover  
19 the costs in a base rate proceeding if certain circumstances are met; requiring  
20 the Commission to make certain findings and conclusions based on a certain  
21 determination in a certain investigation; authorizing the Commission to  
22 disallow certain increased costs under certain circumstances; requiring a  
23 certain applicant for a fuel rate adjustment to file certain proposed initial direct  
24 testimony and exhibits with a certain application; requiring the Commission to  
25 conduct, or direct another person to conduct, a certain annual audit of certain  
26 fuel procurement and purchasing practices of certain electric companies and  
27 electricity suppliers under certain circumstances; authorizing the Department  
28 of Legislative Services to conduct a certain audit and study of fuel procurement  
29 and purchasing practices and examine a certain audit under certain  
30 circumstances; requiring the Commission, in cooperation with the Secretary of

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Natural Resources, to assemble and evaluate annually certain long-range plans  
2 of certain electric companies and electricity suppliers regarding generating  
3 needs and the means to meet those needs; requiring the Commission to take  
4 final action on an application for a certificate of public convenience and  
5 necessity only after due consideration of the need to meet existing and future  
6 demand for electric service; repealing a provision that required the Commission  
7 to require functional, operational, structural, or legal separation between a  
8 certain electric company's regulated businesses and its nonregulated businesses  
9 or affiliates; repealing certain provisions relating to the capping of certain rates  
10 of an electric company by the Commission for a certain time period after the  
11 implementation of customer choice in certain territories; repealing certain  
12 provisions that authorized the Commission to approve a certain rate cap for a  
13 different time period under a certain settlement; repealing a provision that after  
14 a certain date, the generation, supply, and sale of electricity may not be  
15 regulated except under certain circumstances; repealing provisions that relate  
16 to the phased implementation of customer choice for electricity service;  
17 repealing provisions that relate to the requirement of an electric company to  
18 offer standard offer service electricity supply; repealing a provision that  
19 prohibits certain electricity suppliers from providing retail electricity supply  
20 service in the distribution territory of an unaffiliated electric company under  
21 certain circumstances; repealing certain provisions that relate to the recovery of  
22 certain costs by an electric company; altering a certain definition; repealing  
23 certain obsolete provisions; providing that existing obligations or contract rights  
24 may not be impaired by this Act; making the provisions of this Act severable;  
25 providing for the effective dates of this Act; and generally relating to the  
26 regulation of electric companies and electricity suppliers.

27 BY repealing and reenacting, without amendments,  
28 Article – Public Utility Companies  
29 Section 1-101(a)  
30 Annotated Code of Maryland  
31 (1998 Volume and 2007 Supplement)

32 BY repealing and reenacting, with amendments,  
33 Article – Public Utility Companies  
34 Section 1-101(h), 4-201, 4-202, 4-402, 7-201, 7-207(e), 7-504, 7-505, 7-507,  
35 and 7-512.1(b)  
36 Annotated Code of Maryland  
37 (1998 Volume and 2007 Supplement)

38 BY adding to  
39 Article – Public Utility Companies  
40 Section 4-403  
41 Annotated Code of Maryland  
42 (1998 Volume and 2007 Supplement)

43 BY repealing  
44 Article – Public Utility Companies

1 Section 7–509, 7–510, 7–512, 7–513, and 7–515  
2 Annotated Code of Maryland  
3 (1998 Volume and 2007 Supplement)

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

6 **Article – Public Utility Companies**

7 1–101.

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

9 (h) (1) “Electric company” means a person [who physically transmits or  
10 distributes electricity in the State to a retail electric customer] **THAT:**

11 **(I) OWNS AN ELECTRIC PLANT AND TRANSMITS, SELLS, OR**  
12 **DISTRIBUTES ELECTRICITY;**

13 **(II) GENERATES ELECTRICITY FOR DISTRIBUTION OR SALE;**  
14 **OR**

15 **(III) IS AUTHORIZED TO INSTALL OR MAINTAIN FACILITIES**  
16 **IN, OVER, OR UNDER STREETS FOR FURNISHING OR DISTRIBUTING**  
17 **ELECTRICITY.**

18 **(2) “ELECTRIC COMPANY” INCLUDES A MUNICIPAL**  
19 **CORPORATION THAT IS IN THE BUSINESS OF SUPPLYING ELECTRICITY FOR**  
20 **OTHER THAN MUNICIPAL PURPOSES.**

21 **[(2)] (3) “Electric company” does not include[:**

22 (i) the following persons who supply electricity and electricity  
23 supply services solely to occupants of a building for use by the occupants:

24 1. an owner/operator who holds ownership in and  
25 manages the internal distribution system serving the building; or

26 2. a lessee/operator who holds a leasehold interest in  
27 and manages the internal distribution system serving the building;

28 (ii) any person who generates on–site generated electricity; or

29 (iii) a person who transmits or distributes electricity within a  
30 site owned by the person or the person’s affiliate that is incidental to a primarily

1 landlord-tenant relationship] **A COMPANY THAT GENERATES OR TRANSMITS**  
2 **ELECTRICITY EXCLUSIVELY FOR ITS OWN USE.**

3 4-201.

4 In accordance with the provisions of this article, a public service company shall  
5 charge just and reasonable rates for the [regulated] **UTILITY** services that it renders.

6 4-202.

7 (a) A public service company shall file with the Commission a tariff schedule  
8 of its rates and charges [for its regulated services and for standard offer service as  
9 provided in § 7-505(b)(8) of this article].

10 (b) As ordered by the Commission, a public service company shall:

11 (1) plainly print the tariff schedule of its rates and charges [for its  
12 regulated services];

13 (2) make available the tariff schedules for public inspection; and

14 (3) post the tariff schedules to make the tariff schedules readily  
15 accessible to and convenient for inspection by the public.

16 4-402.

17 (a) (1) This section applies to:

18 (i) **THE** electric fuel rate adjustment [clauses] **CLAUSE OF**  
19 **EACH ELECTRIC COMPANY THAT IS NOT SUBJECT TO § 4-403 OF THIS SUBTITLE;**

20 (ii) purchased power adjustment clauses; and

21 (iii) purchased gas adjustment clauses.

22 (2) This section does not apply to a small rural electric cooperative.

23 (b) A gas company or electric company that directly passes on to its  
24 customers changes in fuel costs, costs of purchased power, or costs of purchased gas  
25 shall verify and justify the adjusted costs to the Commission each month.

26 (c) The Commission shall order a company to charge off and amortize, by  
27 means of a temporary decrease of rates, any charge the Commission finds is  
28 unjustified because:

29 (1) the company failed to show that the charges were based solely on  
30 increased costs of fuel, purchased power, or purchased gas;

1           (2) the company failed to follow competitive practices in procuring and  
2 purchasing fuel, power, or gas; or

3           (3) the company failed to show that its practices in procuring and  
4 purchasing fuel were reasonable.

5           (d) At least once every 12 months, the Commission shall conduct a public  
6 evidentiary hearing on any changes in costs that a company directly passes on to its  
7 customers under this section.

8 **4-403.**

9           (A) **THIS SECTION APPLIES ONLY TO:**

10           (1) **AN ELECTRIC COMPANY THAT PRODUCES OR GENERATES**  
11 **ELECTRICITY WITH GROSS ANNUAL REVENUES THAT EXCEED \$25,000,000; AND**

12           (2) **AN ELECTRICITY SUPPLIER.**

13           (B) **AS PART OF ITS RATES TO ALL CUSTOMERS, AN ELECTRIC COMPANY**  
14 **AND ELECTRICITY SUPPLIER MAY HAVE A SEPARATELY STATED AND**  
15 **ZERO-BASED FUEL RATE TO CHARGE FOR THE ACTUAL COST OF FUEL THAT IS**  
16 **COMPUTED ON A KILOWATT-HOUR BASIS.**

17           (C) (1) **NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE,**  
18 **ON APPLICATION TO THE COMMISSION BY AN ELECTRIC COMPANY OR**  
19 **ELECTRICITY SUPPLIER SUBJECT TO THIS SECTION TO ADJUST RATES AND**  
20 **CHARGES BASED SOLELY ON THE ACTUAL COST OF FUEL PER KILOWATT-HOUR**  
21 **SOLD, THE COMMISSION MAY SUSPEND THE PROPOSED ADJUSTMENT FOR A**  
22 **PERIOD NOT EXCEEDING 30 DAYS AFTER THE DAY THE APPLICATION IS FILED.**

23           (2) **THE COMMISSION SHALL:**

24           (I) **PROMPTLY INVESTIGATE AN APPLICATION FILED**  
25 **UNDER THIS SUBSECTION; AND**

26           (II) **INSTITUTE EVIDENTIARY HEARINGS UNDER § 4-402(D)**  
27 **OF THIS SUBTITLE TO CONSIDER THE APPLICATION WITHIN 30 DAYS AFTER THE**  
28 **DAY THE APPLICATION IS FILED.**

29           (3) **THE COMMISSION SHALL BASE ITS ORDER ON THE RECORD**  
30 **DEVELOPED AT THE HEARING.**

1           (4)    **THE COMMISSION SHALL ISSUE ITS FINAL ORDER PROMPTLY**  
2 **BUT NO LATER THAN 120 DAYS AFTER THE DAY THE APPLICATION IS FILED.**

3           (5)    **IF A SUSPENSION PERIOD UNDER THIS SUBSECTION ENDS**  
4 **BEFORE THE COMMISSION ISSUES A FINAL ORDER, THE ORDER SHALL PROVIDE**  
5 **FOR A REFUND OF THE DIFFERENCE BETWEEN THE RATE CHARGED AND THE**  
6 **RATE SET BY THE FINAL ORDER.**

7           (D)   (1)   **THE COMMISSION MAY AUTHORIZE AN ELECTRIC COMPANY**  
8 **OR ELECTRICITY SUPPLIER TO ADJUST ITS FUEL RATE UNDER THIS SECTION**  
9 **ONLY IF THE CURRENTLY CALCULATED ACTUAL FUEL RATE OF THE ELECTRIC**  
10 **COMPANY OR ELECTRICITY SUPPLIER IS MORE THAN 5% ABOVE OR BELOW THE**  
11 **SUM OF THE COMPONENTS OF THE FUEL RATE THEN IN EFFECT.**

12           (2)    **AN ELECTRIC COMPANY OR ELECTRICITY SUPPLIER THAT**  
13 **HAS A DECREASE OF MORE THAN 5% IN ITS FUEL RATE PROMPTLY SHALL FILE**  
14 **AN APPLICATION WITH THE COMMISSION TO REDUCE THE FUEL RATE.**

15           (3)    **TO THE EXTENT THAT AN ELECTRIC COMPANY OR**  
16 **ELECTRICITY SUPPLIER DOES NOT RECOVER ITS ACTUAL ACCUMULATED FUEL**  
17 **COSTS UNDER THIS SECTION, THE ELECTRIC COMPANY OR ELECTRICITY**  
18 **SUPPLIER MAY DEFER THE COSTS AS AN OPERATING EXPENSE AND RECOVER**  
19 **THE COSTS IN A BASE RATE PROCEEDING IF:**

20                   (I)   **THE COMMISSION FINDS THAT THE COSTS WERE**  
21 **JUSTIFIED; AND**

22                   (II)   **RECOVERY OF THE COSTS IS CONSISTENT WITH THE**  
23 **RATE PROVISIONS OF THIS TITLE.**

24           (E)    **IN ITS INVESTIGATION OF AN APPLICATION FOR A FUEL RATE**  
25 **ADJUSTMENT UNDER THIS SECTION, THE COMMISSION SHALL MAKE SPECIFIC**  
26 **FINDINGS OF FACT AND CONCLUSIONS BASED ON A DETERMINATION OF**  
27 **WHETHER THE APPLICANT HAS:**

28                   (1)    **INCLUDED ONLY CHANGES IN THE ACTUAL COSTS OF THE**  
29 **COMPONENTS OF THE FUEL RATE IN THE PROPOSED CHANGE;**

30                   (2)    **USED THE MOST ECONOMICAL MIX OF ALL TYPES OF**  
31 **GENERATION AND PURCHASES;**

32                   (3)    **MADE EVERY REASONABLE EFFORT TO MINIMIZE FUEL COSTS**  
33 **AND FOLLOWED COMPETITIVE PROCUREMENT PRACTICES, CONSIDERING THE**  
34 **RELIABILITY OF LOCAL TRANSPORTATION; AND**

1           **(4) FOR AN ELECTRIC COMPANY, MAINTAINED THE PRODUCTIVE**  
2 **CAPACITY OF ALL ITS GENERATING PLANTS AT A REASONABLE LEVEL.**

3           **(F) UNLESS CAUSE TO THE CONTRARY IS SHOWN, THE COMMISSION**  
4 **MAY DISALLOW ANY INCREASED COST THAT IT FINDS IS A RESULT OF THE**  
5 **APPLICANT'S FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.**

6           **(G) AN APPLICANT FOR A FUEL RATE ADJUSTMENT SHALL FILE ITS**  
7 **PROPOSED INITIAL DIRECT TESTIMONY AND EXHIBITS WITH THE APPLICATION.**

8           **(H) (1) THE COMMISSION SHALL CONDUCT, OR DIRECT ANOTHER**  
9 **PERSON TO CONDUCT, AN ANNUAL AUDIT OF THE FUEL PROCUREMENT AND**  
10 **PURCHASING PRACTICES OF EACH ELECTRIC COMPANY AND ELECTRICITY**  
11 **SUPPLIER SUBJECT TO THIS SECTION.**

12           **(2) THE DEPARTMENT OF LEGISLATIVE SERVICES MAY:**

13                   **(I) CONDUCT AN AUDIT AND STUDY OF THE FUEL**  
14 **PROCUREMENT AND PURCHASING PRACTICES OF AN ELECTRIC COMPANY OR**  
15 **ELECTRICITY SUPPLIER; AND**

16                   **(II) EXAMINE AN AUDIT ISSUED BY OR GENERATED AT THE**  
17 **DIRECTION OF THE COMMISSION UNDER THIS SUBSECTION.**

18 7-201.

19           **(a) IN COOPERATION WITH THE SECRETARY OF NATURAL RESOURCES**  
20 **AS PROVIDED UNDER § 3-304 OF THE NATURAL RESOURCES ARTICLE, THE**  
21 **COMMISSION SHALL ASSEMBLE AND EVALUATE EACH YEAR THE LONG-RANGE**  
22 **PLANS OF THE STATE'S ELECTRIC COMPANIES AND ELECTRICITY SUPPLIERS**  
23 **REGARDING GENERATING NEEDS AND THE MEANS TO MEET THOSE NEEDS.**

24           **(B) (1) Annually, the Chairman of the Commission shall forward to the**  
25 **Secretary of Natural Resources a 10-year plan listing possible and proposed sites,**  
26 **including the associated transmission routes, for the construction of electric plants**  
27 **within the State.**

28                   **(2) (i) The Chairman shall delete from the 10-year plan any site**  
29 **that the Secretary of Natural Resources identifies as unsuitable in accordance with**  
30 **the requirements of § 3-304 of the Natural Resources Article.**

31                   **(ii) The Chairman may include a site deleted from a 10-year**  
32 **plan under subparagraph (i) of this paragraph in a subsequent 10-year plan.**

1           (3) The Chairman shall include information in the annual 10-year  
2 plan on current and projected efforts by electric companies, **ELECTRICITY**  
3 **SUPPLIERS**, and the Commission to moderate overall electrical generation demand  
4 and peak demand through the [electric companies'] promotion of energy conservation  
5 by customers and through the [electric companies'] use **BY ELECTRIC COMPANIES**  
6 **AND ELECTRICITY SUPPLIERS** of alternative energy sources, including cogeneration.

7           (4) To the extent that the Commission requires an electric company  
8 **OR ELECTRICITY SUPPLIER** to report the information described in paragraph (3) of  
9 this subsection, a small rural electric cooperative described in § 7-502(a) of this title  
10 may satisfy the requirement by submitting to the Commission a copy of the power  
11 requirement study that the small rural electric cooperative submits to the rural  
12 utilities service.

13           **[(b)] (C)** (1) The Commission shall evaluate the cost-effectiveness of the  
14 investments by electric companies **AND ELECTRICITY SUPPLIERS** in energy  
15 conservation to reduce electrical demand and in renewable energy sources to help  
16 meet electrical demand.

17           (2) The evaluation of investments shall include:

18                   (i) the [electric companies'] promotion and conduct of a building  
19 audit and weatherization program, including low-interest or no-interest [electric  
20 company] financing for the installation of energy conservation materials and  
21 renewable energy devices;

22                   (ii) utilization of renewable energy sources;

23                   (iii) promotion and utilization of electricity from cogeneration  
24 and wastes; and

25                   (iv) widespread public promotion of energy conservation  
26 programs.

27 7-207.

28           (e) The Commission shall take final action on an application for a certificate  
29 of public convenience and necessity only after due consideration of:

30                   (1) the recommendation of the governing body of each county or  
31 municipal corporation in which any portion of the construction of the generating  
32 station or overhead transmission line is proposed to be located; [and]

33                   (2) **THE NEED TO MEET EXISTING AND FUTURE DEMAND FOR**  
34 **ELECTRIC SERVICE; AND**



1                   **(3)** the effect of the generating station or overhead transmission line  
2 on:

3                   (i) the stability and reliability of the electric system;

4                   (ii) economics;

5                   (iii) esthetics;

6                   (iv) historic sites;

7                   (v) aviation safety as determined by the Maryland Aviation  
8 Administration and the administrator of the Federal Aviation Administration;

9                   (vi) when applicable, air and water pollution; and

10                   (vii) the availability of means for the required timely disposal of  
11 wastes produced by any generating station.

12 7-504.

13                   The General Assembly finds and declares that the purpose of this subtitle is to:

14                   (1) establish customer choice of electricity supply and electricity  
15 supply services;

16                   (2) create competitive retail electricity supply and electricity supply  
17 services markets;

18                   (3) [deregulate the generation, supply, and pricing of electricity;

19                   (4)] provide economic benefits for all customer classes; and

20                   [(5)] (4) ensure compliance with federal and State environmental  
21 standards.

22 7-505.

23                   (a) [(1) In assessing and approving each electric company's restructuring  
24 plan, and overseeing the transition process and regulation of the restructured electric  
25 industry, the] **THE** Commission shall provide that the transition to a competitive  
26 electricity supply and electricity supply services market shall be orderly, maintain  
27 electric system reliability, and ensure compliance with federal and State  
28 environmental regulations, be fair to customers, electric company investors, customers  
29 of municipal electric utilities, electric companies, and electricity suppliers, and provide  
30 economic benefits to all customer classes.



- 1                                   2.     transition charge or credit;
- 2                                   3.     universal service program charges;
- 3                                   4.     customer charges;
- 4                                   5.     taxes; and
- 5                                   6.     other charges identified by the Commission.

6                   (6)     The Commission shall issue orders or regulations to prevent an  
7 electric company and an electricity supplier from disclosing a retail electric customer's  
8 billing, payment, and credit information without the retail electric customer's consent,  
9 except as allowed by the Commission for bill collection or credit rating reporting  
10 purposes.

11                   (7)     An electricity supplier may not engage in marketing, advertising,  
12 or trade practices that are unfair, false, misleading, or deceptive.

13                   (8)     The Commission shall determine the terms, conditions, and rates  
14 [of standard offer service] in accordance with[:

15                                   (i)]     Title 4 of this article[; or

16                                   (ii)    as applicable, § 7-510(c)(4) of this subtitle].

17                   (9)     [In connection with § 7-513 of this subtitle, the Commission may  
18 not require an electric company to divest itself of a generation asset or prohibit an  
19 electric company from divesting itself voluntarily of a generation asset.

20                   (10)] (i)     On or before July 1, 2000, the Commission shall issue orders  
21 or adopt regulations reasonably designed to ensure the creation of competitive  
22 electricity supply and electricity supply services markets, with appropriate customer  
23 safeguards.

24                                   (ii)    On or before July 1, 2000, the Commission shall require:

25                                   1.     an appropriate code of conduct between the electric  
26 company and an affiliate providing electricity supply and electricity supply services in  
27 the State;

28                                   2.     access by electricity suppliers and customers to the  
29 electric company's transmission and distribution system on a nondiscriminatory basis;

30                                   3.     appropriate complaint and enforcement procedures;  
31 and

1                   4.     any other safeguards deemed necessary by the  
2 Commission to ensure the creation and maintenance of a competitive electricity supply  
3 and electricity supply services market.

4                   [(iii) On or before July 1, 2000, the Commission shall require,  
5 among other factors, functional, operational, structural, or legal separation between  
6 the electric company's regulated businesses and its nonregulated businesses or  
7 nonregulated affiliates.]

8                   [(11)] (10) Nothing in this title may be construed as preventing the  
9 application of State and federal consumer protection and antitrust laws to electric  
10 companies and their affiliates, and to electricity suppliers.

11                   [(12)] (11) The Commission, in consultation with the Department of the  
12 Environment, shall adopt appropriate measures to maintain environmental standards,  
13 adapt existing programs, and develop new programs as appropriate to ensure  
14 compliance with federal and State environmental protection standards.

15                   [(13)] (12) (i) An electric company shall comply with all  
16 requirements of the Commission in conducting regulated operations in compliance  
17 with this article.

18                   (ii) The Commission shall require each electric company to  
19 adopt a code of conduct to be approved by the Commission by a date to be determined  
20 by the Commission to prevent regulated service customers from subsidizing the  
21 services of unregulated businesses or affiliates of the electric company.

22                   (c) (1) Notwithstanding any other provision of law, [including subsection  
23 (d) of this section,] the Commission may regulate [the regulated services of] an electric  
24 company through alternative forms of regulation.

25                   (2) The Commission may adopt an alternative form of regulation  
26 under this section if the Commission finds, after notice and hearing, that the  
27 alternative form of regulation:

- 28                   (i) protects consumers;
- 29                   (ii) ensures the quality, availability, and reliability of regulated  
30 electric services; and
- 31                   (iii) is in the interest of the public, including shareholders of the  
32 electric company.

33                   (3) Alternative forms of regulation may include:

- 34                   (i) price regulation, including price freezes or caps;

- 1 (ii) revenue regulation;
- 2 (iii) ranges of authorized return;
- 3 (iv) rate of return;
- 4 (v) categories of services; or
- 5 (vi) price-indexing.

6 [(d) (1) The Commission shall cap, for 4 years after initial implementation  
7 of customer choice in the electric company's distribution territory, the total of the rates  
8 of an electric company charged to a retail electric customer at the actual level of the  
9 rates in effect or authorized by the Commission on the date immediately preceding the  
10 initial implementation of customer choice in the electric company's distribution  
11 territory.

12 (2) (i) Except as provided in subparagraph (ii) of this paragraph,  
13 the cap required under paragraph (1) of this subsection does not apply to the recovery  
14 of costs added after January 1, 2000, in accordance with § 7-512(c) of this subtitle.

15 (ii) The cap required under paragraph (1) of this subsection  
16 applies to the recovery of:

- 17 1. any transition costs under § 7-513 of this subtitle;
- 18 2. any costs included in rates on January 1, 2000, in  
19 accordance with § 7-512(c) of this subtitle; and
- 20 3. costs for the universal service program established  
21 under § 7-512.1 of this subtitle.

22 (3) As part of a settlement, the Commission may approve a cap for a  
23 different time period or an alternative price protection plan that the Commission  
24 determines is equally protective of ratepayers.

25 (4) (i) 1. Subject to the provisions of paragraph (5) of this  
26 subsection, the Commission shall reduce residential rates for each investor-owned  
27 electric company by an amount between 3% and 7.5% of base rates, as measured on  
28 June 30, 1999.

29 2. The reduction required under sub-subparagraph 1 of  
30 this subparagraph shall begin on the initial implementation date and remain in effect  
31 for 4 years.

1                   3.     The Commission shall determine the allocation of the  
2 rate reduction among the generation, transmission, and distribution residential rate  
3 components.

4                   (ii)    In achieving the rate reduction required under  
5 subparagraph (i) of this paragraph, the Commission shall consider:

- 6                   1.     the expiration of any surcharge;
- 7                   2.     changes in the electric company's tax liability;
- 8                   3.     cost of service determinations ordered by the  
9 Commission;
- 10                  4.     net transition costs or benefits;
- 11                  5.     the effect on the competitive electricity supply  
12 market;
- 13                  6.     whether the rate reduction and rate cap will unduly  
14 impair the electric company's financial condition;
- 15                  7.     the costs associated with the universal service  
16 program; and
- 17                  8.     the interests of the public, including shareholders of  
18 the electric company.

19                  (iii)   The Commission may, within the parameters provided in  
20 subparagraph (i) of this paragraph, increase or decrease the actual rate reduction  
21 required.

22                  (iv)    The Commission may allow the recovery of any  
23 extraordinary costs based on the circumstances of an individual electric company if the  
24 Commission determines that the action is necessary and in the public interest.

25                  (v)    In determining the rate reduction required under  
26 subparagraph (i) of this paragraph, the Commission may not increase rates for  
27 nonresidential customers.

28                  (5)    The requirements of paragraph (4) of this subsection do not apply  
29 to an electric company if the Commission approves or has in effect a settlement that  
30 the Commission determines is equally protective of ratepayers.]

31                  [(e)] (D)   (1)   The Commission shall assess the amount of electricity  
32 generated in Maryland as well as the amount of electricity imported from other states

1 in order to determine whether a sufficient supply of electricity is available to  
2 customers in the State.

3 (2) On or before January 1 in 2001, 2003, 2005, and 2007, the  
4 Commission shall report to the General Assembly in accordance with § 2-1246 of the  
5 State Government Article on its assessment under this subsection, and any  
6 recommendations for legislation which may be needed to ensure an adequate supply of  
7 electricity for customers in the State.

8 7-507.

9 (a) A person, other than [an electric company providing standard offer  
10 service under § 7-510(c) of this subtitle or] a municipal electric utility serving  
11 customers solely in its distribution territory, may not engage in the business of an  
12 electricity supplier in the State unless the person holds a license issued by the  
13 Commission.

14 (b) An application for an electricity supplier license shall:

15 (1) be made to the Commission in writing on a form adopted by the  
16 Commission;

17 (2) be verified by oath or affirmation; and

18 (3) contain information that the Commission requires, including:

19 (i) proof of technical and managerial competence;

20 (ii) proof of compliance with all applicable requirements of the  
21 Federal Energy Regulatory Commission, and any independent system operator or  
22 regional or system transmission operator to be used by the licensee;

23 (iii) a certification of compliance with applicable federal and  
24 State environmental laws and regulations that relate to the generation of electricity;  
25 and

26 (iv) payment of the applicable licensing fee.

27 (c) The Commission shall, by regulation or order:

28 (1) require proof of financial integrity;

29 (2) require a licensee to post a bond or other similar instrument, if, in  
30 the Commission's judgment, the bond or similar instrument is necessary to insure an  
31 electricity supplier's financial integrity;

32 (3) require a licensee to:

1 (i) provide proof that it is qualified to do business in the State  
2 with the Department of Assessments and Taxation; and

3 (ii) agree to be subject to all applicable taxes; and

4 (4) adopt any other requirements it finds to be in the public interest,  
5 which may include different requirements for:

6 (i) electricity suppliers that serve only large customers; and

7 (ii) the different categories of electricity suppliers.

8 (d) A license issued under this section may not be transferred without prior  
9 Commission approval.

10 (e) The Commission shall adopt regulations or issue orders to:

11 (1) protect consumers, electric companies, and electricity suppliers  
12 from anticompetitive and abusive practices;

13 (2) require each electricity supplier to provide, in addition to the  
14 requirements under § 7-505(b)(5) of this subtitle, adequate and accurate customer  
15 information to enable customers to make informed choices regarding the purchase of  
16 any electricity services offered by the electricity supplier;

17 (3) establish reasonable restrictions on telemarketing;

18 (4) establish procedures for contracting with customers;

19 (5) establish requirements and limitations relating to deposits, billing,  
20 collections, and contract cancellations; **AND**

21 (6) [establish provisions providing for the referral of a delinquent  
22 account by an electricity supplier to the standard offer service under § 7-510(c) of this  
23 subtitle; and

24 (7)] establish procedures for dispute resolution.

25 (f) In accordance with regulations or orders of the Commission, electricity  
26 bills, for competitive and regulated electric services, provided to consumers may  
27 provide, in addition to the requirements of § 7-505(b)(5) of this subtitle and subsection  
28 (e)(2) of this section, the following information:

29 (1) the identity and phone number of the electricity supplier of the  
30 service;



1 (2) sufficient information to evaluate prices and services; and

2 (3) information identifying whether the price is regulated or  
3 competitive.

4 (g) (1) An electricity supplier or any person or governmental unit may  
5 not, without first obtaining the customer's permission:

6 (i) make any change in the electricity supplier for a customer;  
7 or

8 (ii) add a new charge for a new or existing service or option.

9 (2) The Commission shall adopt regulations or issue orders  
10 establishing procedures to prevent the practices prohibited under paragraph (1) of this  
11 subsection.

12 (h) (1) An electricity supplier may not discriminate against any customer  
13 based wholly or partly on race, color, creed, national origin, or sex of an applicant for  
14 service or for any arbitrary, capricious, or unfairly discriminatory reason.

15 (2) An electricity supplier may not refuse to provide service to a  
16 customer except by the application of standards that are reasonably related to the  
17 electricity supplier's economic and business purposes.

18 (i) An electricity supplier shall be subject to all applicable federal and State  
19 environmental laws and regulations.

20 (j) An electricity supplier shall post on the Internet information that is  
21 readily understandable about its services and rates for small commercial and  
22 residential electric customers.

23 (k) (1) The Commission may revoke or suspend the license of an  
24 electricity supplier, impose a civil penalty or other remedy, order a refund or credit to  
25 a customer, or impose a moratorium on adding or soliciting additional customers by  
26 the electricity supplier, for just cause on the Commission's own investigation or on  
27 complaint of the Office of People's Counsel, the Attorney General, or an affected party.

28 (2) A civil penalty may be imposed in addition to the Commission's  
29 decision to revoke, suspend, or impose a moratorium.

30 (3) Just cause includes:

31 (i) intentionally providing false information to the Commission;

32 (ii) switching, or causing to be switched, the electricity supply  
33 for a customer without first obtaining the customer's permission;

- 1 (iii) failing to provide electricity for its customers;
- 2 (iv) committing fraud or engaging in deceptive practices;
- 3 (v) failing to maintain financial integrity;
- 4 (vi) violating a Commission regulation or order;
- 5 (vii) failing to pay, collect, remit, or calculate accurately  
6 applicable State or local taxes;
- 7 (viii) violating a provision of this article or any other applicable  
8 consumer protection law of the State;
- 9 (ix) conviction of a felony by the licensee or principal of the  
10 licensee or any crime involving fraud, theft, or deceit; and
- 11 (x) suspension or revocation of a license by any State or federal  
12 authority.

13 (1) (1) An electricity supplier or person selling or offering to sell electricity  
14 in the State in violation of this section, after notice and an opportunity for a hearing,  
15 is subject to:

- 16 (i) a civil penalty of not more than \$10,000 for the violation; or
- 17 (ii) license revocation or suspension.
- 18 (2) Each day a violation continues is a separate violation.
- 19 (3) The Commission shall determine the amount of any civil penalty  
20 after considering:
- 21 (i) the number of previous violations of any provision of this  
22 article;
- 23 (ii) the gravity of the current violation; and
- 24 (iii) the good faith of the electricity supplier or person charged in  
25 attempting to achieve compliance after notification of the violation.

26 (m) In connection with a consumer complaint or Commission investigation  
27 under this section, an electricity supplier shall provide to the Commission access to  
28 any accounts, books, papers, and documents which the Commission considers  
29 necessary to resolve the matter at issue.

30 (n) The Commission may order the electricity supplier to cease adding or  
31 soliciting additional customers or to cease serving customers in the State.

1 (o) The Commission shall consult with the Consumer Protection Division of  
2 the Office of the Attorney General before issuing regulations designed to protect  
3 consumers.

4 (p) The People's Counsel shall have the same authority in licensing,  
5 complaint, and dispute resolution proceedings as it has in Title 2 of this article.

6 (q) Nothing in this subtitle may be construed to affect the authority of the  
7 Division of Consumer Protection in the Office of the Attorney General to enforce  
8 violations of Titles 13 and 14 of the Commercial Law Article or any other applicable  
9 State law or regulation in connection with the activities of electricity suppliers.

10 [7-509.

11 (a) (1) On and after the initial implementation date, the generation,  
12 supply, and sale of electricity, including all related facilities and assets, may not be  
13 regulated as an electric company service or function except to:

14 (i) establish the price for standard offer service under §  
15 7-510(c) of this subtitle; and

16 (ii) review and approve transfers of generation assets under §  
17 7-508 of this subtitle.

18 (2) This subsection does not apply to:

19 (i) regulation of an electricity supplier under § 7-507 of this  
20 subtitle; or

21 (ii) the costs of nuclear generation facilities or purchased power  
22 contracts that, as part of a settlement approved by the Commission, remain regulated  
23 or are recovered through the distribution function.

24 (b) (1) Subject to paragraph (2) of this subsection, this section does not  
25 apply to an investor-owned electric company until the electric company:

26 (i) transfers generation facilities and generation assets to an  
27 affiliate of the electric company, and the affiliate operates the facilities and assets; or

28 (ii) sells the generation facilities and generation assets to a  
29 nonaffiliate.

30 (2) (i) Notwithstanding the provisions of paragraph (1) of this  
31 subsection, this section applies to an investor-owned electric company that does not  
32 transfer its generation facilities and generation assets to an affiliate or sell its  
33 generation facilities and generation assets to a nonaffiliate if, on January 1, 1999, the

1 retail peak load of the investor-owned electric company in the State was less than  
2 1,000 megawatts.

3 (ii) An investor-owned electric company to which this section  
4 applies through subparagraph (i) of this paragraph shall, by January 1, 2001:

5 1. transfer its generation facilities and generation assets  
6 to an affiliate of the investor-owned electric company that operates the facilities and  
7 assets; or

8 2. sell the generation facilities and generation assets to  
9 a nonaffiliate.

10 (c) The exceptions in subsection (a)(1) of this section as to any electric  
11 company shall remain in effect until the latest of:

12 (1) the date when all customers of that electric company are eligible  
13 for customer choice under § 7-510 of this subtitle;

14 (2) the date when the amount of transition costs or benefits arising  
15 from the generation that is deregulated has been finally determined by the  
16 Commission under § 7-513(a) through (c) of this subtitle; or

17 (3) the date on which the obligation of the electric company to provide  
18 standard offer service under § 7-510(c)(3)(ii) of this subtitle terminates.]

19 [7-510.

20 (a) (1) Subject to subsection (b) of this section, the phased implementation  
21 of customer choice shall be implemented as follows:

22 (i) on July 1, 2000, one-third of the residential class in the  
23 State of each electric company shall have the opportunity for customer choice;

24 (ii) on January 1, 2001, the entire industrial class and the entire  
25 commercial class in the State of each electric company shall have the opportunity for  
26 customer choice;

27 (iii) on July 1, 2001, two-thirds of the residential class in the  
28 State of each electric company shall have the opportunity for customer choice;

29 (iv) on July 1, 2002, all customers of each electric company shall  
30 have the opportunity for customer choice; and

31 (v) by July 1, 2003, under a separate schedule adopted by the  
32 Commission, all customers of each electric cooperative shall have the opportunity for  
33 customer choice.

1           (2) (i) In accordance with this paragraph, the Commission may  
2 adopt a separate schedule for municipal electric utilities for the implementation of  
3 customer choice.

4                   (ii) A municipal electric utility may not be required to make its  
5 service territory available for customer choice unless it elects to do so.

6                   (iii) If a municipal electric utility elects to allow customer choice,  
7 the municipal electric utility shall file a proposed plan and schedule with the  
8 Commission.

9                   (iv) The Commission may approve each municipal electric utility  
10 plan and schedule after considering the features that distinguish the municipal  
11 electric utility from other electric companies.

12                   (v) Nothing in this subtitle may be construed to require the  
13 functional, operational, structural, or legal separation of the regulated and  
14 nonregulated operations of the municipal electric utility.

15           (3) On or before October 1, 2003, each municipal electric utility shall  
16 report, subject to § 2-1246 of the State Government Article, to the General Assembly  
17 on the status of the opportunity for customer choice in its service territory, including:

18                   (i) if the service territory of the municipal electric utility is  
19 available for customer choice, its experience, through July 1, 2003, with the transition  
20 to customer choice; or

21                   (ii) if the service territory of the municipal electric utility is not  
22 available for customer choice as of July 1, 2003, its proposed intention to make  
23 customer choice available in the future.

24           (4) If a municipal electric utility serves customers outside its  
25 distribution territory, electricity suppliers licensed under § 7-507 of this subtitle may  
26 serve the customers in the distribution territory of the municipal electric utility.

27           (b) For good cause shown and if the Commission finds the action to be in the  
28 public interest, the Commission may:

29                   (1) accelerate or delay the initial implementation date of July 1, 2000  
30 by up to 3 months; or

31                   (2) accelerate any of the other implementation dates and phase-in  
32 percentages in subsection (a) of this section.

33           (c) (1) Beginning on the initial implementation date, an electric  
34 company's obligation to provide electricity supply and electricity supply service is  
35 stated by this 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 standard  
3 offer service if the customer:

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

6                   (ii)   contracts for electricity with an electricity supplier and it is  
7 not 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  
12 service by an electricity supplier in accordance with § 7-507(e)(6) of this subtitle.

13           (3)    (i)    Except as provided under subparagraph (ii) of this  
14 paragraph, any obligation of an electric company to provide standard offer service  
15 shall cease on July 1, 2003.

16                   (ii)   1.    Electric cooperatives and municipal electric utilities  
17 may choose to continue providing standard offer service in their respective distribution  
18 territories and may cease offering that service after notifying the Commission at least  
19 12 months in advance.

20                           2.    On and after July 1, 2003, an electric company  
21 continues to have the obligation to provide standard offer service to residential and  
22 small commercial customers at a market price that permits recovery of the verifiable,  
23 prudently incurred costs to procure or produce the electricity plus a reasonable return.

24                   (iii)   1.    On or before December 31, 2008, and every 5 years  
25 thereafter, the Commission shall report to the Governor and, in accordance with §  
26 2-1246 of the State Government Article, to the General Assembly on the status of the  
27 standard offer service, the development of competition, and the transition of standard  
28 offer service to a default service.

29                           2.    The Commission shall establish, by order or  
30 regulation, the definition of "default service".

31           (4)    (i)    On or before July 1, 2001, the Commission shall adopt  
32 regulations or issue orders to establish procedures for the competitive selection of  
33 wholesale electricity suppliers, including an affiliate of an electric company, to provide  
34 electricity for standard offer service to customers of electric companies under  
35 paragraph (2) of this subsection, except for customers of electric cooperatives and

1 municipal electric utilities. Unless delayed by the Commission, the competitive  
2 selection shall take effect no later than July 1, 2003.

3 (ii) 1. Under the obligation to provide standard offer service  
4 in accordance with paragraph (3)(ii) of this subsection, the Commission, by regulation  
5 or order, and in a manner that is designed to obtain the best price for residential and  
6 small commercial customers in light of market conditions at the time of procurement  
7 and the need to protect these customers from excessive price increases:

8 A. shall require each investor-owned electric company to  
9 obtain its electricity supply for residential and small commercial customers  
10 participating in standard offer service through a competitive process in accordance  
11 with this paragraph; and

12 B. may require or allow an investor-owned electric  
13 company to procure electricity for these customers directly from an electricity supplier  
14 through one or more bilateral contracts outside the competitive process.

15 2. A. As the Commission directs, the competitive  
16 process shall include a series of competitive wholesale bids in which the  
17 investor-owned electric company solicits bids to supply anticipated standard offer  
18 service load for residential and small commercial customers as part of a portfolio of  
19 blended wholesale supply contracts of short, medium, or long terms, and other  
20 appropriate electricity products and strategies, as needed to meet demand in a  
21 cost-effective manner.

22 B. The competitive process may include different bidding  
23 structures and mechanisms for base load, peak load, and very short-term  
24 procurement.

25 C. By regulation or order, as a part of the competitive  
26 process, the Commission shall require or allow the procurement of cost-effective  
27 energy efficiency and conservation measures and services with projected and verifiable  
28 energy savings to offset anticipated demand to be served by standard offer service, and  
29 the imposition of other cost-effective demand-side management programs.

30 3. A. In order to prevent an excessive amount of load  
31 being exposed to upward price risks and volatility, the Commission may stagger the  
32 dates for the competitive wholesale auctions.

33 B. By regulation or order, the Commission may allow a  
34 date on which a competitive wholesale auction takes place to be altered based on  
35 current market conditions.

36 4. By regulation or order, the Commission may allow an  
37 investor-owned electric company to refuse to accept some or all of the bids made in a  
38 competitive wholesale auction in accordance with standards adopted by the  
39 Commission.

1                   5.     The investor-owned electric company shall publicly  
2 disclose the names of all bidders and the names and load allocation of all successful  
3 bidders 90 days after all contracts for supply are executed.

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

7                   (6)     In order to meet long-term, anticipated demand in the State for  
8 standard offer service and other electricity supply, the Commission may require or  
9 allow an investor-owned electric company to construct, acquire, or lease, and operate,  
10 its own generating facilities, and transmission facilities necessary to interconnect the  
11 generating facilities with the electric grid, subject to appropriate cost recovery.

12                   (7)     (i)     To determine whether an appropriate phased  
13 implementation of electricity rates that is necessary to protect residential customers  
14 from the impact of sudden and significant increases in electricity rates, the  
15 Commission in the case of an increase of 20% or more over the previous year's total  
16 electricity rates, shall conduct evidentiary proceedings, including public hearings.

17                   (ii)    1.     A deferral of costs as part of a phased implementation  
18 of electricity rates by an investor-owned electric company shall be treated as a  
19 regulatory asset to be recovered in accordance with a rate stabilization plan under  
20 Part III of this subtitle or any other plan for phased implementation approved by the  
21 Commission.

22                                 2.     A deferral of costs under this paragraph must be just,  
23 reasonable, and in the public interest.

24                   (iii)   The Commission shall approve the recovery of deferred costs  
25 under subparagraph (ii) of this paragraph as:

26                                 1.     long-term recovery in accordance with a rate  
27 stabilization plan under Part III of this subtitle; or

28                                 2.     short-term recovery through a rate proceeding  
29 mechanism approved by the Commission.

30                   (iv)    The Commission may approve a phasing in of increased  
31 costs by:

32                                 1.     placing a cap on rates and allowing recovery over  
33 time; or

34                                 2.     allowing rates to increase and providing for a rebate  
35 to customers of any excess costs paid.



1           (8) (i) An electric cooperative that as of July 1, 2006, supplied its  
2 standard offer service load through a portfolio of blended wholesale supply contracts of  
3 short, medium, and long terms, and other appropriate electricity products and  
4 strategies, as needed to meet demand in a cost-effective manner, may choose to  
5 continue to use a blended portfolio:

6                           1. as approved and modified by the electric cooperative's  
7 board of directors; and

8                           2. with appropriate review for prudent cost recovery as  
9 determined by the Commission.

10                       (ii) The Commission may not set or enforce a termination date  
11 for the procurement of supply through a managed portfolio previously approved by the  
12 Commission.

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

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

22                       (iii) Notwithstanding subparagraphs (i) and (ii) of this  
23 paragraph, as approved by the Commission, an electric cooperative may receive a  
24 modification in distribution and transmission rates.

25           (d) Notwithstanding the dates set forth in this section or any other law,  
26 customer choice may not commence until legislation is enacted by the General  
27 Assembly to restructure Maryland taxes to address the State and local tax  
28 implications of restructuring the electric utility industry.

29           (e) The Commission shall, by regulation or order, adopt procedures to  
30 implement this section, including the allocation of any unused opportunity for  
31 customer choice among customer classes.

32           (f) A county or municipal corporation may not act as an aggregator unless  
33 the Commission determines there is not sufficient competition within the boundaries  
34 of the county or municipal corporation.]

35 7-512.1.

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

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

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

8           (4) An electric company shall recover electric universal service  
9 program costs [in accordance with § 7-512 of this subtitle].

10           (5) As determined by the Office of Home Energy Programs, bill  
11 assistance payments to an electric company may be on a monthly basis for each  
12 customer.

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

16           (7) The Commission may not assess the electric universal service  
17 surcharge on a per kilowatt-hour basis.

18 [7-515.

19           An electricity supplier that also provides distribution service, or that has an  
20 affiliate that provides distribution service, in Pennsylvania, Delaware, West Virginia,  
21 Virginia, or the District of Columbia may not provide retail electricity supply service,  
22 directly, indirectly, or through an aggregator, marketer, or broker, in the distribution  
23 territory of an unaffiliated electric company unless there is electricity supply  
24 competition in at least a portion of the distribution service area of the electricity  
25 supplier or affiliate.]

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

28   **Article – Public Utility Companies**

29 [7-512.

30           (a) This section and § 7-513 of this subtitle apply to an entity that was  
31 regulated as an electric company on June 30, 1999, whether or not the entity or any of  
32 its businesses, services, or assets continues to be regulated under this article after that  
33 date.

1 (b) An electric company may recover costs under this section to the extent  
2 that the Commission finds costs to be just and reasonable.

3 (c) (1) An electric company shall be provided a fair opportunity to recover  
4 fully all costs that have been or will be incurred by the electric company under public  
5 purpose programs established by law or ordered by the Commission.

6 (2) (i) Except as provided in paragraph (3) of this subsection, the  
7 costs subject to this subsection shall be funded by a surcharge or other cost recovery  
8 mechanism collected on a statewide basis that:

9 1. fully recovers from customers the costs of the plans  
10 and programs; and

11 2. subject to subparagraph (ii) of this paragraph, with  
12 respect to any of these costs not included in rates on January 1, 2000, is not subject to  
13 any otherwise applicable cap.

14 (ii) The recovery by an electric company of costs for a universal  
15 service program is subject to any applicable cap regardless of when the costs are  
16 included in rates.

17 (3) During the fiscal year ending June 30, 2000, an electric company  
18 may not, under paragraph (2) of this subsection, recover costs of a consumer education  
19 program established by law, regulation, or order.]

20 [7-513.

21 (a) (1) In accordance with this subsection, an electric company shall be  
22 provided a fair opportunity to recover all of its prudently incurred and verifiable net  
23 transition costs, subject to full mitigation, following the Commission's determination  
24 under subsection (b) of this section.

25 (2) A competitive transition charge, or other appropriate mechanism  
26 that the Commission determines, may be included for customers who access the  
27 transmission or distribution system of the electric company in whose distribution  
28 territory the customer is located. The costs authorized by the Commission to be  
29 recovered shall be allocated to customer classes in a manner that, as nearly as  
30 reasonably possible, does not exceed the cost of providing the service to those classes of  
31 customers, avoiding where reasonably possible any interclass or intraclass cross  
32 subsidy.

33 (3) (i) The competitive transition charge may be included on bills  
34 to customers for a period determined by the Commission.

35 (ii) The Commission may establish recovery periods of different  
36 lengths for each electric company and for different categories of transition costs.

1                   (4)    A competitive transition charge, or other appropriate mechanism  
2 determined by the Commission, may not apply to any on-site generated electricity to  
3 the extent of:

4                           (i)    the existing facilities' installed generating capacity as of  
5 January 1, 1999;

6                           (ii)   the generating capacity of an existing facility to be installed  
7 under a legally binding contract:

8                                   1.    executed on or before January 1, 1999; or

9                                   2.    executed on or before September 29, 1999, if the  
10 Commission, on a case by case review of the evidence, determines that negotiations in  
11 good faith concerning the contract were ongoing as of January 1, 1999; or

12                           (iii)   for a facility with a capacity of 500 kilowatts or less:

13                                   1.    the first 80 megawatts of the aggregate statewide  
14 generating capacity of on-site generating facilities;

15                                   2.    the generating capacity of the facility if the facility:

16                                   A.    is installed between January 1, 2000 and December  
17 31, 2003;

18                                   B.    derives electricity from fuel cells, photovoltaics, wind  
19 machines, or microturbines; and

20                                   C.    has an energy conversion efficiency greater than 40%;  
21 or

22                                   3.    the generating capacity of the facility if the facility:

23                                   A.    is installed after January 1, 2004;

24                                   B.    derives electricity from fuel cells, photovoltaics, wind  
25 machines, or microturbines; and

26                                   C.    has an energy conversion efficiency greater than 50%.

27                   (b)    The Commission shall determine the transition costs and the amounts of  
28 the transition costs that an electric company shall be provided an opportunity to  
29 recover under its restructuring plan through the competitive transition charge or  
30 other appropriate mechanism.

1 (c) (1) After July 1, 1999, an electric company may apply to the  
2 Commission for a qualified rate order for some or all of its transition costs.

3 (2) If the Commission issues a qualified rate order and the transition  
4 bonds approved by that order are successfully issued:

5 (i) the electric company shall impose and collect, through its  
6 customer bills, the intangible transition charges approved by the qualified rate order;  
7 and

8 (ii) at the same time, the electric company's competitive  
9 transition charge shall be reduced by an amount equal to that portion of the  
10 competitive transition charge related to the transition costs for which transition bonds  
11 have been successfully issued, together with any costs of capital related to the  
12 transition costs for which recovery was provided in the competitive transition charge,  
13 as provided in the qualified rate order.

14 (d) (1) The Commission shall establish procedures for the annual review  
15 of the competitive transition charge for each electric company to reconcile the annual  
16 revenues received from the charge with the annual amortization of transition costs  
17 approved by the Commission under this section to take account of actual  
18 kilowatt-hour sales in the prior year compared with previously estimated  
19 kilowatt-hour sales. The Commission shall adjust the competitive transition charge  
20 based on any under recovery or over recovery with respect to the authorized  
21 amortization amount.

22 (2) Nothing in this subtitle may be construed as preventing the  
23 Commission from approving for an investor-owned electric company:

24 (i) an adjustment mechanism proposed by the investor-owned  
25 electric company in its initial restructuring proposal filed prior to January 1, 1999,  
26 that takes into account differences other than differences in kilowatt-hour sales,  
27 taking into consideration any requirements related to any transition bonds;

28 (ii) an adjustment that takes into account generation asset sales  
29 by an electric company or an affiliate to a nonaffiliate that are consummated on or  
30 before June 30, 2005; or

31 (iii) any other mechanism as part of a settlement.

32 (e) (1) In determining the appropriate transition costs or benefits for each  
33 electric company's generation-related assets, the Commission shall:

34 (i) conduct public hearings; and

35 (ii) consider, in addition to other appropriate evidence of value:

36 1. book value and fair market value;

- 1                                   2.     auctions and sales of comparable assets;
- 2                                   3.     appraisals;
- 3                                   4.     the revenue the company would receive under  
4 rate-of-return regulation;
- 5                                   5.     the revenue the company would receive in a  
6 restructured electricity supply market; and
- 7                                   6.     computer simulations provided to the Commission.

8                   (2)     The Commission shall determine any equitable allocation of costs  
9 or benefits between shareholders and ratepayers. In determining the allocation of  
10 transition costs or benefits, the Commission shall consider the following factors:

- 11                           (i)     the prudence and verifiability of the original investment;
- 12                           (ii)    whether the investment continues to be used and useful;
- 13                           (iii)  whether the loss is one of which investors can be said to  
14 have reasonably borne the risk; and
- 15                           (iv)   whether investors have already been compensated for the  
16 risk.

17                   (f)     This section does not apply to rate stabilization costs established or  
18 qualified rate orders issued under Part III or Part IV of this subtitle.]

19                   SECTION 3. AND BE IT FURTHER ENACTED, That a presently existing  
20 obligation or contract right may not be impaired in any way by this Act.

21                   SECTION 4. AND BE IT FURTHER ENACTED, That if any provision of this  
22 Act or the application thereof to any person or circumstance is held invalid for any  
23 reason in a court of competent jurisdiction, the invalidity does not affect other  
24 provisions or any other application of this Act which can be given effect without the  
25 invalid provision or application, and for this purpose the provisions of this Act are  
26 declared severable.

27                   SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act  
28 shall take effect January 1, 2010.

29                   SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in  
30 Section 5 of this Act, this Act shall take effect June 1, 2008.