

# SENATE BILL 746

C5

8lr1843

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By: **Senator Brochin**

Introduced and read first time: February 1, 2008

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Electric Companies – Removal or Clearing of Trees – Notice and Cease and**  
3 **Desist Order**

4 FOR the purpose of prohibiting an electric company from removing or clearing one or  
5 more trees on a public utility right-of-way or land except in accordance with  
6 certain procedures; requiring an electric company to send a notice to certain  
7 property owners in a certain manner; requiring that a copy of the notice be sent  
8 to the Public Service Commission and the Consumer Protection Division of the  
9 Office of the Attorney General, with certain exceptions; requiring the  
10 Commission to adopt certain regulations; allowing a certain owner to submit a  
11 certain written request to the Division within a certain time; allowing the  
12 Division to issue a cease and desist order under certain circumstances;  
13 specifying a certain application of a cease and desist order; requiring the  
14 Division to act as a mediator within a certain time to make a certain  
15 determination; requiring the Division to determine a mediation plan under  
16 certain circumstances; allowing an electric company to appeal a certain  
17 mediation plan; and generally relating to a notice of the removal or clearing of  
18 trees by electric companies and the issuance of cease and desist orders.

19 BY adding to

20 Article – Public Utility Companies

21 Section 7-309

22 Annotated Code of Maryland

23 (1998 Volume and 2007 Supplement)

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

26 **Article – Public Utility Companies**

27 **7-309.**

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.



(A) IN THIS SECTION, "DIVISION" MEANS THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL.

(B) EXCEPT IN ACCORDANCE WITH THIS SECTION, AN ELECTRIC COMPANY MAY NOT REMOVE OR CLEAR ONE OR MORE TREES ON A PUBLIC UTILITY RIGHT-OF-WAY OR LAND.

(c) (1) AN ELECTRIC COMPANY SHALL SEND A NOTICE TO EACH OWNER OF PROPERTY THAT THE ELECTRIC COMPANY CONSTRUES TO BE IN A PUBLIC UTILITY RIGHT-OF-WAY AND ON WHICH THE ELECTRIC COMPANY INTENDS TO REMOVE OR CLEAR ONE OR MORE TREES.

(2) (I) THE NOTICE SHALL BE SENT BY FIRST-CLASS MAIL 30 DAYS BEFORE THE DATE OF THE ELECTRIC COMPANY'S PROPOSED ACTION.

(II) A COPY OF THE NOTICE SHALL BE SENT TO THE COMMISSION AND THE DIVISION.

**(3) AN ELECTRIC COMPANY IS NOT REQUIRED TO PROVIDE A NOTICE:**

(I) IF THE ELECTRIC COMPANY'S PROPOSED ACTION INVOLVES ONLY TRIMMING OF TREES;

**(II) IF THE ELECTRIC COMPANY'S PROPOSED ACTION IS  
NECESSARY TO RESTORE INTERRUPTED ELECTRIC SERVICE; OR**

**(III) FOR ANY OTHER SITUATION IN WHICH THE COMMISSION FINDS THAT PROVIDING THE NOTICE WOULD NOT BE IN THE PUBLIC INTEREST.**

(D) THE COMMISSION SHALL ADOPT REGULATIONS GOVERNING THE  
NOTIFICATION REQUIREMENT UNDER SUBSECTION (C) OF THIS SECTION.

(E) (1) IF AN OWNER OF A PROPERTY THAT THE ELECTRIC COMPANY CONSTRUES TO BE IN A PUBLIC UTILITY RIGHT-OF-WAY AND ON WHICH THE ELECTRIC COMPANY INTENDS TO REMOVE OR CLEAR ONE OR MORE TREES HAS CONCERNS ABOUT THE ELECTRIC COMPANY'S PROPOSED ACTION, THE OWNER MAY SUBMIT A WRITTEN REQUEST TO THE DIVISION, WITHIN 15 DAYS AFTER RECEIVING THE NOTICE UNDER SUBSECTION (C) OF THIS SECTION, FOR THE OWNER TO HAVE THE OPPORTUNITY TO COMMENT ABOUT THE ELECTRIC COMPANY'S PROPOSED ACTION.

**(2) A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION:**

- (I) SHALL DESCRIBE THE CONCERNS OF THE OWNER; AND
- (II) MAY INCLUDE A COMPLAINT REQUESTING A CEASE AND DESIST ORDER AGAINST THE ELECTRIC COMPANY'S PROPOSED ACTION.

**(3) ON RECEIPT OF A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DIVISION SHALL PROVIDE A COPY OF THE REQUEST TO THE COMMISSION AND THE ELECTRIC COMPANY.**

7 (F) (1) WITHIN 15 DAYS AFTER RECEIVING A COMPLAINT  
8 REQUESTING A CEASE AND DESIST ORDER UNDER SUBSECTION (E) OF THIS  
9 SECTION, THE DIVISION MAY ISSUE A CEASE AND DESIST ORDER IF THE  
10 DIVISION:

11 (I) DETERMINES THAT THE CONCERNS DESCRIBED IN THE  
12 REQUEST UNDER SUBSECTION (E) OF THIS SECTION ARE JUSTIFIED; AND

13 (II) AFTER CONSULTING THE COMMISSION, FINDS THAT  
14 ISSUANCE OF A CEASE AND DESIST ORDER WOULD NOT IMPEDE THE PUBLIC  
15 INTEREST.

**2. PROCEED WITHOUT ALTERATION; OR**

28 (II) IF A MEDIATION PLAN IS NOT AGREED TO BY THE  
29 PARTIES BY THE TIME THE CEASE AND DESIST ORDER PERIOD ENDS, THE  
30 DIVISION SHALL DETERMINE THE MEDIATION PLAN.

(5) AN ELECTRIC COMPANY MAY APPEAL A MEDIATION PLAN  
UNDER PARAGRAPH (3)(II) OF THIS SUBSECTION TO THE COMMISSION.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2008.