

SENATE BILL 1013

C5

(8lr3525)

ENROLLED BILL

—Finance/Economic Matters—

Introduced by **Senator Middleton**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Public Service Commission – Nuclear Decommissioning, Electric Industry**
3 **Restructuring, and Acquisition and Financing Approvals**

4 FOR the purpose of authorizing the Public Service Commission to exercise certain
5 authority as set forth in certain provisions of federal law under certain
6 circumstances; providing for the construction of certain provisions of this Act;
7 granting the circuit court jurisdiction to enforce certain provisions of law;
8 providing for the application of certain provisions of this Act; authorizing the
9 Commission to authorize the taking, holding, or acquiring of certain capital
10 stock of a ~~certain~~ gas and electric company by a ~~certain~~ stock corporation or
11 ~~certain~~ public utility under certain circumstances; providing that certain
12 provisions of law apply to a gas and electric company; requiring a ~~certain~~ gas
13 and electric company to provide the Commission with a copy of a certain
14 document that is filed with a certain federal agency or commission under
15 certain circumstances; requiring the Commission to provide a ~~certain~~ gas and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 electric company with certain confidentiality and other protections under
2 certain circumstances; prohibiting a person from acquiring power to exercise
3 certain influence over the policies and actions of a ~~certain~~ gas and electric
4 company without prior authorization of the Commission under certain
5 circumstances; providing that a person may not be considered to have acquired
6 certain power to exercise substantial influence over the policies and actions of a
7 gas and electric company under certain circumstances; authorizing the
8 Commission to order compliance with, and take certain actions authorized by,
9 certain provisions with respect to a ~~certain~~ gas and electric company under
10 certain circumstances; requiring the Commission to consider a certain factor in
11 considering a certain acquisition; requiring the Commission to issue a certain
12 order within a certain time period after the filing of a certain application under
13 certain circumstances; providing that, unless the Commission finds that a
14 certain period should be extended by a certain time period, the failure of the
15 Commission to issue a certain order within a certain time period shall be
16 considered to be an approval of a certain acquisition; repealing a certain
17 requirement of the Commission to conduct certain hearings, provide to certain
18 customers funds for mitigation of certain rate increases, and require that
19 certain funds be in the form of a nonbypassable credit on certain customer bills;
20 altering the date by which a certain electric company shall determine and apply
21 certain residential electric credits; altering the time periods during which an
22 electric company shall determine and apply a certain credit; altering the form of
23 a certain credit; requiring a certain electric company to determine and apply
24 certain suspensions for a certain time period by a certain date under certain
25 circumstances; altering the time frame within which a certain electric company
26 must cease collecting a certain component of a certain charge; altering the time
27 frame within which a certain credit of a certain nuclear decommissioning charge
28 collected is to be imputed as if deposited in a certain trust fund and is to be
29 credited against certain electric customer bills; providing that a one-time total
30 credit of a certain amount be divided in a certain manner and credited against
31 certain residential electric customer bills by a certain date; providing that a
32 certain nuclear decommissioning charge may be altered only in a certain
33 manner under certain circumstances; providing that certain residential electric
34 customer suspensions may not be recovered through electric rates; providing
35 that certain ratepayers may not bear certain financial obligations with regard to
36 a certain nuclear power plant under certain circumstances; providing that
37 ratepayers shall be deemed to have paid a certain amount in accordance with a
38 certain agreement under certain circumstances; providing that certain nuclear
39 decommissioning rights and obligations shall be deemed fully extinguished and
40 satisfied under certain circumstances; requiring a certain gas and electric
41 company to implement certain depreciation accruals until certain circumstances
42 exist; ~~providing that certain electric generation facilities constructed after a~~
43 ~~certain date shall be owned by an electric company; providing that power~~
44 ~~generated by certain electric generation facilities shall be first offered for sale to~~
45 ~~certain electric companies; providing that the Commission has jurisdiction over~~
46 ~~the sale of power generated from certain electric generation facilities;~~ requiring
47 the Commission to review certain regulations; ~~providing for the construction of~~

1 ~~this Act~~ declaring that the provisions of this Act are not severable; and
2 generally relating to nuclear decommissioning, electric industry restructuring,
3 and acquisition and financing approvals of public service companies.

4 BY repealing and reenacting, with amendments,
5 Article – Public Utility Companies
6 Section 3–109, 6–101(c), and 6–105
7 Annotated Code of Maryland
8 (1998 Volume and 2007 Supplement)

9 BY repealing
10 Chapter 5 of the Acts of the General Assembly of the Special Session of 2006, as
11 amended by Chapter 549 of the Acts of the General Assembly of 2007
12 Section 5

13 BY repealing and reenacting, with amendments,
14 Chapter 549 of the Acts of the General Assembly of 2007
15 Section 2(a)(1) and (3)

16 BY repealing and reenacting, with amendments,
17 Chapter 5 of the Acts of the General Assembly of the Special Session of 2006
18 Section 6

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

21 **Article – Public Utility Companies**

22 3–109.

23 (a) On the request of a party to a proceeding in which a hearing is required
24 or held, the Commission shall issue subpoenas to compel the attendance and
25 testimony of witnesses and the production of documents at a hearing or deposition to
26 be taken by the party.

27 (b) On its own motion, the Commission may issue a subpoena to compel the
28 attendance and testimony of witnesses and the production of documents at a hearing
29 or deposition to be taken by the Commission.

30 (c) A subpoena shall be signed and issued by a commissioner or the
31 Executive Secretary of the Commission.

32 (D) (1) **THE COMMISSION MAY EXERCISE THE FULL AUTHORITY SET**
33 **FORTH IN 42 U.S.C. § 16453(A) THROUGH (C) AS IF SET FORTH IN THIS**
34 **ARTICLE.**

1 **(2) NOTHING IN THE GRANT OF AUTHORITY SET FORTH IN**
2 **PARAGRAPH (1) OF THIS SUBSECTION MAY BE CONSTRUED TO PREEMPT OR**
3 **LIMIT ANY OTHER AUTHORITY OF THE COMMISSION UNDER THIS ARTICLE.**

4 **(3) IN ADDITION TO THE AUTHORITY GRANTED TO THE**
5 **COMMISSION UNDER FEDERAL LAW TO ENFORCE THE PROVISIONS OF 42 U.S.C.**
6 **§ 16453, THE CIRCUIT COURTS OF THE STATE HAVE JURISDICTION TO ENFORCE**
7 **COMPLIANCE WITH THIS SUBSECTION.**

8 6-101.

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

12 (2) In this subsection, a company controlling a public service company
13 is deemed a public service company of the same class as the controlled public service
14 company.

15 (3) Without prior authorization of the Commission, a public service
16 company may not take, hold, or acquire any part of the capital stock of a public service
17 company that:

18 (i) operates in Maryland; and

19 (ii) is of the same class as the acquiring company.

20 (4) (i) Except as provided in subparagraph (ii) of this paragraph, a
21 stock corporation may not take, hold, or acquire more than 10% of the total capital
22 stock of a public service company that operates in Maryland unless:

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

24 2. the Commission approves the acquisition.

25 (ii) The Commission may authorize a public service company of
26 the same class to take, hold, or acquire more than 10% of the total capital stock of a
27 public service company that operates in Maryland.

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

30 **(6) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, §**
31 **6-105 OF THIS SUBTITLE SHALL APPLY, AND THE PROVISIONS OF THIS**
32 **SUBSECTION DO NOT APPLY, TO THE ACQUISITION, OWNERSHIP, OR**

1 **DISPOSITION OF ANY CAPITAL STOCK ~~OF~~ OR VOTING SECURITIES OF A COMPANY**
2 **THAT CONTROLS, DIRECTLY OR INDIRECTLY, A GAS AND ELECTRIC COMPANY.**

3 (7) **NOTWITHSTANDING ANY OTHER PROVISION OF THIS**
4 **SUBSECTION, THE COMMISSION MAY AUTHORIZE, IN ACCORDANCE WITH §**
5 **6-105 OF THIS SUBTITLE, THE TAKING, HOLDING, OR ACQUIRING OF ALL OR ANY**
6 **PART OF THE CAPITAL STOCK OF A GAS AND ELECTRIC COMPANY THAT**
7 **OPERATES IN THE STATE BY A STOCK CORPORATION OR A PUBLIC SERVICE**
8 **COMPANY THAT IS NOT OF THE SAME CLASS AS THE GAS AND ELECTRIC**
9 **COMPANY.**

10 6-105.

11 (a) In this section, “affiliate” has the meaning stated in § 7-501 of this
12 article.

13 (b) (1) The General Assembly finds that:

14 (i) existing legislation requires the approval by the Commission
15 of the acquisition by one public service company of another public service company’s
16 stocks and obligations, but does not require the Commission’s approval of these
17 acquisitions by persons not engaged in the public utility business in the State; and

18 (ii) an attempt by a person not engaged in the public utility
19 business in the State to acquire the power to exercise any substantial influence over
20 the policies and actions of a public service company that provides electricity or gas in
21 the State could result in harm to the customers of the public service company,
22 including the degradation of utility services, higher rates, weakened financial
23 structure, and diminution of utility assets.

24 (2) The General Assembly declares that it is the policy of the State to
25 regulate acquisitions by persons that are not engaged in the public utility business in
26 the State of the power to exercise any substantial influence over the policies and
27 actions of a public service company that provides electricity or gas in the State in order
28 to prevent unnecessary and unwarranted harm to the customers of the public service
29 company.

30 (c) This section applies to the acquisition of an electric company, **GAS AND**
31 **ELECTRIC COMPANY**, or a gas company that operates in Maryland.

32 (d) (1) **A GAS AND ELECTRIC COMPANY, AT THE SAME TIME AS A**
33 **FILING BY THE COMPANY OR WITHIN 10 DAYS AFTER RECEIPT BY THE**
34 **COMPANY, SHALL PROVIDE THE COMMISSION WITH A COPY OF ANY DOCUMENT**
35 **REGARDING THE ACQUISITION OF VOTING SECURITIES OF THE GAS AND**
36 **ELECTRIC COMPANY OR ANY COMPANY THAT OWNS OR CONTROLS THE GAS AND**

1 **ELECTRIC COMPANY, FILED OR RECEIVED BY THE COMPANY, THAT IS FILED**
2 **WITH:**

3 (I) **THE SECURITIES AND EXCHANGE COMMISSION;**

4 (II) **THE FEDERAL ENERGY REGULATORY COMMISSION;**

5 (III) **THE NUCLEAR REGULATORY COMMISSION;**

6 (IV) **THE DEPARTMENT OF JUSTICE;**

7 (V) **THE FEDERAL TRADE COMMISSION; OR**

8 (VI) **ANY SUCCESSOR AGENCY.**

9 (2) **THE COMMISSION SHALL PROVIDE THE GAS AND ELECTRIC**
10 **COMPANY WITH THE SAME CONFIDENTIALITY AND OTHER PROTECTIONS**
11 **PROVIDED BY THE FEDERAL AGENCY WITH WHICH THE FILING WAS MADE.**

12 (E) (1) Without prior authorization from the Commission, a person may
13 not acquire, directly or indirectly, the power to exercise any substantial influence over
14 the policies and actions of an electric company, **GAS AND ELECTRIC COMPANY**, or gas
15 company, if the person would become an affiliate of the electric company, **GAS AND**
16 **ELECTRIC COMPANY**, or gas company as a result of the acquisition.

17 (2) **FOR THE PURPOSES OF THIS SUBSECTION, A PERSON MAY**
18 **NOT BE CONSIDERED TO HAVE ACQUIRED, DIRECTLY OR INDIRECTLY, THE**
19 **POWER TO EXERCISE ANY SUBSTANTIAL INFLUENCE OVER THE POLICIES AND**
20 **ACTIONS OF A GAS AND ELECTRIC COMPANY IF THE PERSON:**

21 (I) **AFTER ANY ACQUISITION OF VOTING INTERESTS OF A**
22 **COMPANY THAT OWNS OR CONTROLS A GAS AND ELECTRIC COMPANY, DIRECTLY**
23 **OR INDIRECTLY, OWNS, CONTROLS, OR HAS THE RIGHT TO VOTE, OR DIRECT**
24 **THE VOTING OF, NOT MORE THAN 20% OF THE OUTSTANDING VOTING**
25 **INTERESTS OF A COMPANY THAT OWNS OR CONTROLS A GAS AND ELECTRIC**
26 **COMPANY; AND**

27 (II) **DOES NOT HAVE THE RIGHT TO DESIGNATE MORE THAN**
28 **20% OF THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A COMPANY**
29 **THAT OWNS OR CONTROLS A GAS AND ELECTRIC COMPANY.**

30 (3) **PARAGRAPH (2) OF THIS SUBSECTION MAY NOT BE**
31 **CONSTRUED TO APPLY TO THE ACQUISITION OF ANY VOTING INTERESTS OF A**
32 **GAS AND ELECTRIC COMPANY.**

1 **(4) IF A PERSON THAT ACQUIRES VOTING SECURITIES OF A**
2 **COMPANY THAT OWNS OR CONTROLS A GAS AND ELECTRIC COMPANY AFTER**
3 **THE ACQUISITION ACTUALLY EXERCISES SUBSTANTIAL INFLUENCE OVER THE**
4 **POLICIES AND ACTIONS OF A GAS AND ELECTRIC COMPANY, THE COMMISSION**
5 **MAY ORDER COMPLIANCE WITH, AND TAKE ANY ACTIONS AUTHORIZED BY,**
6 **OTHER PROVISIONS OF THIS ARTICLE WITH RESPECT TO THE GAS AND**
7 **ELECTRIC COMPANY.**

8 **[(e)] (F)** An application for authorization under subsection **[(d)] (E)** of this
9 section must include detailed information regarding:

- 10 (1) the applicant's identity and financial ability;
- 11 (2) the background of the key personnel associated with the applicant;
- 12 (3) the source and amounts of funds or other consideration to be used
13 in the acquisition;
- 14 (4) the applicant's compliance with federal law in carrying out the
15 acquisition;
- 16 (5) whether the applicant or the key personnel associated with the
17 applicant have violated any State or federal statutes regulating the activities of public
18 service companies;
- 19 (6) all documents relating to the transaction giving rise to the
20 application;
- 21 (7) the applicant's experience in operating public service companies
22 providing electricity;
- 23 (8) the applicant's plan for operating the public service company;
- 24 (9) how the acquisition will serve the customers of the public service
25 company in the public interest, convenience, and necessity; and
- 26 (10) any other information that the Commission may specify by
27 regulation or order.

28 **[(f)] (G)** (1) The Commission promptly shall:

29 (i) examine and investigate each application received under
30 this section; and

1 (ii) undertake any proceedings necessary or convenient to
2 review the application in accordance with Title 3 of this article and issue an order
3 concerning the acquisition.

4 (2) The Commission shall consider the following factors in considering
5 an acquisition under this section:

6 (i) the potential impact of the acquisition on rates and charges
7 paid by customers and on the services and conditions of operation of the public service
8 company;

9 (ii) the potential impact of the acquisition on continuing
10 investment needs for the maintenance of utility services, plant, and related
11 infrastructure;

12 (iii) the proposed capital structure that will result from the
13 acquisition, including allocation of earnings from the public service company;

14 (iv) the potential effects on employment by the public service
15 company;

16 (v) the projected allocation of any savings that are expected to
17 the public service company between stockholders and rate payers;

18 (vi) issues of reliability, quality of service, and quality of
19 customer service;

20 (vii) the potential impact of the acquisition on community
21 investment;

22 (viii) affiliate and cross-subsidization issues;

23 (ix) the use or pledge of utility assets for the benefit of an
24 affiliate;

25 (x) jurisdictional and choice-of-law issues; [and]

26 (xi) **WHETHER IT IS NECESSARY TO REVISE THE**
27 **COMMISSION'S RING FENCING AND CODE OF CONDUCT REGULATIONS IN LIGHT**
28 **OF THE ACQUISITION; AND**

29 (XII) any other issues the Commission considers relevant to the
30 assessment of acquisition in relation to the public interest, convenience, and necessity.

1 (3) (i) If the Commission finds that the acquisition is consistent
2 with the public interest, convenience, and necessity, including benefits and no harm to
3 consumers, the Commission shall issue an order granting the application.

4 (ii) The Commission may condition an order authorizing the
5 acquisition on the applicant's satisfactory performance or adherence to specific
6 requirements.

7 (4) If the Commission does not find that the acquisition is consistent
8 with the public interest, convenience, and necessity, including benefits and no harm to
9 consumers, the Commission shall issue an order denying the application.

10 (5) The applicant bears the burden of showing that granting the
11 acquisition is consistent with the public interest, convenience, and necessity, including
12 benefits and no harm to consumers.

13 **(6) (I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS**
14 **SUBPARAGRAPH, THE COMMISSION SHALL ISSUE AN ORDER WITH RESPECT TO**
15 **THE APPLICATION NO LATER THAN 180 DAYS AFTER THE FILING OF THE**
16 **APPLICATION FOR AUTHORIZATION.**

17 **(II) UNLESS THE COMMISSION FINDS, BASED ON GOOD**
18 **CAUSE, THAT THE 180-DAY PERIOD SHOULD BE EXTENDED FOR AN ADDITIONAL**
19 **45 DAYS, FAILURE OF THE COMMISSION TO ISSUE AN ORDER WITHIN THE**
20 **180-DAY PERIOD SHALL BE CONSIDERED TO BE AN APPROVAL OF THE**
21 **ACQUISITION BY THE COMMISSION.**

22 [(g)] (H) Nothing in this section prohibits dissemination by any party of
23 information concerning the acquisition if the dissemination does not otherwise conflict
24 with federal or State law.

25 **Chapter 5 of the Acts of the Special Session of 2006, as amended by Chapter**
26 **549 of the Acts of 2007**

27 [SECTION 5. AND BE IT FURTHER ENACTED, That:

28 The Public Service Commission shall:

29 (1) conduct hearings, including the use of any necessary outside
30 experts and consultants, to reevaluate the general regulatory structure, agreements,
31 orders, and other prior actions of the Public Service Commission under the Electric
32 Customer Choice and Competition Act of 1999, including the determination of and
33 allowances for stranded costs;

34 (2) provide to residential customers of the Baltimore Gas and Electric
35 Company funds for mitigation of rate increases resulting from any adjustment, in

1 favor of those customers, to allowances for stranded costs for assets that were
2 transferred from Baltimore Gas and Electric Company to an affiliate; and

3 (3) require that any funds for mitigating rates for residential electric
4 customers under item (2) of this subsection must be in the form of a nonbypassable
5 credit on the customer's bill, and may not be recovered subsequently from those
6 customers in rates or otherwise.]

7 **Chapter 549 of the Acts of 2007**

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

9 (a) (1) Notwithstanding the reporting dates established under [Section
10 5(b) and] Section 7(c) of Chapter 5 of the Acts of the General Assembly of the First
11 Special Session of 2006 prior to the amendment of those sections by this Act, the
12 Public Service Commission shall initiate new proceedings to review and evaluate the
13 requirements under [Section 5 and] Section 7 of Chapter 5 of the Acts of the General
14 Assembly of the First Special Session of 2006, as amended by this Act.

15 (3) The review and evaluation shall include any orders that were
16 issued by the Commission relating to the requirements of [Section 5 and] Section 7 of
17 Chapter 5 of the Acts of the General Assembly of the Special Session of 2006, prior to
18 the amendment of those sections by this Act and may include review and evaluation of
19 the open record for any case pending before the Commission relating to the
20 requirements of those sections.

21 **Chapter 5 of the Acts of the General Assembly of the Special Session of 2006**

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

23 (a) Starting [January 1, 2007,] **JUNE 1, 2008**, the investor-owned electric
24 company incorporated in Maryland whose parent is involved in a merger on the
25 effective date of this Act shall determine and apply **THE FOLLOWING** residential
26 electric credits [totaling \$38,661,980 each year] **AND SUSPENSIONS** for [a period of 10
27 years] **THE SPECIFIED PERIODS** to the bills of all residential electric customers of the
28 electric company[.

29 (b) The credits shall be in the form of a nonbypassable credit or suspension
30 on a customer's bill, derived as follows]:

31 (1) for [a] **THE** period [of 10 years,] **BEGINNING JUNE 1, 2010,**
32 **UNTIL THE END OF DECEMBER 31, 2016**, the electric company shall [suspend the
33 collection of] **CEASE COLLECTING** the residential return component of the
34 administrative charge collected by the electric company for providing standard offer
35 service under § 7-510(c)(3) of the Public Utility Companies Article, which shall be
36 deemed an annual **CREDIT** value of \$20 million; [and]

1 (2) [for a period of 10 years,] **UNTIL THE END OF DECEMBER 31,**
2 **2016,** a credit of the \$18,661,980 annual nuclear decommissioning charge collected,
3 without otherwise disturbing the agreement approved by the Maryland Public Service
4 Commission in Order No. 75757, to be imputed as [deposits] **IF DEPOSITED** in the
5 Nuclear Decommissioning Trust Fund and to be credited against residential electric
6 customer bills; **AND**

7 (3) **A ONE-TIME TOTAL CREDIT OF \$187 MILLION TO BE DIVIDED**
8 **INTO EQUAL DOLLAR AMOUNTS AND CREDITED AGAINST RESIDENTIAL**
9 **ELECTRIC CUSTOMER BILLS NO LATER THAN DECEMBER 31, 2008.**

10 [(c)] (B) The **ANNUAL** nuclear decommissioning charge **OF \$18,661,980**
11 described in subsection [(b)(2)] (A)(2) of this section may not be altered during the
12 [10-year] period of the credit **DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION,**
13 **EXCEPT THAT FOR AMOUNTS COLLECTED AFTER JUNE 1, 2008, UNTIL THE END**
14 **OF DECEMBER 31, 2016, THE COMMISSION MAY AUTHORIZE A TRUE-UP BASED**
15 **ON ACTUAL SALES VOLUMES ON A PROSPECTIVE BASIS ONLY AS PART OF AN**
16 **ELECTRIC DISTRIBUTION BASE RATE CASE TO ENSURE THE ANNUAL**
17 **COLLECTION OF \$18,661,980.**

18 [(d)] (C) [residential] **THE RESIDENTIAL** electric customer credits **AND**
19 **SUSPENSIONS DESCRIBED IN THIS SECTION** may not be recovered through electric
20 rates.

21 (D) **AS LONG AS SUBSECTIONS (A)(1), (A)(2), (B), AND (E) OF THIS**
22 **SECTION REMAIN IN FULL FORCE AND EFFECT AND ARE IMPLEMENTED BY THE**
23 **COMMISSION IN ACCORDANCE WITH THEIR TERMS:**

24 (1) **RATEPAYERS MAY NOT BEAR ANY FINANCIAL OBLIGATION**
25 **WITH REGARD TO THE DECOMMISSIONING OF CALVERT CLIFFS NUCLEAR**
26 **POWER PLANT UNITS 1 AND 2 AND RELATED FACILITIES;**

27 (2) **RATEPAYERS SHALL BE DEEMED TO HAVE PAID \$520 MILLION**
28 **IN 1993 DOLLARS IN ACCORDANCE WITH THE AGREEMENT APPROVED BY THE**
29 **COMMISSION IN ORDER NO. 75757; AND**

30 (3) **ALL NUCLEAR DECOMMISSIONING RIGHTS AND OBLIGATIONS**
31 **IN ACCORDANCE WITH THE AGREEMENT APPROVED BY THE COMMISSION IN**
32 **ORDER NO. 75757 SHALL BE DEEMED FULLY EXTINGUISHED AND SATISFIED.**

33 (E) **THE RESIDENTIAL RETURN COMPONENT OF THE ADMINISTRATIVE**
34 **CHARGE FOR PROVIDING STANDARD OFFER SERVICE UNDER § 7-510(C)(3) OF**

1 THE PUBLIC UTILITY COMPANIES ARTICLE SHALL BE IN ACCORDANCE WITH
2 ORDER NO. 78400 FOR THE PERIOD JUNE 1, 2008, TO MAY 31, 2010.

3 (F) UNTIL NEW BASE RATES BECOME EFFECTIVE IN ACCORDANCE WITH
4 THE FIRST ELECTRIC DISTRIBUTION RATE CASE FOR AN INVESTOR-OWNED GAS
5 AND ELECTRIC COMPANY INCORPORATED IN THE STATE, EACH GAS AND
6 ELECTRIC COMPANY SHALL IMPLEMENT THE COMMISSION STAFF'S
7 RECOMMENDED DEPRECIATION ACCRUALS SET FORTH ON SCHEDULE A OF THE
8 SETTLEMENT AGREEMENT BY THE GAS AND ELECTRIC COMPANY AND THE
9 COMMISSION, AMONG OTHER PARTIES, DATED ON OR ABOUT APRIL 1, 2008.

10 ~~SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any~~
11 ~~other law:~~

12 ~~(1) any new electric generation facility constructed in the State after~~
13 ~~the effective date of this Act shall be owned by an electric company in the State and~~
14 ~~may not be owned by an electric supplier or an affiliate of an electric company in the~~
15 ~~State;~~

16 ~~(2) power generated from an electric generation facility in the State~~
17 ~~constructed after the effective date of this Act shall be first offered for sale to an~~
18 ~~electric company in the State; and~~

19 ~~(3) the Public Service Commission has jurisdiction over the sale of~~
20 ~~power generated from an electric generation facility in the State constructed after the~~
21 ~~effective date of this Act.~~

22 SECTION ~~2.~~ 2. AND BE IT FURTHER ENACTED, That the Public Service
23 Commission shall review its regulations regarding ring fencing and code of conduct for
24 electric companies, gas companies, and gas and electric companies operating in the
25 State.

26 ~~SECTION 3. 4. AND BE IT FURTHER ENACTED, That nothing in this Act~~
27 ~~may be construed to limit the Public Service Commission's regulatory authority with~~
28 ~~regard to the regulation of the Maryland electricity markets, customer choice,~~
29 ~~standard offer service, rates, rate design, or codes of conduct.~~

30 SECTION ~~3.~~ 4. ~~5.~~ 3. AND BE IT FURTHER ENACTED, That, notwithstanding
31 the provisions of Article 1, § 23 of the Annotated Code of Maryland, the provisions of
32 this Act are not severable, and if any provision of this Act or the application thereof to
33 any person or circumstance is held invalid for any reason in a court of competent
34 jurisdiction, no other provision or application of this Act may be given effect.

35 SECTION ~~4.~~ ~~5.~~ ~~6.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall
36 take effect June 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.