

**Department of Legislative Services**  
Maryland General Assembly  
2008 Session

## FISCAL AND POLICY NOTE

House Bill 1578 (Delegate Levy, *et al.*)  
Economic Matters

## **Electricity Generation - Long-Term Contracts and Study on Consortium of Electric Companies to Build New Facilities**

This bill prohibits the Public Service Commission from requiring electric companies to enter into long-term electricity generation contracts until the commission has reported the results of a study and evaluation to the Governor and the General Assembly. The commission must conduct investigatory proceedings, including the use of outside experts, to study and evaluate the creation or authorization of a private consortium of electric companies to build new reregulated electricity generating facilities and associated transmission lines as an alternative to requiring electric companies to enter into long-term electricity generation contacts. The report on the study results is required on or before December 1, 2008.

The bill takes effect June 1, 2008 and terminates December 31, 2010.

## Fiscal Summary

**State Effect:** Special fund expenditures could increase by \$500,000 in FY 2009 as part of PSC investigatory and evidentiary proceedings. Special fund expenditures for the Office of People's Counsel could increase by an indeterminate amount for outside experts that study and evaluate information and proposals to effectively participate in the consortium. Special fund revenues would increase by a corresponding amount from the cost recovery assessment on entities under the jurisdiction of PSC.

**Local Effect:** None.

### Small Business Effect: None.

## Analysis

**Current Law:** The Electric Customer Choice and Competition Act of 1999 provided that, as of July 1, 2000, all customers of electric companies had the opportunity to choose electric suppliers. Further, the Act required price caps with statewide rate reductions for four years which could be extended by settlement agreement. Under the final settlement agreements, the price caps required under the Act expired in PEPCO and Delmarva service territories on July 1, 2004, expired in the Baltimore Gas & Electric Company service territory on July 1, 2006, and will expire in the Allegheny service territory on January 1, 2009.

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

PSC, after notice and hearings, may adopt regulations that prescribe standards for safe, adequate, reasonable, and proper service by regulated electric companies. Regulated electric companies must furnish equipment, services, and facilities that are safe, adequate, just, reasonable, economical, and efficient, while considering the conservation of natural resources and the quality of the environment.

Case Number 9117, Phase II is currently before PSC. One of the two main subject areas identified in the commission's September 25, 2007 Notice Initiating Phase II Proceeding is the need for utilities to build and procure "new build" capacity or enter into wholesale purchase arrangements to avert a potential electric supply reliability problem within the next four or five years.

**Background:** Effective July 2000, the Maryland Electric Customer Choice and Competition Act of 1999 restructured the electric utility industry in the State to allow electric retail customers to potentially shop for electric power from various electric suppliers. Implementation of the Act was predicated on the supposition that the emergence of a competitive retail market would put downward pressure on prices and provide consumers with lower cost power. Prior to restructuring, the local electric utility, operating as a regulated, franchised monopoly, supplied all end-use customers within its service area with the three principal components of electric power service: generation; transmission; and distribution. With Maryland's restructuring of the electric power industry, generation of electricity is offered in a competitive wholesale marketplace. Prices for power supply are therefore determined by electric suppliers operating in the market, rather than being determined by PSC in a regulated environment.

Merchant generators or unregulated utility affiliates now own most power plants. Consequently, residential, commercial, and industrial customers purchase power from electric suppliers other than their local regulated utility. Power is purchased from electric suppliers, who either own generation assets or have purchased power from the wholesale market. The regulation of the wholesale market is overseen by the Federal Regulatory Energy Commission. This power is transported through the local utilities' transmission and distribution system (*i.e.*, "the wires") and delivered to retail customers.

#### *Standard Offer Service*

The Maryland Electric Customer Choice and Competition Act of 1999 accommodated retail customers that did not shop or could not shop for electric power supplies, while the competitive retail market developed and electric suppliers entered the retail markets to supply electricity products. During a multiyear transition period, the traditional electric utilities made available standard offer service (SOS) at rates frozen and below the rates in effect prior to electric restructuring. For Maryland's various customer classes, these fixed rates have largely expired; however, SOS has been extended and now reflects market prices for power. Coinciding with the removal of fixed SOS rates, was a realization of high and volatile wholesale market prices throughout the region, including the Baltimore/Washington metropolitan area. Higher wholesale market prices reflect higher fuel prices to generate power, barriers to import lower-cost power supplies, and increased costs of environmental compliance.

Local electric companies (*i.e.*, investor-owned utilities) who own the "wires" portion of the electric system obtain electricity supply through a competitive process for residential and small commercial customers that participate in SOS. Electric companies are required to procure electricity for residential and small commercial customers through one or more bilateral contracts. The investor-owned electric companies submit bids to supply anticipated SOS load for residential and small commercial customers, as part of a portfolio of blended wholesale supply contracts. Current SOS contracts for residential and small commercial customers are all two years in length. SOS contracts for medium-size commercial customers are three months in length. The blended portfolio mitigates the potential for sudden retail price changes due to volatile whole market conditions. Additionally, in order to prevent an excessive amount of load from being exposed to upward market price risks and volatility, PSC may stagger the dates of the wholesale auctions.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Natural Resources, Maryland Energy Administration, Public Service Commission, Office of People's Counsel, Department of Legislative Services

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