SB 408

Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 408 (Senator Della)
Finance

Electric Restructuring - Nuclear Reactor - Recovery of Decommissioning Costs

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This bill prohibits the collection and recovery of nuclear reactor decommissioning costs associated with the Calvert Cliffs nuclear facilities from retail electric customers through electric rates.

Fiscal Summary

State Effect: The bill would not directly affect State finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Under Chapter 5 of the 2006 special session, the assessment of the nuclear decommissioning charge was suspended for a 10-year period to mitigate residential price increases in the BGE service territory. The nuclear decommissioning charge is paid by BGE on behalf of ratepayers on an annual basis. The annual amount, $18.7 million, is deposited into the Nuclear Decommissioning Trust Fund and is credited against residential electric customer bills. The nuclear decommissioning charge may not be altered during the 10-year period of the credit. Residential electric customer credits may not be recovered through electric rates.

Background: Prior to restructuring of the electric industry, Maryland's traditional local electric utilities were required to build or contract for power supply resources to provide reliable service to all customers within the utility's franchised service territory. In exchange for the right to exclusively serve customers with the service territory, PSC would establish the rates for the electric service provided by the electric utilities. These rates were set to cover all prudent incurred investments (*e.g.*, the construction of power plants and associated costs) and provide the utility with an adequate return on investment.

The Electric Customer Choice and Competition Act of 1999 restructured the electric utility industry in Maryland. With the restructuring of the electric industry, Maryland's traditional local electric utilities transferred their electric generation assets to unregulated subsidiaries or sold these assets to unaffiliated companies. Legislative Services notes that the restructuring settlements occurred after the decision to deregulate the electricity market in Maryland. Restructuring settlements were designed to implement electric restructuring, as enacted by the General Assembly. Separate restructuring settlements were agreed to not only with BGE, but with the other three large IOUs that operate in the State: PEPCO, Potomac Edison (Allegheny), and Delmarva.

PSC Order Number 75757 approved the settlement agreement entered into by and between BGE and parties representing all customer classes, environmental interests, and public interests at large. It established a restructuring plan for BGE that implements two policies: • PSC's own policy initiatives designed to restructure Maryland's electric industry; and • the Electric Customer Choice and Competition Act of 1999. It also provided for a 6.5% rate reduction for BGE residential customers for a six-year period.

The nuclear facilities of Calvert Cliff were constructed on behalf of Maryland's ratepayers. Within Order Number 75757, PSC noted that in testimony, prior to the settlement, BGE had intended to retain Calvert Cliffs as a regulated asset in rate base. However, under the settlement, Calvert Cliffs and the all other generation-related assets were removed from the rate base. PSC found removal was in the public interest.

With restructuring, the Calvert Cliff nuclear facility, on the western shoreline of the Chesapeake Bay, is now owned and operated by Constellation Generation Group. The facility has two units, each with a capacity of 830 MW. The units began service May 1975 and April 1977, respectively.

Decommissioning Costs

According to the U.S. Nuclear Regulatory Commission (NRC), before a nuclear power plant begins operations, the licensee must establish or obtain a financial mechanism – such as a trust fund or a guarantee from its parent company – to ensure that there will be sufficient money to pay for the ultimate decommissioning of the facility. Licensees must update NRC on the status of these mechanisms every two years (annually within five years of the planned end of plant operations). This requirement provides the public reasonable assurance that funds will be available when needed to clean up a plant site and avoid costly legacy sites that must be cleaned up at taxpayer expense.

State Fiscal Effect: Although PSC indicates no fiscal impact associated with the prohibition for the recovery of decommission costs from retail electric suppliers through electric rates, the Office of the People's Counsel advises the bill could present a potential litigious issue to PSC. By changing a long-standing methodology used to collect the costs incurred on behalf of retail customers that benefited from the operation of the facility, contentious State and federal proceeding may result.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Exeter Associates, Department of Natural Resources, Maryland Energy Administration, Public Service Commission, Office of the People's Counsel, U.S. Nuclear Regulatory Commission, Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2008
mam/hlb

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