

# HOUSE BILL 737

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EMERGENCY BILL

9lr3133

CF 9lr3145

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By: **Delegate McHale**

Introduced and read first time: February 10, 2009

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Service Commission – Acquisition of Power to Influence Electric**  
3 **Company, Gas and Electric Company, or Gas Company Policy or Action –**  
4 **Authorization**

5 FOR the purpose of providing that a certain provision of law may not be construed to  
6 limit the authority of the Public Service Commission to authorize certain  
7 financial transactions relating to an electric company, a gas and electric  
8 company, or a gas company; providing for the application of this Act; making  
9 this Act an emergency measure; and generally relating to the authority of the  
10 Public Service Commission to authorize certain financial transactions relating  
11 to an electric company, a gas and electric company, or gas company.

12 BY repealing and reenacting, with amendments,  
13 Article – Public Utility Companies  
14 Section 6–105(e)  
15 Annotated Code of Maryland  
16 (2008 Replacement Volume and 2008 Supplement)

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

19 **Article – Public Utility Companies**

20 6–105.

21 (e) (1) Without prior authorization from the Commission, a person may  
22 not acquire, directly or indirectly, the power to exercise any substantial influence over  
23 the policies and actions of an electric company, gas and electric company, or gas  
24 company, if the person would become an affiliate of the electric company, gas and  
25 electric company, or gas company as a result of the acquisition.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (2) For the purposes of this subsection, a person may not be considered  
2 to have acquired, directly or indirectly, the power to exercise any substantial influence  
3 over the policies and actions of a gas and electric company if the person:

4                   (i) after any acquisition of voting interests of a company that  
5 owns or controls a gas and electric company, directly or indirectly, owns, controls, or  
6 has the right to vote, or direct the voting of, not more than 20% of the outstanding  
7 voting interests of a company that owns or controls a gas and electric company; and

8                   (ii) does not have the right to designate more than 20% of the  
9 board of directors or other governing body of a company that owns or controls a gas  
10 and electric company.

11           (3) Paragraph (2) of this subsection may not be construed to:

12                   (I) apply to the acquisition of any voting interests of a gas and  
13 electric company; **OR**

14                   (II) **LIMIT THE AUTHORITY OF THE COMMISSION UNDER**  
15 **PARAGRAPH (1) OF THIS SUBSECTION IF A PERSON SEEKS TO ACQUIRE,**  
16 **DIRECTLY OR INDIRECTLY, THE POWER TO EXERCISE ANY SUBSTANTIAL**  
17 **INFLUENCE OVER THE POLICIES AND ACTIONS OF AN ELECTRIC COMPANY, GAS**  
18 **AND ELECTRIC COMPANY, OR GAS COMPANY, THROUGH MEANS OTHER THAN**  
19 **THE ACQUISITION OF VOTING INTERESTS SET FORTH IN PARAGRAPH (2) OF THIS**  
20 **SUBSECTION.**

21           (4) If a person that acquires voting securities of a company that owns  
22 or controls a gas and electric company after the acquisition actually exercises  
23 substantial influence over the policies and actions of a gas and electric company, the  
24 Commission may order compliance with, and take any actions authorized by, other  
25 provisions of this article with respect to the gas and electric company.

26           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
27 construed retroactively and shall be applied to and interpreted to affect any  
28 transactions executed on or after June 1, 2008, for the direct or indirect acquisition of  
29 the power to substantially influence the policies or actions of an electric company, a  
30 gas and electric company, or a gas company by a person who would become an affiliate  
31 of the electric company, gas and electric company, or gas company as a result of the  
32 transaction.

33           SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency  
34 measure, is necessary for the immediate preservation of the public health or safety,  
35 has been passed by a yea and nay vote supported by three-fifths of all the members  
36 elected to each of the two Houses of the General Assembly, and shall take effect from  
37 the date it is enacted.