

# HOUSE BILL 1407

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By: **Chair, Economic Matters Committee (By Request – Departmental – Natural Resources)**

Introduced and read first time: February 25, 2009

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environmental Trust Fund – Environmental Surcharge – Sunset Extension**

3 FOR the purpose of extending the termination date of a certain surcharge on electrical  
4 energy distributed to retail electric customers in the State; repealing an obsolete  
5 provision; and generally relating to the Environmental Trust Fund and the  
6 environmental surcharge on electricity distributed to retail electric customers.

7 BY repealing and reenacting, with amendments,

8 Article – Natural Resources

9 Section 3–302

10 Annotated Code of Maryland

11 (2005 Replacement Volume and 2008 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article – Public Utility Companies

14 Section 7–203

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 – Natural Resources**

20 3–302.

21 (a) **(1)** There is an Environmental Trust Fund.

22 **(2)** For the purpose of this subtitle, there is established as an added  
23 cost of electricity distributed to retail electric customers within the State, an

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 environmental surcharge per kilowatt hour of electric energy distributed in the State  
2 to be paid by any electric company as defined in § 1–101 of the Public Utility  
3 Companies Article. The Public Service Commission shall impose the surcharge per  
4 kilowatt hour of electric energy distributed to retail electric customers within the  
5 State and shall authorize the electric companies to add the full amount of the  
6 surcharge to retail electric customers' bills. To the extent that the surcharge is not  
7 collected from retail electric customers, the surcharge shall be deemed a cost of  
8 distribution and shall be allowed and computed as such, together with other allowable  
9 expenses, for rate-making purposes. Revenues from the surcharge shall be collected  
10 by the Comptroller and placed in the Fund.

11 (b) (1) The Secretary, in consultation with the Director of the Maryland  
12 Energy Administration, annually shall coordinate the preparation of a budget required  
13 to carry out the provisions of this subtitle. Upon approval of the budget by the General  
14 Assembly, the Public Service Commission shall establish the amount of the surcharge  
15 per kilowatt hour for the fiscal year beginning July 1, 1972, and for each subsequent  
16 fiscal year.

17 (2) Notwithstanding any other provisions of this subtitle, the amount  
18 of the surcharge for each account for each retail electric customer may not exceed the  
19 lesser of 0.15 mill per kilowatt hour or \$1,000 per month and the surcharge may not  
20 continue beyond fiscal year [2010] **2015**.

21 (3) The Comptroller shall maintain the method of collection of the  
22 surcharge from the companies and the collections shall accrue to the Fund. The  
23 Department shall credit against the amount required to be paid into the  
24 Environmental Trust Fund by each electric company an amount equal to 0.75% of the  
25 total surcharge attributed to each company on the basis of the electricity distributed  
26 within Maryland.

27 (c) (1) (I) The Secretary shall administer the Fund.

28 (II) The Fund is subject to the provisions for financial  
29 management and budgeting established by the Department of Budget and  
30 Management.

31 (III) Any investment earnings of the Fund shall be credited to the  
32 General Fund of the State.

33 (IV) The Fund is a special, nonlapsing fund that is not subject to  
34 § 7–302 of the State Finance and Procurement Article.

35 (V) Except as provided in paragraph (2) of this subsection, the  
36 moneys in the Fund shall be used to carry out the provisions of this subtitle as  
37 provided for in the budget[, except that 10% of all moneys accruing to the Fund from  
38 July 1, 1978 through June 30, 1983 shall be used to supplement funds necessary to  
39 carry out the duties of the People's Counsel of the Public Service Commission. The

1 People's Counsel shall submit an annual budget of necessary supplemental funds to  
2 the Department to be incorporated in the Department's budget].

3 (VI) For the purposes of this subtitle, the Secretary, in  
4 consultation with the Director of the Maryland Energy Administration, may execute  
5 appropriate contracts with any State or federal agency, research organization,  
6 industry, or academic institution to conduct the necessary research, construct or  
7 acquire, or both, real property including physical predictive models, laboratories,  
8 buildings, land, and appurtenances, or support the technological development of  
9 extraordinary systems related to power plants designed to minimize environmental  
10 impact.

11 (VII) The Secretary may utilize available expertise in any other  
12 State unit in the development, execution, and management of contracts and  
13 agreements on projects relating to their areas of prime responsibility.

14 (2) Moneys in the Fund may be used for administrative costs  
15 calculated in accordance with § 1-103(b)(2) of this article.

16 (d) (1) The Maryland Energy Administration shall receive administrative  
17 and fiscal support from the Fund for studies relating to the conservation or production  
18 of electric energy.

19 (2) Fiscal support to the Maryland Energy Administration from the  
20 Fund may not exceed \$250,000 in any fiscal year.

21 (e) The Legislative Auditor shall conduct post audits of a fiscal and  
22 compliance nature of the Fund and of the appropriations and expenditures made for  
23 the purposes of this subtitle. The cost of the fiscal portion of the post audit  
24 examinations shall be an operating cost of the Fund.

## 25 Article - Public Utility Companies

26 7-203.

27 (a) (1) The Commission shall:

28 (i) impose an environmental surcharge per kilowatt hour of  
29 electricity distributed to retail electric customers within the State; and

30 (ii) authorize each electric company to add the full amount of  
31 the surcharge to its customers' bills.

32 (2) To the extent that an electric company fails to collect the surcharge  
33 from its customers, the amount uncollected shall be deemed a cost of power  
34 distribution and allowed and computed as such together with other allowable expenses  
35 for purposes of rate making.

1 (b) (1) The Comptroller shall collect the revenue from the surcharge  
2 imposed under subsection (a) of this section and place the revenue into a special fund,  
3 the Environmental Trust Fund.

4 (2) The Comptroller shall maintain the method of collection of the  
5 surcharge from each electric company, and the money collected shall accrue to the  
6 Fund.

7 (c) (1) Each fiscal year, the Secretary of Natural Resources shall  
8 coordinate the preparation of the annual budget required to carry out the provisions of  
9 the Power Plant Research Program under Title 3, Subtitle 3 of the Natural Resources  
10 Article.

11 (2) Each fiscal year, on approval of the annual budget by the General  
12 Assembly for the Power Plant Research Program, the Commission shall establish the  
13 amount of the environmental surcharge per kilowatt hour of electric energy  
14 distributed in the State that is to be imposed on each electric company in accordance  
15 with subsection (a) of this section.

16 (d) (1) Notwithstanding any other provision of this subtitle, the amount of  
17 the surcharge for each account of each retail electric customer may not exceed the  
18 lesser of 0.15 mill per kilowatt hour or \$1,000 per month.

19 (2) The Department of Natural Resources shall credit against the  
20 amount the Commission requires each electric company to pay into the Environmental  
21 Trust Fund 0.75% of the total surcharge amount attributed to the electric company on  
22 the basis of the amount of the electricity distributed in the State.

23 (e) To the extent that the Commission requires an electric company to report  
24 the total estimated kilowatt hours of electricity distributed in the State in order to  
25 calculate the surcharge under subsection (a)(1) of this section, a small rural electric  
26 cooperative described in § 7-502(a) of this title may satisfy the requirement by  
27 submitting to the Commission an estimate made in accordance with a formula  
28 approved by the Commission from information that the small rural electric cooperative  
29 submits to the rural utilities service that includes the required information.

30 (f) The surcharge imposed under this subtitle shall terminate on June 30,  
31 [2010] **2015**.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 October 1, 2009.