

SENATE BILL 844

C5

9lr1676
CF HB 1530

By: ~~Senator Middleton~~ The President (By Request - Administration) and Senators Middleton, McFadden, Pipkin, Rosapepe, Brochin, Conway, Dyson, Exum, Forehand, Frosh, Haines, Harrington, Muse, Peters, Pinsky, Raskin, Simonaire, Stone, and Zirkin

Introduced and read first time: February 6, 2009

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 28, 2009

CHAPTER _____

1 AN ACT concerning

2 **Public Service Commission – New Electric Generation Facilities – Rate**
3 **Regulation and Contracts**

4 FOR the purpose of requiring an electric company to develop and submit to the Public
5 Service Commission a certain long-range plan regarding the electric company's
6 electricity needs; requiring the Public Service Commission to assemble and
7 evaluate certain plans regarding generating needs and the means to meet those
8 needs; requiring the Commission to issue certain orders upon completion of
9 certain evaluations; authorizing the Commission to direct an investor-owned
10 electric company to acquire a certain site by condemnation under a certain
11 provision of law; requiring the Commission to take final action on an application
12 for a certificate of public convenience and necessity only after a certain
13 consideration of a need to meet certain electric services; providing that the
14 grant of a certificate of public convenience and necessity constitutes authority
15 for an electric company to acquire certain property by condemnation in
16 accordance with certain provisions of law; making a certain finding and
17 declaration regarding a goal of the State to return to a regulated electric
18 market; requiring that a certain new electric generation facility be owned by a
19 certain electric company or consortium of electric companies; allowing a certain
20 new generation facility to be owned by certain entities other than an electric
21 company under certain circumstances; requiring the sale of certain electricity to
22 be offered for sale first to a certain electric company or consortium; providing
23 that the Commission has a certain jurisdiction over a certain electric generation

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.



1 ~~facility; requiring certain persons to enter into a certain contract for the sale of~~
 2 ~~certain electricity; specifying the standards that the Commission must apply in~~
 3 ~~approving a certain contract; requiring the Commission, on a certain~~
 4 ~~determination, to order one or more investor-owned electric companies to~~
 5 ~~construct an electric generation facility, procure the necessary electricity in a~~
 6 ~~certain manner, or procure other electricity resources; requiring that the price~~
 7 ~~of certain electricity be regulated by the Commission under certain~~
 8 ~~cost-of-service regulation principles; authorizing requiring the Commission to~~
 9 ~~adopt a non-bypassable surcharge or other mechanism under certain~~
 10 ~~circumstances; prohibiting an electric generation facility from being constructed~~
 11 ~~in the State unless the electric generation facility is constructed in accordance~~
 12 ~~with certain provisions of laws subject to certain exceptions; authorizing the~~
 13 ~~Commission to allow an electric cooperative to construct, acquire, or lease and~~
 14 ~~operate all or part of certain facilities, subject to certain regulation by the~~
 15 ~~Commission; authorizing the Commission to require or allow certain electric~~
 16 ~~companies to contract for a certain output under certain circumstances;~~
 17 ~~requiring the Commission to develop and implement a certain plan for~~
 18 ~~residential and small commercial customers to transition from a certain~~
 19 ~~program of customer choice; requiring the Commission to consider whether, in~~
 20 ~~consultation with the Maryland Energy Administration, to implement a~~
 21 ~~program to require an investor-owned electric company shall to offer a certain~~
 22 ~~option for green power to its residential and small commercial customers;~~
 23 ~~requiring the Commission to initiate a certain proceeding; requiring the~~
 24 ~~Commission to report on a certain investigation and transition plan by a certain~~
 25 ~~date; requiring the Commission to implement a certain provision certain~~
 26 ~~provisions of law by regulation or order; defining a certain term; providing~~
 27 ~~certain applications of certain provisions; and generally relating to the Public~~
 28 ~~Service Commission and new electric generation facilities under rate regulation~~
 29 ~~or contracts.~~

30 BY repealing and reenacting, with amendments,
 31 Article – Public Utility Companies
 32 Section ~~7-201 and 7-207~~, 7-207, and 7-208(h)
 33 Annotated Code of Maryland
 34 (2008 Replacement Volume and 2008 Supplement)

35 BY repealing and reenacting, without amendments,
 36 Article – Public Utility Companies
 37 Section 7-208(a) and (e)
 38 Annotated Code of Maryland
 39 (2008 Replacement Volume and 2008 Supplement)

40 BY adding to
 41 Article – Public Utility Companies
 42 Section ~~7-518~~ 7-5A-01 through 7-5A-06 to be under the new subtitle “Subtitle
 43 5A. Electric Industry Regulation”
 44 Annotated Code of Maryland
 45 (2008 Replacement Volume and 2008 Supplement)

1 Preamble

2 WHEREAS, Chapters 3 and 4 of the Acts of the General Assembly of 1999
3 enabled electric industry restructuring in the State of Maryland for the purpose of
4 establishing customer choice of electricity supply and electricity supply services,
5 creating competitive retail electricity supply and electricity supply services markets,
6 deregulating the generation, supply, and pricing of electricity, providing economic
7 benefits for all customer classes, and ensuring compliance with federal and State
8 environmental standards; and

9 WHEREAS, After almost 10 years after the enactment of the electric industry
10 restructuring law in the State, competitive retail electric markets have not developed
11 as envisioned under the electric restructuring law and almost all residential and small
12 commercial customers receive their electricity supply from electric companies under
13 standard offer service, relying on those companies to provide reliable electricity supply
14 in a manner that is designed to obtain the best price in light of market conditions at
15 the time of procurement and the need to protect these customers from excessive price
16 increases; and

17 WHEREAS, No new sizable generation has been constructed in Maryland since
18 1992, causing Maryland to meet its demand by importing over 30% of its electricity
19 from out-of-state and resulting in ratepayers being assessed high capacity and
20 congestion charges as part of electricity rates; and

21 WHEREAS, There continue to be concerns with the reliability of Maryland's
22 energy supply and the transmission capacity needed to meet Maryland citizens'
23 demand for energy; and

24 WHEREAS, Deregulation has not produced a desired economic result or
25 ensured the availability of affordable energy for Maryland energy consumers; and

26 WHEREAS, The use of integrated resource planning provides an approach to
27 ensure that the means to meet Maryland's energy needs are reliable, cost effective,
28 and consistent with State economic and environmental policies; and

29 WHEREAS, It is the intent of the General Assembly that regulation of
30 electricity supply for residential and small commercial customers not adversely impact
31 the market for electricity from renewable sources or the goals and objectives of the
32 renewable portfolio standard established under Chapters 487 and 488 of the Acts of
33 2004; now, therefore,

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

36 **Article – Public Utility Companies**

37 7-201.

1 (a) (1) (I) ~~IN COOPERATION WITH THE SECRETARY OF NATURAL~~
2 ~~RESOURCES, AS PROVIDED UNDER § 3-304 OF THE NATURAL RESOURCES~~
3 ~~ARTICLE, THE COMMISSION SHALL ASSEMBLE AND EVALUATE EACH YEAR THE~~
4 ~~LONG-RANGE PLANS OF THE STATE'S ELECTRIC COMPANIES REGARDING~~
5 ~~GENERATING BIENNIALLY OR AS THE COMMISSION REQUIRES, AN ELECTRIC~~
6 ~~COMPANY SHALL DEVELOP AND SUBMIT TO THE COMMISSION A LONG-RANGE~~
7 ~~PLAN REGARDING THE ELECTRIC COMPANY'S ELECTRICITY NEEDS AND THE~~
8 ~~MEANS TO MEET THOSE NEEDS.~~

9 (II) AN ELECTRIC COMPANY'S LONG-RANGE PLAN SHALL
10 ADDRESS EACH OF THE ISSUES SPECIFIED IN PARAGRAPH (4) OF THIS
11 SUBSECTION.

12 (2) THE COMMISSION SHALL EVALUATE THE LONG-RANGE PLANS
13 OF THE ELECTRIC COMPANIES REGARDING ELECTRICITY NEEDS AND THE
14 MEANS TO MEET THOSE NEEDS.

15 (3) (I) ON COMPLETION OF THE EVALUATION UNDER
16 PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION SHALL ISSUE ORDERS
17 AS APPROPRIATE TO EACH ELECTRIC COMPANY TO IMPLEMENT A PLAN.

18 (II) EACH ORDER SHALL INCLUDE:

19 1. A SCHEDULE FOR THE IMPLEMENTATION OF THE
20 PLAN; AND

21 2. A REQUIREMENT THAT THE ELECTRIC COMPANY
22 REPORT ON THE STATUS OF THE IMPLEMENTATION OF THE PLAN.

23 (4) AN ELECTRIC COMPANY, IN DEVELOPING ITS PLAN, AND THE
24 COMMISSION, IN DEVELOPING AN ORDER, SHALL CONSIDER:

25 (I) FOR A NEW ELECTRICITY GENERATION FACILITY, THE
26 APPROPRIATE TYPE OF FUEL OR TYPE OF RENEWABLE ENERGY SOURCE;

27 (II) IN ADDITION TO THE REQUIREMENTS OF § 7-211 OF
28 THIS SUBTITLE, THE NEED TO DEPLOY ENERGY EFFICIENCY, CONSERVATION,
29 AND DEMAND RESPONSE PROGRAMS;

30 (III) IN CONSIDERATION OF THE RENEWABLE PORTFOLIO
31 ENERGY STANDARD UNDER SUBTITLE 7 OF THIS TITLE, THE APPROPRIATE
32 ELECTRICITY SUPPLY MIX FOR THE STATE;

1 (IV) THE POTENTIAL IMPACT ON RATES AND CHARGES PAID
2 BY CUSTOMERS;

3 (V) THE POTENTIAL IMPACT ON THE SERVICES AND
4 CONDITIONS OF THE OPERATION OF THE ELECTRIC COMPANY; AND

5 (VI) ANY OTHER ISSUES THE COMMISSION CONSIDERS
6 RELEVANT IN RELATION TO THE PUBLIC INTEREST, CONVENIENCE, AND
7 NECESSITY.

8 (5) BY REGULATION OR, NOTWITHSTANDING TITLE 10, SUBTITLE
9 1 OF THE STATE GOVERNMENT ARTICLE, BY ORDER, THE COMMISSION SHALL
10 ADOPT PROCEDURES TO IMPLEMENT THIS SECTION.

11 (B) (1) [Annually] EACH YEAR, the Chairman of the Commission shall
12 forward to the Secretary of Natural Resources a 10-year plan listing possible and
13 proposed sites, including the associated transmission routes, for the construction of
14 electric plants within the State.

15 (2) (i) The Chairman shall delete from the 10-year plan any site
16 that the Secretary of Natural Resources identifies as unsuitable in accordance with
17 the requirements of § 3-304 of the Natural Resources Article.

18 (ii) The Chairman may include a site deleted from a 10-year
19 plan under subparagraph (i) of this paragraph in a subsequent 10-year plan.

20 (3) The Chairman shall include information in the annual 10-year
21 plan on current and projected efforts by electric companies and the Commission to
22 MEET EXPECTED CONSUMER DEMAND AND TO moderate overall electrical
23 generation demand and peak demand through the electric companies' promotion of
24 energy conservation by customers and through the electric companies' use of
25 alternative energy sources, including cogeneration.

26 (4) To the extent that the Commission requires an electric company to
27 report the information described in paragraph (3) of this subsection, a small rural
28 electric cooperative described in § 7-502(a) of this title may satisfy the requirement by
29 submitting to the Commission a copy of the power requirement study that the small
30 rural electric cooperative submits to the rural utilities service.

31 (5) THE COMMISSION MAY DIRECT AN INVESTOR-OWNED
32 ELECTRIC COMPANY TO ACQUIRE BY CONDEMNATION, IN ACCORDANCE WITH
33 TITLE 12 OF THE REAL PROPERTY ARTICLE, A SITE THAT IS SUITABLE FOR AN
34 ELECTRIC POWER GENERATION FACILITY.

1 **[(b)] (C)** (1) The Commission shall evaluate the cost-effectiveness of the
2 investments by electric companies in energy conservation to reduce electrical demand
3 and in renewable energy sources to help meet electrical demand.

4 (2) The evaluation of investments shall include:

5 (i) the electric companies' promotion and conduct of a building
6 audit and weatherization program, including low-interest or no-interest electric
7 company financing for the installation of energy conservation materials and renewable
8 energy devices;

9 (ii) utilization of renewable energy sources;

10 (iii) promotion and utilization of electricity from cogeneration
11 and wastes; and

12 (iv) widespread public promotion of energy conservation
13 programs.

14 7-207.

15 (a) (1) In this section and § 7-208 of this subtitle, "construction" means:

16 (i) any physical change at a site, including fabrication, erection,
17 installation, or demolition; or

18 (ii) the entry into a binding agreement or contractual obligation
19 to purchase equipment exclusively for use in construction in the State or to undertake
20 a program of actual construction in the State which cannot be canceled or modified
21 without substantial loss to the owner or operator of the proposed generating station.

22 (2) "Construction" does not include a change that is needed for the
23 temporary use of a site or route for nonutility purposes or for use in securing geological
24 data, including any boring that is necessary to ascertain foundation conditions.

25 (b) (1) (i) Unless a certificate of public convenience and necessity for
26 the construction is first obtained from the Commission, a person may not begin
27 construction in the State of a generating station.

28 (ii) If a person obtains Commission approval for construction
29 under § 7-207.1 of this subtitle, the Commission shall exempt a person from the
30 requirement to obtain a certificate of public convenience and necessity under this
31 section.

32 (2) Unless a certificate of public convenience and necessity for the
33 construction is first obtained from the Commission, and the Commission has found
34 that the capacity is necessary to ensure a sufficient supply of electricity to customers

1 in the State, a person may not exercise a right of condemnation in connection with the
2 construction of a generating station.

3 (3) Unless a certificate of public convenience and necessity for the
4 construction is first obtained from the Commission, an electric company may not begin
5 construction of an overhead transmission line that is designed to carry a voltage in
6 excess of 69,000 volts or exercise a right of condemnation with the construction.

7 (c) (1) On receipt of an application for a certificate of public convenience
8 and necessity under this section, the Commission shall provide notice to the
9 Department of Planning and to all other interested persons.

10 (2) The Department of Planning shall forward the application to each
11 appropriate State unit and unit of local government for review, evaluation, and
12 comment regarding the significance of the proposal to State, area-wide, and local
13 plans or programs.

14 (d) (1) The Commission shall provide an opportunity for public comment
15 and hold a public hearing on the application for a certificate of public convenience and
16 necessity in each county and municipal corporation in which any portion of the
17 construction of a generating station or of an overhead transmission line designed to
18 carry a voltage in excess of 69,000 volts is proposed to be located.

19 (2) The Commission shall hold the public hearing jointly with the
20 governing body of the county or municipal corporation in which any portion of the
21 construction of the generating station or overhead transmission line is proposed to be
22 located, unless the governing body declines to participate in the hearing.

23 (3) Once in each of the 4 successive weeks immediately before the
24 hearing date, the Commission shall provide weekly notice of the public hearing and an
25 opportunity for public comment by advertisement in a newspaper of general
26 circulation in the county or municipal corporation affected by the application.

27 (4) (i) The Commission shall ensure presentation and
28 recommendations from each interested State unit, and shall allow representatives of
29 each State unit to sit during hearing of all parties.

30 (ii) The Commission shall allow each State unit 15 days after
31 the conclusion of the hearing to modify the State unit's initial recommendations.

32 (e) The Commission shall take final action on an application for a certificate
33 of public convenience and necessity only after due consideration of:

34 (1) the recommendation of the governing body of each county or
35 municipal corporation in which any portion of the construction of the generating
36 station or overhead transmission line is proposed to be located; [and]

1 **(2) THE NEED TO MEET EXISTING AND FUTURE DEMAND FOR**
 2 **ELECTRIC SERVICES; AND**

3 **[(2)] (3)** the effect of the generating station or overhead transmission
 4 line on:

5 (i) the stability and reliability of the electric system;

6 (ii) economics;

7 (iii) esthetics;

8 (iv) historic sites;

9 (v) aviation safety as determined by the Maryland Aviation
 10 Administration and the administrator of the Federal Aviation Administration;

11 (vi) when applicable, air and water pollution; and

12 (vii) the availability of means for the required timely disposal of
 13 wastes produced by any generating station.

14 ~~(f) For the construction of an overhead transmission line, in addition to the~~
 15 ~~considerations listed in subsection (e) of this section, the Commission shall take final~~
 16 ~~action on an application for a certificate of public convenience and necessity only after~~
 17 ~~due consideration of the need to meet existing and future demand for electric service.~~

18 ~~(g)~~ **(F)** (1) The Commission may not authorize, and an electric company may
 19 not undertake, the construction of an overhead transmission line that is aligned with
 20 and within 1 mile of either end of a public airport runway, unless:

21 (i) the Federal Aviation Administration determines that the
 22 construction of an overhead transmission line will not constitute a hazard to air
 23 navigation; and

24 (ii) the Maryland Aviation Administration concurs in that
 25 determination.

26 (2) A privately owned airport runway shall qualify as a public airport
 27 runway under this subsection only if the runway has been on file with the Federal
 28 Aviation Administration for at least 2 years as being open to the public without
 29 restriction.

30 ~~(h)~~ **(G)** The Commission shall consider and take final action on an application
 31 for a certificate of public convenience and necessity in an expeditious manner if the
 32 application is for the construction of a generating station:

1 (1) that is designed to provide electricity for a single electric customer
2 that uses at least 1,500,000,000 kilowatt hours of electricity each year; and

3 (2) with a generating capacity that does not exceed 750 megawatts.

4 ~~7-208.~~

5 (a) This section applies to any person:

6 (1) constructing a generating station and its associated overhead
7 transmission lines designed to carry a voltage in excess of 69,000 volts; or

8 (2) exercising the right of condemnation in connection with the
9 construction.

10 (e) Within 90 days after the conclusion of the hearing on an application
11 under this section, the Commission shall:

12 (1) (i) grant a certificate of public convenience and necessity
13 unconditionally;

14 (ii) grant the certificate, subject to conditions the Commission
15 determines to be appropriate; or

16 (iii) deny the certificate; and

17 (2) notify all interested parties of its decision.

18 (h) The grant of a certificate by the Commission to any person under
19 subsection (e) of this section constitutes:

20 (1) authority for the person to dredge and construct bulkheads in the
21 waters or private wetlands of the State and to appropriate or use the waters; [and]

22 (2) registration and a permit to construct, as required under Title 2,
23 Subtitle 4 of the Environment Article; AND

24 **(3) AUTHORITY FOR AN ELECTRIC COMPANY TO ACQUIRE**
25 **PROPERTY BY CONDEMNATION, IN ACCORDANCE WITH TITLE 12 OF THE REAL**
26 **PROPERTY ARTICLE, AS APPROVED BY THE COMMISSION TO MEET THE NEEDS**
27 **OF CONSTRUCTION AUTHORIZED UNDER THE CERTIFICATE OF PUBLIC**
28 **CONVENIENCE AND NECESSITY.**

29 ~~7-518.~~

30 ~~(A) IN THIS SECTION, "CONSORTIUM" MEANS A COMBINATION OF~~
31 ~~ELECTRIC COMPANIES, EACH OF WHICH IS IN THE STATE.~~

~~(B) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS THE GOAL OF THE STATE TO RETURN TO A REGULATED ELECTRIC MARKET FOR ALL CUSTOMER CLASSES AS SOON AS POSSIBLE, RESULTING IN A RELIABLE ELECTRIC SYSTEM AT THE BEST POSSIBLE PRICE FOR RATEPAYERS.~~

~~(C) THIS SECTION DOES NOT APPLY TO:~~

SUBTITLE 5A. ELECTRIC INDUSTRY REGULATION.

7-5A-01.

THIS SUBTITLE APPLIES TO THE ELECTRIC INDUSTRY IN THE STATE AND SUPERSEDES ANY PROVISION UNDER SUBTITLE 5 OF THIS TITLE THAT CONFLICTS WITH THIS SUBTITLE.

7-5A-02.

THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS THE GOAL OF THE STATE TO RETURN TO A REGULATED ELECTRIC MARKET.

7-5A-03.

(A) ON A DETERMINATION THAT IT IS IN THE PUBLIC INTEREST, THE COMMISSION SHALL ORDER ONE OR MORE INVESTOR-OWNED ELECTRIC COMPANIES TO:

(1) CONSTRUCT AN ELECTRIC GENERATION FACILITY;

(2) PROCURE THE NECESSARY ELECTRICITY THROUGH:

(I) A BILATERAL CONTRACT WITH ANOTHER PERSON FOR ALL OR PART OF THE OUTPUT OF:

1. A NEW ELECTRIC GENERATION FACILITY LOCATED IN THE STATE; OR

2. A NEW ELECTRIC GENERATION FACILITY OR SYSTEM LOCATED IN THE STATE, OUTSIDE THE STATE, OR OFFSHORE THAT PROVIDES ELECTRICITY FROM RENEWABLE ENERGY SOURCES; OR

(II) A COMPETITIVE BIDDING PROCESS IN WHICH THE INVESTOR-OWNED ELECTRIC COMPANY WILL SOLICIT BIDS FOR ALL OR PART OF THE OUTPUT OF:

1 **1. A NEW ELECTRIC GENERATION FACILITY**
 2 **LOCATED IN THE STATE; OR**

3 **2. A NEW ELECTRIC GENERATION FACILITY OR**
 4 **SYSTEM LOCATED IN THE STATE, OUTSIDE THE STATE, OR OFFSHORE THAT**
 5 **PROVIDES ELECTRICITY FROM RENEWABLE ENERGY SOURCES;**

6 **(3) PROCURE OTHER NEW ELECTRICITY RESOURCES, INCLUDING**
 7 **ENERGY EFFICIENCY, CONSERVATION, AND DEMAND RESPONSE RESOURCES; OR**

8 **(4) ANY COMBINATION OF ITEMS (1) THROUGH (3) OF THIS**
 9 **SUBSECTION.**

10 **(B) THE PRICE OF ELECTRICITY THAT IS ACQUIRED UNDER**
 11 **SUBSECTION (A) OF THIS SECTION AND IS SOLD TO A RETAIL RESIDENTIAL OR**
 12 **SMALL COMMERCIAL CUSTOMER OF AN INVESTOR-OWNED ELECTRIC COMPANY**
 13 **SHALL BE REGULATED BY THE COMMISSION UNDER COST-OF-SERVICE**
 14 **REGULATION PRINCIPLES IN ACCORDANCE WITH TITLE 4 OF THIS ARTICLE.**

15 **(C) TO THE EXTENT ELECTRICITY THAT IS ACQUIRED UNDER**
 16 **SUBSECTION (A) OF THIS SECTION PROVIDES RELIABILITY OR ECONOMIC**
 17 **BENEFIT TO THOSE CUSTOMERS WHOSE ELECTRICITY IS NOT ACQUIRED UNDER**
 18 **SUBSECTION (A) OF THIS SECTION, THE COMMISSION ~~MAY~~ SHALL ESTABLISH A**
 19 **NON-BYPASSABLE SURCHARGE OR OTHER MECHANISM TO ENSURE EQUITABLE**
 20 **COST SHARING AMONG ALL CUSTOMERS AND ACROSS ALL DISTRIBUTION**
 21 **TERRITORIES.**

22 **7-5A-04.**

23 **(A) EXCEPT AS PROVIDED IN SUBSECTIONS (C) AND (D) OF THIS**
 24 **SECTION, THIS SECTION DOES NOT APPLY TO:**

25 **(1) ON-SITE GENERATED ELECTRICITY;**

26 **(2) ELECTRICITY GENERATED FROM A WASTE-TO-ENERGY**
 27 **GENERATION FACILITY;**

28 ~~**(3) A MUNICIPAL ELECTRIC UTILITY;**~~

29 ~~**(4) A SMALL RURAL ELECTRIC COOPERATIVE;**~~

30 ~~**(5) (3) A GENERATION FACILITY OF LESS THAN 30 70**~~
 31 **MEGAWATTS OR LESS IN CAPACITY;**

1 ~~(6)~~ (4) A RENEWABLE ON-SITE GENERATOR, AS DEFINED IN §
2 7-701 OF THIS TITLE;

3 ~~(7)~~ (5) AN ELIGIBLE CUSTOMER-GENERATOR, AS DEFINED IN
4 ~~§ 7-301~~ § 7-306 OF THIS TITLE; ~~OR~~

5 ~~(8)~~ (6) A GENERATION FACILITY THAT IS OWNED OR
6 CONTROLLED BY A UNIT OF LOCAL GOVERNMENT;

7 (7) A SMALL RURAL ELECTRIC COOPERATIVE; OR

8 ~~(7)~~ (8) AN ELECTRIC GENERATION FACILITY FOR WHICH
9 APPLICATION WAS MADE TO THE COMMISSION ON OR BEFORE JULY 1, 2009,
10 FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR AN
11 ELECTRIC GENERATION FACILITY UNDER SUBTITLE 2 OF THIS TITLE.

12 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
13 SUBSECTION, AN ELECTRIC GENERATION FACILITY MAY NOT BE CONSTRUCTED
14 IN THE STATE UNLESS THE ELECTRIC GENERATION FACILITY IS CONSTRUCTED
15 IN ACCORDANCE WITH AN ORDER UNDER § 7-5A-03 OF THIS SUBTITLE.

16 (2) THE COMMISSION MAY ALLOW AN ELECTRIC COOPERATIVE
17 OR A MUNICIPAL ELECTRIC UTILITY TO CONSTRUCT, ACQUIRE, OR LEASE AND
18 OPERATE ALL OR A PART OF A GENERATION FACILITY AND TRANSMISSION
19 FACILITIES NECESSARY TO INTERCONNECT THE GENERATING FACILITY WITH
20 THE ELECTRIC GRID, SUBJECT TO REGULATION BY THE COMMISSION UNDER
21 COST-OF-SERVICE REGULATION PRINCIPLES IN ACCORDANCE WITH TITLE 4 OF
22 THIS ARTICLE.

23 (C) AN ELECTRIC GENERATION FACILITY DESCRIBED UNDER
24 SUBSECTION (A) OF THIS SECTION MAY PARTICIPATE UNDER § 7-5A-03(A)(2)
25 OF THIS SUBTITLE.

26 (D) ON REQUEST FROM AN OWNER OF AN ELECTRIC GENERATION
27 FACILITY UNDER SUBSECTION (A) OF THIS SECTION, ON A DETERMINATION
28 THAT IT IS IN THE PUBLIC INTEREST, THE COMMISSION MAY REQUIRE OR
29 ALLOW ONE OR MORE INVESTOR-OWNED ELECTRIC COMPANIES TO CONTRACT
30 FOR THE OUTPUT OF THE ELECTRIC GENERATION FACILITY, WITH THE COST OF
31 THE CONTRACT REGULATED BY THE COMMISSION UNDER COST-OF-SERVICE
32 REGULATION PRINCIPLES IN ACCORDANCE WITH TITLE 4 OF THIS ARTICLE, IF,
33 AS OF THE DATE OF THE REQUEST, THE ELECTRIC GENERATION FACILITY:

34 (1) HAS A CERTIFICATE OF PUBLIC CONVENIENCE AND
35 NECESSITY PENDING;

1 (2) HAS BEEN ISSUED A CERTIFICATE OF PUBLIC CONVENIENCE
2 AND NECESSITY BUT HAS NOT BEGUN TO OPERATE; OR

3 (3) HAS AN APPLICATION PENDING FOR, OR HAS BEEN GRANTED,
4 AN ~~EXCEPTION~~ EXEMPTION UNDER § 7-207.1 OF THIS TITLE FROM THE
5 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIREMENT UNDER
6 ~~§ 7-207 OF THIS TITLE.~~

7 7-5A-05.

8 (A) THE COMMISSION SHALL DEVELOP AND IMPLEMENT A PLAN FOR
9 RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS TO TRANSITION FROM A
10 PROGRAM OF CUSTOMER CHOICE OF ELECTRICITY SUPPLY AND ELECTRICITY
11 SUPPLY SERVICES ESTABLISHED UNDER SUBTITLE 5 OF THIS TITLE.

12 (B) THE TRANSITION PLAN SHALL SPECIFY:

13 (1) A SCHEDULE FOR THE TRANSITION THAT TAKES INTO
14 ACCOUNT EXISTING CONTRACTS FOR RETAIL RESIDENTIAL AND SMALL
15 COMMERCIAL ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES;

16 (2) ANY CHANGES NEEDED FOR THE PROCUREMENT OF
17 ELECTRICITY SUPPLY AND ELECTRICITY SUPPLY SERVICES FOR RESIDENTIAL
18 AND SMALL COMMERCIAL STANDARD OFFER SERVICE; AND

19 (3) RECOMMENDATIONS FOR:

20 (I) CHANGES TO THE LAW THAT ARE OBSOLETE OR
21 INCONSISTENT WITH THE TRANSITION PLAN;

22 (II) RESTORATION OF APPLICABLE LAW REPEALED UNDER
23 CHAPTERS 3 AND 4 OF THE ACTS OF 1999; AND

24 (III) CHANGES TO THE LAW THAT ARE NECESSARY TO
25 ENSURE COMPLIANCE WITH THE RENEWABLE ENERGY PORTFOLIO STANDARD
26 UNDER SUBTITLE 7 OF THIS TITLE.

27 (C) ~~THE~~ ON OR BEFORE MARCH 1, 2010, IN CONSULTATION WITH THE
28 MARYLAND ENERGY ADMINISTRATION, THE COMMISSION SHALL ~~CONSIDER~~
29 ~~WHETHER TO REQUIRE OR ALLOW~~ IMPLEMENT A PROGRAM TO REQUIRE AN
30 INVESTOR-OWNED ELECTRIC COMPANY TO OFFER TO ITS RESIDENTIAL AND
31 SMALL COMMERCIAL CUSTOMERS THE OPTION TO PURCHASE GREEN POWER
32 ELECTRICITY SUPPLY DERIVED FROM TIER 1 RENEWABLE SOURCES BEYOND
33 THE REQUIREMENTS OF THE RENEWABLE ENERGY PORTFOLIO STANDARD
34 UNDER SUBTITLE 7 OF THIS TITLE.

1 ~~(D) (1) THIS SUBSECTION APPLIES TO AN ELECTRIC GENERATION~~
2 ~~FACILITY CONSTRUCTED IN THE STATE FOR OPERATION BEGINNING ON OR~~
3 ~~AFTER JULY 1, 2009.~~

4 ~~(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS~~
5 ~~PARAGRAPH, AN ELECTRIC GENERATION FACILITY SHALL BE OWNED BY AN~~
6 ~~ELECTRIC COMPANY IN THE STATE OR A CONSORTIUM.~~

7 ~~(II) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, AN~~
8 ~~ELECTRIC GENERATION FACILITY MAY BE OWNED BY:~~

9 ~~1. AN ELECTRICITY SUPPLIER;~~

10 ~~2. A PARENT OR AN AFFILIATE OF AN ELECTRIC~~
11 ~~COMPANY; OR~~

12 ~~3. ANY COMBINATION OF AN ELECTRICITY~~
13 ~~SUPPLIER, A PARENT OR AN AFFILIATE OF AN ELECTRIC COMPANY, AN~~
14 ~~ELECTRIC COMPANY IN THE STATE, OR A CONSORTIUM.~~

15 ~~(3) ELECTRICITY GENERATED FROM AN ELECTRIC GENERATION~~
16 ~~FACILITY:~~

17 ~~(I) SHALL BE OFFERED FOR SALE FIRST TO AN ELECTRIC~~
18 ~~COMPANY IN THE STATE OR A CONSORTIUM; AND~~

19 ~~(II) IF NOT PURCHASED, DIRECTLY OR THROUGH A~~
20 ~~CONTRACT, BY AN ELECTRIC COMPANY IN THE STATE OR A CONSORTIUM, MAY~~
21 ~~THEN BE SOLD TO THE ELECTRIC GRID.~~

22 ~~(4) IN ACCORDANCE WITH TITLE 4 OF THIS ARTICLE, THE~~
23 ~~COMMISSION HAS JURISDICTION OVER A GENERATION FACILITY OR SHARE OF A~~
24 ~~GENERATION FACILITY, INCLUDING THE SALE OF ELECTRICITY GENERATED~~
25 ~~FROM THE ELECTRIC GENERATION FACILITY OR SHARE OF GENERATION~~
26 ~~FACILITY, THAT IS OWNED BY AN ELECTRIC COMPANY IN THE STATE OR A~~
27 ~~CONSORTIUM.~~

28 ~~(5) (I) AN ELECTRICITY SUPPLIER OR A PARENT OR AN~~
29 ~~AFFILIATE OF AN ELECTRIC COMPANY UNDER PARAGRAPH (2)(II) OF THIS~~
30 ~~SUBSECTION SHALL ENTER INTO A CONTRACT WITH AN ELECTRIC COMPANY IN~~
31 ~~THE STATE OR A CONSORTIUM, AS APPROVED BY THE COMMISSION, FOR THE~~
32 ~~SALE OF ELECTRICITY GENERATED FROM THE ELECTRIC GENERATION FACILITY~~
33 ~~OR SHARE OF THE GENERATION FACILITY THAT IS OWNED BY THE ELECTRICITY~~
34 ~~SUPPLIER OR THE PARENT OR THE AFFILIATE OF AN ELECTRIC COMPANY.~~

1 ~~(H) IN APPROVING A CONTRACT UNDER SUBPARAGRAPH (I)~~
 2 ~~OF THIS PARAGRAPH, THE COMMISSION SHALL REQUIRE THAT THE STANDARDS~~
 3 ~~UNDER TITLE 4 OF THIS ARTICLE APPLY TO THE SALE OF ELECTRICITY UNDER~~
 4 ~~THE CONTRACT.~~

5 **7-5A-06.**

6 ~~(E)~~ THE COMMISSION SHALL BY REGULATION OR, NOTWITHSTANDING
 7 TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE, BY ORDER
 8 ADOPT PROCEDURES TO IMPLEMENT THIS ~~SECTION~~ SUBTITLE.

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

10 (a) (1) On or before July 1, 2009, the Public Service Commission shall
 11 initiate a proceeding to investigate the electricity needs of the State.

12 (2) The Commission's investigation shall include an evaluation of:

13 (i) whether the Commission should direct the construction of
 14 one or more electric generation facilities and, if so, the appropriate electric capacity
 15 and type of fuel;

16 (ii) whether the Commission should direct, in addition to the
 17 requirements of § 7-211 of the Public Utility Companies Article, the implementation
 18 of alternative electricity supply resources such as energy efficiency, conservation, and
 19 demand response; and

20 (iii) any other issues the Commission considers relevant.

21 (b) On or before February 1, 2010, the Public Service Commission shall
 22 provide a status report to the Governor and, in accordance with § 2-1246 of the State
 23 Government Article, to the Senate Finance Committee and the House Economic
 24 Matters Committee of the General Assembly on:

25 (1) the Commission's investigation of electricity needs under
 26 subsection (a) of this section; and

27 (2) the transition plan developed by the Commission for residential
 28 and small commercial customers under § 7-5A-05 of the Public Utility Companies
 29 Article as enacted by this Act.

30 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
 31 effect ~~July~~ June 1, 2009.