

SENATE BILL 897

C5

EMERGENCY BILL

9lr3145
CF HB 737

By: **Senators Rosapepe and Pipkin**

Introduced and read first time: February 11, 2009

Assigned to: Rules

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.

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.