SB 772

Department of Legislative Services

Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 772 (Senator Edwards)
Finance

Electric Generating Facility Decommissioning and Restoration - Surcharge or Bond or Other Security - Fund

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This bill establishes a Maryland Electric Generating Facility Decommissioning and Restoration Fund. The Public Service Commission (PSC) must establish a surcharge on electric generating facilities to decommission electric facilities once they cease to operate and to restore the former operating sites to their pre-operating condition. In lieu of a surcharge an electric company may post a bond or other acceptable security. The bill does not apply to nuclear generating facilities or on-site generation facilities.

Fiscal Summary

State Effect: Significant increase in special fund expenditures for consultants and additional staffing to assist PSC in implementing and administering the special fund. Significant increase in special fund revenues from decommissioning surcharges.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: PSC is required to establish a surcharge on electric generating facilities to ensure that adequate funds are available to decommission generating facilities and return the operating sites to their pre-operating condition. Nuclear generating facilities and facilities for on-site generation are excluded from this requirement. Revenue from this surcharge must be collected by the Comptroller and placed into a special fund, which the State Treasurer will hold separately. Surcharges, bonds, or other securities paid by an electric generating facility must be accounted for separately in the fund so that disbursements from the fund to decommission a facility are only paid from the account created for that facility.

PSC must establish regulations to determine the criteria for establishing the amount of the surcharge and must review the surcharge amount at standard intervals and adjust the amount of the surcharge upon review. In lieu of the surcharge, an electric generating facility may post a bond or other security, as allowed by PSC. PSC must administer the decommissioning fund and must receive and review applications for disbursements from the fund. By February 1 of each year, PSC must report on the amounts received and disbursed by the fund in the preceding calendar year. In this report, PSC must include the evaluation criteria used to make disbursements, the projected receipts of the fund in the current calendar year, and plans for the use of the fund in the current calendar year. PSC may use up to 10% of money placed in the fund for administrative expenses, including project review and oversight.

Current Law: State law does not provide for the decommissioning of electric generation facilities.

The requirements for decommissioning a nuclear power plant are set out in U.S. Nuclear Regulatory Commission regulations (Title 10 of the Code of Federal Regulations, part 20 subpart E, and parts 50.75, 50.82, 51.53, and 51.95). In 1999, the decommissioning costs for Calvert Cliffs, the only nuclear power plant in Maryland, were negotiated through a settlement establishing a restructuring plan for BGE. The settlement capped BGE's responsibility for nuclear decommissioning costs. Chapter 133 of 2008 determined that once the original term of decommissioning payments under the 1999 settlement agreement ceases in 2016, ratepayers will be entirely free from liability for nuclear decommissioning (valued at $5.2 billion and a savings to ratepayers of $1.5 billion). That liability will rest with the plant's owner.

Background: When a power company decides to close a power plant permanently, the facility must be decommissioned by safely removing it from service and returning the site of the power plant to its original condition. The cost of decommissioning a power plant varies greatly depending on the type of generation facility and the characteristics of the site location. An electric generating facility may contain a series of physical structures related to the power plant which would need to be removed during decommissioning. An electric generating facility may also have the potential for pollution remediation due to soil or water contamination at the site.

The Nuclear Regulatory Commission has strict rules governing nuclear power plant decommissioning, involving cleanup of radioactively contaminated plant systems and structures and removal of the radioactive fuel. These requirements protect workers and the public during the entire decommissioning process and the public after the operating license is terminated.

As shown in **Exhibit 1**, 67% of Maryland's existing power plants are greater than 31 years old. Older electric generating plants are generally less efficient than newer plants and are more likely to be affected by new, more stringent environmental requirements. To the extent that an aging power plant is removed from service, creation of a decommissioning fund would ensure that the site of the power plant is returned to its original condition. Nearly 70% of coal and 94% of petroleum generating stations in the State are greater than 31 years old.

During the last five years, PSC has issued several certificates of public convenience and necessity (CPCN) for generating projects in the State. However, with the exception of planned nuclear expansion at Calvert Cliffs, this addition generation is wind and gas powered, not likely to create enough base-load generation to fully replace aging gas and oil generating facilities. At least in the near-term if a large coal or oil fueled generating facility were to initiate decommissioning, the State would require additional generation to maintain reliability. The cost of decommissioning an electric generating facility would be reduced if another generating facility was to be placed on the site of an existing facility.

Exhibit 1
Maryland Generating Capacity Profile (as of January 1, 2006)

	Capacity		**Age of Plants, by % of Fuel Type**			
Primary Fuel Type	**Summer (MW)**	**Pct. of Total**	**1-10 years**	**11-20 years**	**21-30 years**	**31+ years**
Coal	4,966	39.6%	3.6%	12.9%	13.6%	69.8%
Dual-fired*	3,138	25.1%	6.3%	32.3%	19.5%	41.9%
Nuclear	1,735	13.9%	0.0%	0.0%	0.0%	100.0%
Gas	1,113	8.9%	56.8%	0.0%	0.2%	43.0%
Petroleum	879	7.0%	1.4%	2.7%	1.4%	94.4%
Hydroelectric	567	4.5%	0.0%	0.0%	0.1%	99.9%
Other Renewables	122	1.0%	6.8%	44.2%	49.0%	0.0%
Total	**12,520**	**100.0%**	**8.2%**	**13.9%**	**10.9%**	**67.0%**

*Dual-fired plants primary fuel types: 65.57% oil; 34.43% gas.
Source: Public Service Commission

State Fiscal Effect: In order to determine a decommissioning surcharge, PSC will need to estimate the cost of decommissioning generating facilities. Estimating the cost of decommissioning generating facilities and developing a surcharge will likely require a substantial expenditure for engineering and economic consultation. Administrative expenses for ongoing project review and oversight will be paid from decommissioning surcharges, as provided by the bill.

The amount of special fund revenues from decommissioning surcharges cannot be reasonably ascertained at this time, but are expected to be substantial. These funds may only be spent for decommissioning activities of an electric generating facility.

To the extent that owners of generating facilities already have established a reserve account to decommission facilities, the impact of the bill is reduced. Generally accepted accounting practices require the owner of a generating facility to identify a potential long-term liability, such the cost of decommissioning a generation facility. This expense is commonly referred to as the negative salvage value. For newly created power plants, decommissioning costs are a part of any CPCN review. For older facilities, a case-by-case study of each entity is required to determine the potential liability. In the event that an owner of a generating facility declares bankruptcy, a decommissioning surcharge ensures that the former generating site is returned to its preoperating condition.

Additional Information

Prior Introductions: None.

Cross File: HB 753 (Delegate Beitzel) - Economic Matters.

Information Source(s): Allegany, Harford, and Talbot counties, Baltimore City, Maryland Department of the Environment, Maryland Energy Administration, Public Service Commission, Department of Legislative Services

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