SB 721

Department of Legislative Services

Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 721 (Senator Middleton, *et al.*)
Finance

Public Service Commission - Cost Reimbursement

This bill allows the Public Service Commission (PSC) to require a person that applies to PSC for permission to acquire ownership of certain public service companies to reimburse PSC for the cost of retaining additional professional services to help PSC determine whether the transaction should be authorized. A public service company is prohibited from passing this cost on to ratepayers. On receiving an application for such an acquisition, PSC must notify the applicant that the transaction is subject to reimbursement and must indicate the anticipated expenses that qualify for reimbursement. Payment for reimbursement is not subject to the maximum amount a company may be assessed under current law, nor is it considered an assessment.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: The bill does not affect PSC's overall finances. The bill merely alters the parties that reimburse certain expenses incurred by PSC.

Local Effect: None.

Small Business Effect: None. PSC generally only incurs consulting expenses for acquisitions involving large companies.

Analysis

Current Law: The costs and expenses of PSC and the Office of People's Counsel (OPC) are paid by the public service companies that are subject to the commission's jurisdiction through an annual assessment. Each public service company is charged an assessment based on the ratio of the annual gross operating revenues for the public service company derived from intrastate utility and electricity supplier services and the annual gross operating revenues of all public service companies for those services. Expenses of PSC must be approved through the annual budget process. Any unspent funds must be deducted from the appropriation for the next fiscal year before PSC determines the amount to be paid by each public service company for the next fiscal year. The total assessment charged to a public service company in a fiscal year may not exceed 0.17% of the company's gross operating revenues derived from intrastate utility and electricity supplier operations for expenses incurred by PSC and 0.05% for expenses incurred by OPC.

If PSC incurs additional personnel or consulting expenses to investigate a potential change in ownership of an electric company, the expenses are considered an expense to PSC and are recovered by assessing public service companies under the jurisdiction of PSC.

Generally speaking, a public service company may not take, hold, or acquire any part of the capital stock of a public service company that operates in the State without prior authorization of PSC. Public service companies include a common carrier company, electric company, gas company, sewage disposal company, telegraph company, telephone company, water company, or any combination of public service companies. Additional restrictions apply to acquisition by any person of gas companies, electric companies, and gas and electric companies.

Background: If PSC incurs additional personnel or consulting expenses to investigate a potential change in ownership of an electric company, the expenses are considered an expense to PSC and are recovered through an assessment as described above. In investigating the 2009 acquisition of Constellation Energy by MidAmerican, PSC was appropriated $2.5 million to examine the transaction. Once that transaction was cancelled, the appropriation was also used to examine the application made by Electricité de France International, SA and certain of its affiliates (EDF) to purchase a substantial interest in the Calvert Cliffs generating station from Constellation Energy. A fiscal 2010 budget amendment allowed $900,000 to be used for consulting services related to the EDF transaction, along with other purposes. Consulting expenses, as well as the cost of existing staff for investigating the transaction, were assessed to public utility companies.

On February 11, 2010, FirstEnergy and Allegheny Energy, Inc. announced plans to combine through a stock-for-stock transaction. The $8.5 billion deal is expected to be completed within 12-14 months. The merger will need regulatory approval by the

Federal Energy Regulatory Commission, PSC, the Pennsylvania Public Utility Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Additional Information

Prior Introductions: None.

Cross File: HB 810 (Delegate McHale) - Economic Matters.

Information Source(s): Public Service Commission, Department of Legislative Services

Fiscal Note History: First Reader - February 26, 2010
ncs/lgc

Analysis by: Erik P. Timme

Direct Inquiries to:
(410) 946-5510
(301) 970-5510